



## TRACY CITY COUNCIL

### REGULAR MEETING AGENDA

**Tuesday, November 4, 2025, 7:00 P.M.**

Tracy City Hall, Council Chambers, 333 Civic Center Plaza, Tracy, CA 95376

Web Site: [www.cityoftracy.org](http://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](http://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 "[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 504 3837** 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](mailto:Anonymous@example.com) when prompted to provide an email address.
  - Join by phone by dialing +1-408-418-9388, enter 25575043837#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.*

Date Posted: October 30, 2025

- *Comments for the “Consent Calendar,” “Items from the Audience/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 agenda 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](http://www.cityoftracy.org)

Date Posted: October 30, 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. Certificates of Recognition for Enlistments to the United States Army, Air Force, Marines, and Navy
3. Certificate of Appointment for Youth Advisory Commission Member (Adult)
4. Proclamation: Sikh American Awareness and Appreciation Month
5. Proclamation: National Animal Shelter Week

## ORDER OF BUSINESS

## 1. CONSENT CALENDAR

- 1.A. Adoption October 21, 2025 Special and Regular Meeting minutes

[1.A - Special Meeting Minutes - 10-21-2025.pdf](#)

[1.A - Regular Meeting Minutes - 10-21-2025.pdf](#)

- 1.B. Staff recommends that the City Council adopt a Resolution: (1) authorizing the submittal of an application, and upon award, execution by the Mayor of a grant agreement with the California Department of Transportation Division of Aeronautics, for the Airport Improvement Program Matching Grant 3-06-0259-028-2025; and (2) subject to and upon award, accepting such grant funds and appropriating the full grant amount of \$15,357 to Capital Improvement Project 77603 - Upgrade Airfield Guidance Signs and Taxiway Designations.

[1.B - Staff Report - Submittal of State Matching Grant for CIP 77603.pdf](#)

[1.B - Resolution - Submittal of State Matching Grant for CIP 77603.pdf](#)

1.C. Staff recommends that City Council adopt a Resolution:

- 1) Approving the execution of a Professional Services Agreement with NEXGEN Asset Management for the annual software license related to Utilities Division computerized maintenance management system, for an initial term of three (3) years, and a total not-to-exceed amount of \$35,000 per fiscal year, retroactive to July 1, 2024; and
- 2) Authorizing an administrative extension of up to two (2) additional years in any combination, contingent upon satisfactory performance and budget availability

[1.C - Staff Report - GSA with Nexgen.pdf](#)

[1.C - Resolution - GSA with Nexgen.pdf](#)

1.D. Staff recommends that the City Council adopt a Resolution authorizing the purchase of one (1) new 2025 John Deere ProGator 2030A GPS Precision Sprayer from Belcorp AG, LLC and (2) authorize the execution of a Sourcewell Purchase Agreement utilizing the Sourcewell Cooperative Program in the amount of \$134,500 for the Parks, Recreation, and Community Services Department.

[1.D - Staff Report - Purchase Agreement Belcorp Ag for Parks Sprayer.pdf](#)

[1.D - Resolution - Purchase Agreement Belcorp Ag for Parks Sprayer.pdf](#)

1.E. Staff recommends that the City Council adopt a resolution:

(1) Determining that compliance with standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.180(b)(4) and dispensing such requirement for the actions herein, and;

(2) Approving a General Service Agreement with Motorola, Inc. for the purchase of the police department's specified equipment, smart connect and smart programming, and essential with accidental damage warranties for a term of five years and for a total not-to-exceed amount of \$2,700,000.

[1.E - Staff Report - Motorola Portable Radios.pdf](#)

[1.E - Resolution - Motorola Portable Radios.pdf](#)

1.F. Staff recommends that the City Council adopt the resolution authorizing the award of a construction contract to Studebaker Electric, Inc. in the not-to-exceed amount of \$184,214.

[1.F - Staff Report - Award Contract Studebaker Electric.pdf](#)

[1.F - Resolution - Award Contract Studebaker Electric.pdf](#)

- 1.G. Staff recommends that the City Council adopt a Resolution amending the City's Operating and Capital Budget for the Fiscal Year (FY) ending June 30, 2026, to reflect actual expenses and revenues and requested augmentations to fund various departmental needs.

[1.G - Staff Report - FY2025.2026 Q1 Budget Update.pdf](#)

[1.G - Resolution - FY2025.2026 Q1 Budget Update.pdf](#)

- 1.H. Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Elite Maintenance & Tree Service, Inc. for landscape maintenance services primarily within the Tracy Consolidated Landscape Maintenance District, Community Facilities Districts, and General Fund Arterials, for a not-to-exceed amount of \$2,500,000 per fiscal year and authorizing the City Manager to grant up to four (4) one-year extensions.

[1.H - Staff Report - PSA Elite Landscape Services.pdf](#)

[1.H - Resolution - PSA Elite Landscape Services.pdf](#)

- 1.I. The Finance Committee recommends that the City Council adopt a resolution approving amendments to the City of Tracy Investment Policy.

[1.I - Staff Report - Investment Policy Update.pdf](#)

[1.I - Resolution - Investment Policy Update.pdf](#)

- 1.J. Staff recommends that the City Council adopt a resolution approving a Deferred Improvement Agreement for frontage and utility improvements on the Hansen Road Extension associated with the Tracy Costco Depot Annex Project.

[1.J - Staff Report - DIA Hansen Road Improvements.pdf](#)

[1.J - Resolution - DIA Hansen Road Improvements.pdf](#)

- 1.K Staff recommends that the City Council adopt the following Resolution:

- 1) Authorizing the City Manager, or their designee, to negotiate and execute a Professional Services Agreement with a qualified respondent to the City's Audit and Quality Assurance Review and Analysis of Tracy Aquatic Center Conceptual Designs in an amount not to exceed \$110,000; and
- 2) Appropriating \$110,000 from the City of Tracy's General Fund for such professional services agreement and amending the FY 2025-26 operating and capital budget to reflect such appropriation.

[1.K - Staff Report - RFP Appropriation.pdf](#)

[1.K - Resolution - RFP Appropriation.pdf](#)

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARINGS

- 3.A. Staff recommends that the City Council adopt an Ordinance: 1) repealing the 2022 edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, Existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under Tracy Municipal Code Title 9; 2) making findings to substantiate modifications to the 2025 California Building Codes and Standards, due to local climatic, geological or topographical conditions; 3) adopting, with local amendments, the 2025 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) adopting Appendices C, F, H, I, J, K, P, Q under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices BF, CH, BH, BI, BJ, BM, CI, CK, CJ under the Residential Code, Wildland-Urban Interface Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, O, AND P, under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) adopting California Environmental Quality Act Exemption Findings.

[3.A - Staff Report - Local Adoption of 2025 California Codes.pdf](#)

[3.A - Resolution - Local Adoption of 2025 California Codes.pdf](#)

[3.A - Presentation - Local Adoption of 2025 California Codes.pdf](#)

4. REGULAR AGENDA

- 4.A. City Council receive the annual informational report of the Environmental Sustainability Commission for calendar year 2024 and projected goals for calendar year 2025.

[4.A - Staff Report - ESC Annual Report.pdf](#)

[4.A - Presentation - ESC Annual Report.pdf](#)

- 4.B. Staff recommends that the City Council receive the annual informational report of the Tracy Arts Commission for the 2024 calendar year and projected goals for calendar year 2025.

[4.B - Staff Report - TAC Annual Report.pdf](#)

[4.B - Presentation - TAC Annual Report.pdf](#)

- 4.C. Adoption of a resolution declaring the intention to establish city of Tracy Community Facilities District No. 2025-1 (The Avenues) and approving related documents and actions; adoption of a resolution of intention to incur bonded indebtedness and other debt for City of Tracy Community Facilities District No. 2025 -1 (The Avenues); setting the public hearing date for December 16, 2025 to consider questions of establishing the Community Facilities District, levying the special tax and incurring bonded indebtedness and other debt.

[4.C - Staff Report - Avenues CFD ROI.pdf](#)

[4.C - Resolution 1 \(Declaring the Intention\) - Avenues CFD ROI.pdf](#)

[4.C - Resolution 2 \(Intention to Incur Bond\) - Avenues CFD ROI.pdf](#)

- 4.D. Staff recommends that City Council provide direction on:

1. Establish a General Plan Advisory Committee (GPAC) with the membership described above, or as modified by Council; and
2. Include the update to the Zoning Ordinance concurrently with the General Plan update.

[4.D - Staff Report - General Plan Update.pdf](#)

- 4.E. Staff recommends that the City Council:

1. adopt a resolution to implement a Medical Respite program; and
2. adopt a resolution approving policies and procedures drafted for the Health Plan of San Joaquin contracting process and authorizing the City Manager or her designee to execute additional ancillary documents related to the City becoming a Cal Aim provider.

[4.E - Staff Report - Full Site Plan.pdf](#)

[4.E - Resolution - Full Site Plan.pdf](#)

[4.E - Presentation - Full Site Plan.pdf](#)

- 4.F. Staff recommends that the City Council adopt a Resolution approving a Subcontractor Services Agreement with Independent Living Systems, LLC., to provide billable services for eligible persons receiving care at the Temporary Emergency Housing Facility shelter site location of 370 Arbor Avenue, Tracy, CA 95304 so that the City can receive reimbursements for such services through Independent Living Systems, LLC as the Managed Care Plan provider for CalAIM billable services.

[4.F - Staff Report - Subcontractor Services Agreement with ILS.pdf](#)

[4.F - Resolution - Subcontractor Services Agreement with ILS.pdf](#)

- 4.G. Staff recommends that the City Council consider, and by motion provide direction to staff, the naming of the reception area, or another designated room, within the Tracy Recreation Activity Center (TRAC), in honor of Dr. Nancy D. Young.

[4.G - Staff Report - TRAC Room Naming.pdf](#)

- 5. ITEMS FROM THE AUDIENCE
- 6. STAFF ITEMS
- 7. COUNCIL ITEMS
- 8. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

**October 21, 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 and Declaration of Conflicts – Council Members Bedolla, Evans, and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola were present. The City Council had no declarations of conflict.
4. Items from the Audience – There were no items of the audience.
5. By motion, (1) Establish interview protocols to fill one (1) vacancy for an Adult Advisor on the City of Tracy Youth Advisory Commission; (2) Conduct interviews of two (2) applicants for one (1) vacancy; and (3) Upon conclusion of the interviews, appoint an applicant to fill one (1) vacancy and establish an eligibility list, if appropriate.

Necy Lopez, Deputy City Clerk, provided the staff report.

The City Council selected interview questions.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Nygard to (1) establish interview protocols to fill one (1) vacancy for an Adult Advisor on the City of Tracy Youth Advisory Commission as follows:

- Each Council Member will ask one question for a total of five questions.
- Interview question numbers 1,3, 6, 7, and 8 will be asked of each applicant.
- Each applicant will be allocated two minutes to respond to each question for a total of ten minutes per applicant.
- Applicants will be interviewed in alphabetical order, by last name, with Yara Grimaldo first and Jenni Moore second.
- Each Council Member will be allocated five minutes for follow-up questions; and
- Ten minutes total will be allocated for City Council discussion

and conduct interviews of two (2) applicants for one (1) vacancy.

Roll call found Council Members Bedolla, Evans, and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

The City Council conducted interviews and discussed appointment of applicants to the commission.

**ACTION:** Motion was made by Mayor Arriola and seconded by Mayor Pro Tem Abercrombie to appoint Jenni Moore to fill one (1) vacancy as an Adult Advisor on the City of Tracy Youth Advisory Commission. Roll call found Council Members Bedolla, Evans, and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.



6. Council Items and Comments – There were no Council items or comments.

7. Adjournment: Time: 6:58 p.m.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adjourn. Roll call found Council Members Bedolla, Evans and 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 October 16, 2025. The above are action minutes. A recording is available at the office of the City Clerk.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**October 21, 2025, 7:00 p.m.**

City Hall, 333 Civic Center Plaza, Tracy, CA

Web Site: [www.cityoftracy.org](http://www.cityoftracy.org)

Mayor Arriola called the Meeting to order at 7:03 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. The City Council had no declarations of conflict.

Mayor Arriola led the Pledge of Allegiance.

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

Mayor Arriola presented the Breast Cancer Awareness Month Proclamation to Gina Peace, Executive Assistant, Community and Economic Development.

Mayor Arriola presented the City of Tracy Arbor Day Proclamation to Anthony Camarena, Operations Supervisor, Public Works.

Mayor Arriola presented the Diwali Festival of Lights Proclamation to Rosario Patrick, with Tracy REACH (Residents Empowered Advocates of Change).

Mayor Arriola presented Certificates of Appointment for the Environmental Sustainability Commission (Youth) to Niyah Palma and Melvin Rufino.

Mayor Arriola presented a Certificate of Appointment for the Transportation Advisory Commission to Ubbo Coty.

1. CONSENT CALENDAR – Agenda Items 1.D and 1.F were pulled from the Consent Calendar by Alice English.

Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Nygard to adopt the Consent Calendar, excluding Items 1.D and 1.F. Roll call found Council Members Bedolla, Evans, and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

- 1.A. Adoption of October 7, 2025 Special Meeting, Special Meeting – Closed Session, and Regular Meeting Minutes. – **Minutes were adopted**

- 1.B. Staff recommends that City Council adopt a Resolution, 1) approving the execution of a General Services Agreement with Burkett's Pool Plastering, Inc., a California Corporation (Contractor) for pool repairs and replastering services at the City's Joe Wilson Pool Capital Improvement Project (CIP) 71122 (for a total not-to-exceed amount of \$215,429, and 2) authorizing an appropriation of \$15,429 from General Fund Reserves (F101) to the Joe Wilson Pool CIP 71122.  
– **Resolution 2025-258**

- 1.C. Staff recommends that the City Council adopt a resolution (1) approving the Offsite Improvement Agreement between the City and CT Clean – Tracy, LLC, for offsite improvements on North Chrisman Road and Grant Line Road, (2) authorizing the City Clerk to accept land dedications, and (3) authorizing the City Clerk to file the conveyance documents with the San Joaquin County Recorder. – **Resolution 2025-259**
- 1.E. Staff recommends that the City Council adopt a resolution approving and authorizing recordation of Final Subdivision Map Tract 4277 for the West Parkway Village Commercial Development Project. – **Resolution 2025-260**
- 1.G. Staff recommends that the City Council adopt a resolution, 1) approving the execution of Amendment 2 to the Professional Services Agreement between the City of Tracy and Tracy City Center Association; 2) approving the increase of the original not to exceed amount from \$11,000 to \$12,000; and 3) authorizing the amendment retroactively to August 31, 2025. – **Resolution 2025-261**
- 1.H. Staff recommends that the City Council adopt a resolution, 1) approving the execution of Amendment 3 to the Professional Services Agreement between the City of Tracy and Tracy Chamber of Commerce; 2) approving the increase of the original not to exceed amount from \$31,000 to \$40,000; and 3) authorizing the amendment retroactively to August 31, 2025. – **Resolution 2025-262**
- 1.I. Staff recommends that the City Council adopt a resolution (1) accepting the construction improvements for Streetlight Installation Project, Capital Improvement Project 72125, constructed by Tennyson Electric, LLC, as complete, and (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the Improvement Security and Retention payment in accordance with the Project Contract and Tracy Municipal Code Section 12.36.080, and (4) authorizing the Finance Department to close the Project. – **Resolution 2025-263**
- 1.J. Staff recommends that the City Council adopt a resolution (1) accepting public improvements for Tracy Hills Village 7A, Tract 3955, as complete, and assume responsibility for the future maintenance and operations, (2) accepting public improvements for Tracy Hills Village 7B, Tract 3956, as complete and assume responsibility for the future maintenance and repairs, (3) authorizing the City Engineer to release the Subdivider furnished bonds in accordance with the Subdivision Improvement Agreement, and (4) authorizing the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office. – **Resolution 2025-264**
- 1.D. Staff recommends that the City Council adopt a Resolution authorizing an increase in the total not to exceed amount for the existing scope of services with Olson Remcho LLP by \$30,000, for a total not to exceed amount of \$90,000, for advice on election and districting issues, including advice on the California Voting Rights Act and related federal laws.

David Nefouse, City Attorney, provided the staff report.

Alice English requested clarification; urged the City Council to postpone the districting process until 2028, considering the exiting timeframe for the 2026 elections; and asked what would happen if there are no candidates in a specific district, and whether a recall would affect the City as a whole or just the specific district if the elected representative was not doing their job.

Council Members offered comments and questions.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt **Resolution 2025-265** authorizing an increase in the total not to exceed amount for the existing scope of services with Olson Remcho LLP by \$30,000, for a total not to exceed amount of \$90,000, for advice on election and districting issues, including advice on the California Voting Rights Act and related federal laws. Roll call found Council Members Bedolla, Evans and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

- 1.F. Staff recommends that the City Council adopt a Resolution:(1) determining that compliance with the strict procurement process is not in the best interest of the City pursuant to Tracy Municipal Code Section 2.20.140(b)(6); and (2) approve a Professional Services Agreement with The Salvation Army, A California Corporation, to serve as the City's shelter operator for the Temporary Emergency Housing Facility, with a term of six (6) months and a not-to-exceed cost of \$1,484,642.

Virginia Carney, Homeless Services Division Manager, provided the staff report.

Alice English requested information on how the amount of \$1,484,642 was determined for 6 months of use; indicated that the amount is excessive; and requested more transparency.

Cynthia requested information regarding how the dollar amount allocated was being spent and how those amounts were calculated.

Virginia Carney, Homeless Services Division Manager, shared that all the information requested is on the website.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt **Resolution 2025-266** (1) determining that compliance with the strict procurement process is not in the best interest of the City pursuant to Tracy Municipal Code Section 2.20.140(b)(6); and (2) approve a Professional Services Agreement with The Salvation Army, A California Corporation, to serve as the City's shelter operator for the Temporary Emergency Housing Facility, with a term of six (6) months and a not-to-exceed cost of \$1,484,642. Roll call found Council Members Bedolla, Evans and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Robert Tanner urged the City Council to stop allowing Safe and Sane Fireworks in the City of Tracy.

The following community members requested that the City Council assist with potentially reopening the bowling alley and expressed the importance of this amenity to the community:

Gwendolyn White  
Mike Bruckner  
Sandra Obidaki  
Steven Norvell  
Mahmood Hassan  
Sonia Lee

Chioma Chibuko  
Jackie Stewart  
Olinga Alexander  
Ameni Alexander  
Community Member  
Cythia

Martin Evans expressed frustration regarding the zoning of hospitals in the neighborhoods.

Clayton asked if Item 1.C was already heard.

Alice English expressed opposition to the City Council reconsidering the naming of the multi-generational recreation center (the Tracy Recreation Activity Center (TRAC)).

Ubbo Coty echoed the sentiments of the previous speaker and requested that the City Council consider naming portions of the TRAC in recognition of military veterans.

The following community members requested that the City Council consider renaming the multi-generational recreation center in recognition of Dr. Nancy Young:

Bobby Bivens  
Michael Young  
Community Member  
Chioma Chibuko  
Chimelie Chibuko  
James Young  
Gwen and Katie  
Robert Bartlow  
Marie Izemengia

Community Member  
Benjamin Young  
Minnie Ransome  
Community Member  
Community Member  
Community Member  
Pat Howell  
Kimberly

### 3. PUBLIC HEARINGS

- 3.A Finance Committee recommends that the City Council conduct a public hearing and upon conclusion adopt a resolution (1) adopting Development Impact Fee Nexus Studies for the following functions: Parks (Neighborhood and Community); Public Facilities; Water (Distribution, Supply, Treatment) and Recycled Water; Public Safety (Fire, Police, Communication Facilities); and Program Management (Master Plan areas of the City); (2) approving, increases in part, and decreases in part, in Development Impact Fees for each such function to become effective 60 days after final adoption, including annual adjustments on July 1st of each year, using the Engineering News Record Construction Cost Index for San Francisco; and (3) rescinding, as of the effective date of the new fees, the existing Development Impact Fees for each such function.

Arturo M. Sanchez, Assistant City Manager, indicated that staff would like to continue Item 3.A to a date certain.

**ACTION:** Motion was made by Mayor Arriola and seconded by Mayor Pro Tem Abercrombie to continue Item 3.A, Finance Committee recommends that the City Council conduct a public hearing and upon conclusion adopt a resolution (1) adopting Development Impact Fee Nexus Studies for the following functions: Parks (Neighborhood and Community); Public Facilities; Water (Distribution, Supply, Treatment) and Recycled Water; Public Safety (Fire, Police, Communication Facilities); and Program Management (Master Plan areas of the City); (2) approving, increases in part, and decreases in part, in Development Impact Fees for each such function to become effective 60 days after final adoption, including annual adjustments on July 1st of each year, using the Engineering News Record Construction Cost Index for San Francisco; and (3) rescinding, as of the effective date of the new fees, the existing Development Impact Fees for each such function, to the November 18, 2025 regular Council Meeting. Roll call found Council Members Bedolla, Evans and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

- 3.B Staff recommends that the City Council conduct a public hearing to discuss the 2026 Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and, upon conclusion, adopt a Resolution adopting such fees.

Forrest Ebbs, Director of Community and Economic Services, provided the staff report.

There were no comments offered by the public.

There were no comments or questions offered by the City Council.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt **Resolution 2025-267**, as amended, adopting the 2026 Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. Roll call found Council Members Bedolla, Evans and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

#### 4. REGULAR AGENDA

- 4.A. Staff recommends that the City Council approve a motion: (1) waiving Closed Session Privilege for any oral or written advice, findings, or communications provided to the City Council by former City Attorney Bijal M. Patel, for item 5.A. at the Council's July 5, 2023, Closed Session Meeting, or any written advice or findings provided by Ms. Patel to the City Council pursuant to direction given at that same meeting; and (2) waiving the Attorney-Client Privilege and Closed Session Privilege for any oral or written advice, findings, or communications before, at, during, or after, the August 7, 2023, Closed Session Meeting, and any Attorney Work-Product pursuant to the direction provided by City Council to the City's Special Counsel DeeAnne Gillick, of Sloan Sakai Yeung & Wong, including, without limitation, authorization given to Ms. Gillick to investigate Ms. Patel's actions from July 1, 2023, through August 1, 2023, the underlying statements and steps taken and information received or considered by Ms. Gillick in formulating any Attorney Work-Product created related to Ms. Patel

David Nefouse, City Attorney, provided the staff report.

There were no comments offered by the public.

There were no comments or questions offered by the City Council.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Bedolla to (1) waive Closed Session Privilege for any oral or written advice, findings, or communications provided to the City Council by former City Attorney Bijal M. Patel, for item 5.A. at the Council's July 5, 2023, Closed Session Meeting, or any written advice or findings provided by Ms. Patel to the City Council pursuant to direction given at that same meeting; and (2) waive Attorney-Client Privilege and Closed Session Privilege for any oral or written advice, findings, or communications before, at, during, or after, the August 7, 2023, Closed Session Meeting, and any Attorney Work-Product pursuant to the direction provided by City Council to the City's Special Counsel DeeAnne Gillick, of Sloan Sakai Yeung & Wong, including, without limitation, authorization given to Ms. Gillick to investigate Ms. Patel's actions from July 1, 2023, through August 1, 2023, the underlying statements and steps taken and information received or considered by Ms. Gillick in formulating any Attorney Work-Product created related to Ms. Patel. Roll call found Council Members Bedolla, Evans and Nygard; Mayor Pro Tem Abercrombie; and Mayor Arriola all in favor; passed and so ordered.

5. ITEMS FROM THE AUDIENCE – Michael Young, a Community Member, Clara Voss, and Robert Bartlow thanked the City Council for hearing the community and requested that the City Council consider renaming the multi-generational recreation center in recognition of Dr. Nancy Young.

Kevin Pardo expressed an interest in an expansion of employment in the technology field.

Alice English announced that the airport will be hosting an event that will include trick or treating, vendors, and a costume parade on Saturday October 25, 2025, from 2:00 p.m. to 5:00 p.m.

6. STAFF ITEMS: Midori Lichtwardt, City Manager, shared the following events: Halloween events happening this Saturday, October 25, 2025:
- Día de Los Muertos Family Day and Halloween-themed Art Walk
  - Downtown Tracy Candy Crawl
  - Halloween at the Airport
  - For more details, view the calendar at [cityoftracy.org](http://cityoftracy.org)

FREE admission to movies at the Grand Theatre Center for the Arts:

- Friday, October 24, 2025
  - 5:30 p.m. – Sensory-Friendly Showing
  - 7:30 p.m. – General Screening
- Friday, October 31, 2025
  - Scary Movie at 7:00 p.m.
  - Scream at 9:00 PM p.m.

First Districting Public Hearing is October 28, 2025, at 7:00 p.m. in Council Chambers. Learn more at [cityoftracy.org/districting](http://cityoftracy.org/districting)

Corral Hollow Road Sewer Capacity Upgrades:

- The full closure of northbound Corral Hollow Road at Parkside Road has been delayed until Monday, October 27, 2025, through Monday, November 3, 2025. For additional details visit <https://www.cityoftracy.org/Home/Components/News/News/753/78>
- National Prescription Drug Take Back Day is on Saturday, October 25, 2025; safely dispose of unused, unwanted, or expired medications by bringing them to the Tracy Police Department

7. COUNCIL ITEMS – Council Member Evans asked if the Economic Development Department has reached out to the bowling alley owners; asked if there was anything to share with the community at this time; and requested that staff look into options for the bowling alley. Mayor Arriola expressed support for the request.

Midori Lichtwardt, City Manager, shared that the Economic Development Department is aware and will look to see what the City can do to facilitate discussion with interested buyers.

Council Member Evans shared that he attended a Diwali event and that there are multiple Diwali events planned and urged the community to get involved in community events.

Council Member Nygard requested a year-end summary from the shelter, including how many clients have transitioned to other housing opportunities, how many have been served, and related success stories. Mayor Pro Tem Abercrombie expressed support for the request.

Council Member Nygard reported that she attended the League of California Cities (Cal Cities) annual conference and that she hopes to attend the Cal Cities event that will take place in Utah in November. Council Member Nygard invited the community to the November 4, 2025, City Council Meeting and shared that there will be a Valley Link update and that she attended the State of the County for its 175<sup>th</sup> anniversary and invited the community visit the county's website at; <https://www.sigov.org/department/bos/board-news/board-news-detail/2025/10/16/chair-canepa-highlights-175-years-state-of-the-county>. Council Member Nygard also reported that she attended an Arbor Day tree planting event at which 30 trees were planted at two parks and thanked the community volunteers for all their work. Council Member Nygard thanked Public Works staff who participated in the Arbor Day events, specifically Sheriden Hart, Jaden Lunde, Anthony Camarena, Kevin Duffy, and Cody McClanahan and announced that the Chamber of Commerce will be hosting a haunted house event from October 24, 2025, through October 31, 2025, at 223 E. 10<sup>th</sup> Street and admission will be \$15.

Mayor Arriola shared that he attended the Cal Cities annual conference and that he was sworn in as a member of the Cal Cities Statewide Board; announced that there will be a Special Meeting on October 28, 2025; and confirmed that there was an item that was requested for the naming of a portion of the TRAC facility.

Arturo M. Sanchez, Assistant City Manager, confirmed that the naming item will be coming back to the City Council on December 2, 2025.



Mayor Arriola requested that staff clarify what the protocol is for reconsideration of any prior action by the City Council.

David Nefouse, City Attorney, clarified that, per Rosenberg's Rules, a motion to reconsider needs to be made at the same meeting that the item was heard, and that the only way that this can occur at this point is for the City Council to suspend the rules, which would require a four-fifths vote. City Attorney Nefouse noted that, after that point, a Council Member who was part of the winning motion would have to make a motion to reconsider and the item would come back as a future agenda item, if the motion passes by majority vote after it has been seconded by any Council Member.

Mayor Arriola reiterated that there will be an item coming back to the City Council to name a portion of facilities in recognition of individuals and the second was to name a portion of a facility after Dr. Nancy Young, and that Mr. Nefouse provided clarification on that process.

Arturo M. Sanchez, Assistant City Manager, provided the City Council with an update on the item requested regarding an audit of the aquatic center plans. Assistant City Manager Sanchez noted that the Request for Proposals (RFP) closed on October 20, 2025, and one proposal was submitted in a timely manner. Assistant City Manager Sanchez indicated that staff will be reviewing the RFP to ensure that it is complete and meets the tenets of the RFP, and, assuming it meets all the requirements, the item will return back to the City Council during the first meeting in November with a contract to award for the submitter to proceed with the audit of the comparison of the two aquatic center plans.

**ACTION:** Motion was made by Mayor Arriola and seconded by Council Member Nygard to suspend the rules to allow for reconsideration of the previous action by the City Council to name the multi-generational recreation center the Tracy Recreation Activity Center (TRAC). Roll call found Council Member Nygard and Mayor Arriola in favor; Council Members Bedolla and Evans; and Mayor Pro Tem Abercrombie opposed; motion failed.

8. ADJOURNMENT: 9:04 p.m.

**ACTION:** Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Nygard to adjourn. Roll call found Council Members Bedolla, Evans and 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 October 16, 2025. The above are action minutes. A recording is available at the office of the City Clerk

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Mayor

ATTEST:

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City Clerk

Agenda Item 1.B

REQUEST

**Staff recommends that the City Council adopt a Resolution: (1) authorizing the submittal of an application, and upon award, execution by the Mayor of a grant agreement with the California Department of Transportation Division of Aeronautics, for the Airport Improvement Program Matching Grant 3-06-0259-028-2025; and (2) subject to and upon award, accepting such grant funds and appropriating the full grant amount of \$15,357 to Capital Improvement Project 77603 - Upgrade Airfield Guidance Signs and Taxiway Designations**

EXECUTIVE SUMMARY

On September 2, 2025 the City Council approved the acceptance of a grant from the Federal Aviation Administration (FAA) in the amount of \$307,148 for CIP 77603 – Upgrade Airfield Guidance Signs And Taxiway Designations (Project). This represents 95% of the total Project costs of \$323,314. The City is responsible for the remaining 10% of the total Project cost in the amount of \$16,165.

A State Airport Improvement Program (AIP) matching grant is available which will offset the City's required match amount. In order to finalize the State grant award process, the FAA requires that the City Council adopt a resolution authorizing the Mayor to submit the application and executing the grant agreement once awarded and accepting the allocation of State AIP Matching Grant funds. Receiving this grant will result in \$15,357 from the State toward the Project, and reduce the amount paid by the City to \$808.

BACKGROUND AND LEGISLATIVE HISTORY

Staff recently applied for, and was offered, a grant in the amount of \$307,148, through the FAA, to complete CIP 77603 – Upgrade Airfield Guidance Signs And Taxiway Designations. This was accepted by the City Council at the September 2, 2025, regular City Council meeting. The FAA will pay for 95% of the total Project costs, and the City is required to provide a 10% match.

The State of California Department of Transportation Division of Aeronautics (Division of Aeronautics) provides matching grants of 5% of the FAA grant awards, not to exceed \$50,000. The application for the grant must be submitted and approved before any work can be completed on the new Project. The Project is ready to begin, and City staff have identified this grant and are requesting to utilize it to offset the General Fund's grant match prior to starting the Project.

To apply for the Division of Aeronautics matching grant and receive the grant funds, the Mayor needs to sign the grant application and return it to the Division of Aeronautics. Staff is requesting the City Council approve a resolution: 1) authorizing the Mayor to sign the application so that staff may timely submit it and execute the grant agreement once awarded by the Division of Aeronautics; 2) accepting the allocation of State AIP Matching Grant funds, and 3) appropriate the full grant amount of \$15,357 to CIP 77603 - Upgrade Airfield Guidance Signs And Taxiway Designations.

## ANALYSIS

Applying for and accepting the Division of Aeronautics State Matching Grant will allow the City to complete the Project, CIP 77603 - Upgrade Airfield Guidance Signs And Taxiway Designations and reduce the previous General Fund appropriation approved by the City Council.

The total estimated cost of this project, if awarded to the lowest bidder, is as follows:

Construction:	\$184,214
Engineering:	
Environmental Studies	\$1,000
Project Formulation	\$12,100
Engineering Design	30,000
Engineering Support during bidding and contract award	\$7000
Engineering Support During Construction and Final Closeout	\$25,000
Resident Engineering, Testing, and Inspection	\$58,000
Administration:	\$6,000
Total Project Cost	\$323,314
Participation Breakdown	
FAA Participation- Entitlement/Discretionary	\$307,148
State Matching Grant	\$15,357
Sponsor Local Match- City of Tracy	\$808

## FISCAL IMPACT

CIP 77603 - Upgrade Airfield Guidance Signs and Taxiway Designations Project has a budget of \$323,314 with 95% of the project funded by an FAA Airport Improvement Project Grant in the amount of \$307,148. The remaining cost of \$16,165 will be paid through a State matching grant of \$15,357 and \$808 from the Airport Enterprise Fund. If the City does not receive the FAA grant monies, then the City anticipates using General Fund monies to advance this necessary CIP.

## CEQA/NEPA DETERMINATION

The Federal Aviation Administration (FAA) has reviewed the environmental information submitted for the Proposed Upgrade Airfield Guidance Signs and Taxiway Designations at Tracy Municipal Airport (TCY), Tracy, California. The FAA has determined the proposed project is Categorically Excluded pursuant to FAA Order 1050.1F as it relates to the National Environmental Policy Act of 1969, as amended (NEPA). Therefore, no further federal environmental disclosure documentation for the proposed project is necessary for NEPA purposes.

As this is an airport project with federal funding, the proposed project Categorical Exclusion had to be reviewed and approved by the FAA. On December 19, 2024, the FAA had determined the proposed project was Categorically Excluded pursuant to FAA Order 1050.1F as it relates to the

National Environmental Policy Act of 1969, as amended (NEPA). No further federal environmental disclosure documentation for the project is necessary for NEPA purposes. The Project is categorically exempt per CEQA Guidelines Section §15301 Existing Facilities, Class I category, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, item (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.

### 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 submittal of an application, and upon award, execution by the Mayor of a grant agreement with the California Department of Transportation Division of Aeronautics, for the Airport Improvement Program Matching Grant 3-06-0259-028-2025; and (2) subject to and upon award, accepting such grant funds and appropriating the full grant amount of \$15,357 to Capital Improvement Project 77603 - Upgrade Airfield Guidance Signs And Taxiway Designations

Prepared by: Paula Jessup, Airport Manager

Reviewed by: David Murphy, Assistant Director of Operations  
Anush Nejad, P.E. Director of Public Works  
Sara Castro, Finance Director  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

### Attachments:

Attachment A: Federal Aviation Administration Grant Agreement for AIP #3-06-0259-028 2025

Attachment B: State Matching Grant Application

3-06-0259-028-2025



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Western-Pacific  
Region  
California

San Francisco Airports  
District Office:  
2999 Oak Road, Suite 200  
Walnut Creek, CA 94597

September 18, 2025

Ms. Paula Jessup  
Airport Manager  
City of Tracy  
5759 S Tracy Boulevard  
Tracy, CA 95377

Dear Ms. Jessup:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-06-0259-028-2025 at Tracy Municipal Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

**You may not make any modification to the text, terms or conditions of the grant offer.**

***Steps You Must Take to Enter Into Agreement.***

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 22, 2025**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

**Payment.** Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

**Project Timing.** The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution



date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

**Reporting.** Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31<sup>st</sup> of each year this grant is open:
  1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
  2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

**Audit Requirements.** As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$1,000,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

**Closeout.** Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

**FAA Contact Information.** Lemuel del Castillo, (925) 546-6440, [lemuel.del.castillo@faa.gov](mailto:lemuel.del.castillo@faa.gov) is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

*Amy Choi*

Amy Choi (09/18/2025 10:50:03 PDT)

Amy Choi  
Manager



U.S. Department  
of Transportation  
Federal Aviation  
Administration

**FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM (AIP)**

**FY 2025 AIP**

**GRANT AGREEMENT**

**Part I - Offer**

Federal Award Offer Date	September 18, 2025
Airport/Planning Area	Tracy Municipal Airport
Airport Infrastructure Grant Number	3-06-0259-028-2025
Unique Entity Identifier	EWFN9F9GM6U4

TO: City of Tracy  
(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA a Project Application dated April 28, 2025, for a grant of Federal funds for a project at or associated with the Tracy Municipal Airport, which is included as part of this Grant Agreement; and

**WHEREAS**, the FAA has approved a project for the Tracy Municipal Airport (herein called the "Project") consisting of the following:

**Upgrade Airfield Guidance Signs and Taxiway Designations**

which is more fully described in the Project Application.

**NOW THEREFORE**, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018



(Public Law Number (P.L.) 115-254); the Department of Transportation Appropriations Act, 2021 ( P.L. 116-260, Division L); the Consolidated Appropriations Act, 2022 ( P.L. 117-103); Consolidated Appropriations Act, 2023 ( P.L. 117-328); Consolidated Appropriations Act, 2024 (P.L. 118-42); Consolidated Appropriations Act, 2025 (P.L. 119-4); FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances dated April 2025, interpreted and applied consistent with the FAA Reauthorization Act of 2024; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay (95) % of the allowable costs incurred accomplishing the Project as the United States share of the Project.**

**Assistance Listings Number (Formerly CFDA Number): 20.106**

**This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

### **CONDITIONS**

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$307,148.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$307,148 for airport development or noise program implementation; and,

\$0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. **Period of Performance:**

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods (2 Code of Federal Regulations (CFR) § 200.1) except as noted in 49 U.S.C § 47142(b).

- b. **Budget Period:**

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period except as noted in 49 U.S.C § 47142(b).
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

- c. **Close Out and Termination**



Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days (2 CFR § 200.344). The FAA may terminate this agreement and all of its obligations under this agreement if any of the following occurs:

- (a) (1) The Sponsor fails to obtain or provide any Sponsor grant contribution as required by the agreement;
  - (2) A completion date for the Project or a component of the Project is listed in the agreement and the Recipient fails to meet that milestone by six months after the date listed in the agreement;
  - (3) The Sponsor fails to comply with the terms and conditions of this agreement, including a material failure to comply with the Project Schedule even if it is beyond the reasonable control of the Sponsor;
  - (4) Circumstances cause changes to the Project that the FAA determines are inconsistent with the FAA's basis for selecting the Project to receive a grant; or
  - (5) The FAA determines that termination of this agreement is in the public interest.
- (b) In terminating this agreement under this section, the FAA may elect to consider only the interests of the FAA.
- (c) The Sponsor may request that the FAA terminate the agreement under this section.

3. **Ineligible or Unallowable Costs.** In accordance with 49 U.S.C. § 47110, the Sponsor is prohibited from including any costs in the grant funded portions of the project that the FAA has determined to be ineligible or unallowable, including costs incurred to carry out airport development implementing policies and initiatives repealed by Executive Order 14148, provided such costs are not otherwise permitted by statute.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, policies, and procedures of the Secretary. Per 2 CFR §



200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.

7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 22, 2025, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds and Mandatory Disclosure.**
  - a. The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
  - b. The Sponsor, a recipient, and a subrecipient under this Federal grant must promptly comply with the mandatory disclosure requirements as established under 2 CFR § 200.113, including reporting requirements related to recipient integrity and performance in accordance with Appendix XII to 2 CFR Part 200.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
  - a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
  - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.



12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
13. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Environmental Standards.** The Sponsor is required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.
15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
17. **Build America, Buy America.** The Sponsor must comply with the requirements under the Build America, Buy America Act (P.L. 117-58).
18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant:
- a. May not be increased for a planning project;
  - b. May be increased by not more than 15 percent for development projects, if funds are available;
  - c. May be increased by not more than the greater of the following for a land project, if funds are available:
    1. 15 percent; or
    2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.



If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

**19. Audits for Sponsors.**

**PUBLIC SPONSORS.** The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$1,000,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

**20. Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
  1. Checking the System for Award Management (SAM.gov) exclusions to determine if the non-Federal entity is excluded or disqualified; or
  2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
  3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

**21. Ban on Texting While Driving.**

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
  1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
  2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
    - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and



- ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

## 22. Trafficking in Persons.

- 1. *Posting of contact information.*
  - a. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- 2. *Provisions applicable to a recipient that is a private entity.*
  - a. Under this Grant, the recipient, its employees, subrecipients under this Grant, and subrecipient's employees must not engage in:
    - i. Severe forms of trafficking in persons;
    - ii. The procurement of a commercial sex act during the period of time that the grant or cooperative agreement is in effect;
    - iii. The use of forced labor in the performance of this grant; or any subaward; or
    - iv. Acts that directly support or advance trafficking in persons, including the following acts:
      - a) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
      - b) Failing to provide return transportation of pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
        - 1. Exempted from the requirement to provide or pay for such return transportation by the federal department or agency providing or entering into the grant; or
        - 2. The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or witness in a human trafficking enforcement action;
      - c) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
      - d) Charging recruited employees a placement or recruitment fee; or
      - e) Providing or arranging housing that fails to meet the host country's housing and safety standards.
  - b. The FAA may unilaterally terminate this Grant or take any remedial actions authorized by 22 U.S.C. § 7104b(c), without penalty, if any private entity under this Grant:
    - i. Is determined to have violated a prohibition in paragraph (2)(a) of this Grant; or
    - ii. Has an employee that is determined to have violated a prohibition in paragraph(2)(a) of this Grant through conduct that is either:
      - a) Associated with the performance under this Grant; or

- b) Imputed to the recipient or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

3. *Provisions applicable to a recipient other than a private entity.*

- a. The FAA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C. § 7104b(c), without penalty, if subrecipient than is a private entity under this award:
  - i. Is determined to have violated a prohibition in paragraph (2)(a) of this Grant or
  - ii. Has an employee that is determined to have violated a prohibition in paragraph (2)(a) of this Grant through conduct that is either:
    - a) Associated with the performance under this Grant; or
    - b) Imputed to the recipient or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

4. *Provisions applicable to any recipient.*

- a. The recipient must inform the FAA and the DOT Inspector General immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (2)(a) of this Grant.
- b. The FAA's right to unilaterally terminate this Grant as described in paragraphs (2)(b) or (3)(a) of this Grant, implements the requirements of 22 U.S.C. chapter 78, and is in addition to all other remedies for noncompliance that are available to the FAA under this Grant.
- c. The recipient must include the requirements of paragraph (2)(a) of this Grant award term in any subaward it makes to a private entity.
- d. If applicable, the recipient must also comply with the compliance plan and certification requirements in 2 CFR 175.105(b).

5. *Definitions. For purposes of this Grant award, term:*

- a. "Employee" means either:
  - i. An individual employed by the recipient or a subrecipient who is engaged in the performance of the project or program under this Grant; or
  - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing requirements.
- b. "Private Entity" means:



- i. Any entity, including for-profit organizations, nonprofit organizations, institutions of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in 2 CFR 200.1.
  - ii. The terms “severe forms of trafficking in persons,” “commercial sex act,” “sex trafficking,” “Abuse or threatened abuse of law or legal process,” “coercion,” “debt bondage,” and “involuntary servitude” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
- 23. **AIP Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
- 24. **Exhibit “A” Property Map.** The Exhibit “A” Property Map dated September 18, 2014, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
- 25. **Employee Protection from Reprisal.** In accordance with 2 CFR § 200.217 and 41 U.S.C. § 4701, an employee of a grantee, subgrantee contractor, recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The grantee, subgrantee, contractor, recipient, or subrecipient must inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. § 4712. See statutory requirements for whistleblower protections at 10 U.S.C. § 4701, 41 U.S.C. § 4712, 41 U.S.C. § 4304, and 10 U.S.C. § 4310.
- 26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [P.L. 115-232 § 889(f)(1)] and 2 CFR § 200.216.
- 27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in its project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.
- 28. **Title VI of the Civil Rights Act.** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any



amendments or updates thereto. This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

29. **FAA Reauthorization Act of 2024.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 2025. On May 16, 2024, the FAA Reauthorization Act of 2024 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the FAA Reauthorization Act of 2024 is at <https://www.congress.gov/bill/118th-congress/house-bill/3935/text>.

30. **Applicable Federal Anti-Discrimination Laws.** The sponsor agrees:

- a. that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and
- b. to certify that it does not operate any programs promoting diversity, equity, and inclusion (DEI) that violate any applicable Federal anti-discrimination laws.

31. **Federal Law and Public Policy Requirements.** The Sponsor shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and the Sponsor will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.

32. **National Airspace System Requirements**



- a. The Sponsor shall cooperate with FAA activities installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System, including waiving permitting requirements and other restrictions affecting those activities to the maximum extent possible, and assisting the FAA in securing waivers of permitting or other restrictions from other authorities. The Sponsor shall not take actions that frustrate or prevent the FAA from installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System.
  - b. If FAA determines that the Sponsor has violated subsection (a), the FAA may impose a remedy, including:
    - (1) additional conditions on the award;
    - (2) consistent with 49 U.S.C chapter 471, any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to the DOT; suspension or termination of the award; or suspension and debarment under 2 C.F.R. part 180; or
    - (3) any other remedy legally available.
  - c. (In imposing a remedy under this condition, the FAA may elect to consider the interests of only the FAA.
  - d. The Sponsor acknowledges that amounts that the FAA requires the Sponsor to refund to the FAA due to a remedy under this condition constitute a debt to the Federal Government that the FAA may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–904).
33. **Signage Costs for Construction Projects.** The Sponsor agrees that it will require the prime contractor of a Federally- assisted airport improvement project to post signs consistent with a DOT/FAA-prescribed format, as may be requested by the DOT/FAA, and further agrees to remove any signs posted in response to requests received prior to February 1, 2025.
34. **Title 8 - U.S.C., Chapter 12, Subchapter II - Immigration.** The sponsor will follow applicable federal laws pertaining to Subchapter 12, and be subject to the penalties set forth in 8 U.S.C. § 1324, Bringing in and harboring certain aliens, and 8 U.S.C. § 1327, Aiding or assisting certain aliens to enter

### SPECIAL CONDITIONS

35. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
36. **Plans and Specifications Approval Based Upon Certification.** The FAA and the Sponsor agree that the FAA's approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:

- a. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to published FAA airport development grant standards or to notify the FAA of any limitations to competition within the project;
  - b. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and
  - c. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under this Grant and associated grants.
37. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
38. **Duffy Plaintiff Special Term.** Pursuant to the court's preliminary injunction order in State of California v. Duffy, 1:25-cv-00208-JJM-PAS (D.R.I.) (June 19, 2025), DOT will not impose or enforce the challenged immigration enforcement condition\* or any materially similar terms and conditions, to any grant funds awarded, directly or indirectly, to Plaintiff States or local government entities within those States (collectively referred to as "Plaintiff State Entities"), or otherwise rescind, withhold, terminate, or take other adverse action, absent specific statutory authority, based on the challenged immigration enforcement condition while DOT is subject to an injunction. DOT will not require Plaintiff State Entities to make any certification or other representation related to compliance with the challenged immigration enforcement condition nor will DOT construe acceptance of funding from DOT as certification as to the challenged immigration enforcement condition.

\*The challenged immigration enforcement condition:

"[T]he Recipient will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in the enforcement of Federal immigration law."



The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION

Amy Choi

Amy Choi (09/18/2025 10:50:03 PDT)

(Signature)

Amy Choi

(Typed Name)

Manager, SFO ADO

(Title of FAA Official)

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

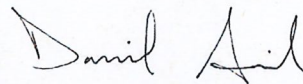
**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>2</sup>

Dated September 18, 2025

City of Tracy

(Name of Sponsor)



(Signature of Sponsor's Authorized Official)

By: DAN ARRIOLA

(Typed Name of Sponsor's Authorized Official)

Title: Mayor, City of Tracy

(Title of Sponsor's Authorized Official)

<sup>2</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.



### CERTIFICATE OF SPONSOR'S ATTORNEY

I, L. David Nefouse, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of California. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (P.L. 115-254); the Department of Transportation Appropriations Act, 2021 (P.L. 116-260, Division L); the Consolidated Appropriations Act, 2022 ( P.L. 117-103); Consolidated Appropriations Act, 2023 ( P.L. 117-328); Consolidated Appropriations Act, 2024 (P.L. 118-42); FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>3</sup>

Dated at September 18, 2025

By: *L. David Nefouse*  
L. David Nefouse (09/18/2025 16:22:34 PDT)  
 (Signature of Sponsor's Attorney)

<sup>3</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## **ASSURANCES**

### **AIRPORT SPONSORS**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

#### **B. Duration and Applicability.**

##### **1. Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

##### **2. Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

##### **3. Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, 37, and 40 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.



**C. Sponsor Certification.**

The sponsor hereby assures and certifies, with respect to this grant that:

**1. General Federal Requirements**

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Sponsor and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

**FEDERAL LEGISLATION**

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act — 29 U.S.C. § 201, et seq.
- d. Hatch Act — 5 U.S.C. § 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.<sup>1, 2</sup>
- f. National Historic Preservation Act of 1966 — Section 106 — 54 U.S.C. § 306108.<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 — 54 U.S.C. § 312501, et seq.<sup>1</sup>
- h. Native Americans Grave Repatriation Act — 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended — 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended — 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 — Section 102(a) - 42 U.S.C. § 4012a.<sup>1</sup>
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 — 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 — 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended — 42 U.S.C. § 4151, et seq.<sup>1</sup>
- s. Powerplant and Industrial Fuel Use Act of 1978 — Section 403 — 42 U.S.C. § 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act — 40 U.S.C. § 3701, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act — 18 U.S.C. § 874.<sup>1</sup>

- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Infrastructure Investment and Jobs Act, P.L. 117-58, Title VIII.
- cc. Build America, Buy America Act, P.L. 117-58, Title IX.
- dd. Endangered Species Act – 16 U.S.C. 1531, et seq.
- ee. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681–1683 and 1685–1687.
- ff. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.
- gg. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.
- hh. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.
- ii. Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352.

#### EXECUTIVE ORDERS

- a. Executive Order 11990 – Protection of Wetlands
- b. Executive Order 11988 – Floodplain Management
- c. Executive Order 12372 – Intergovernmental Review of Federal Programs
- d. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America's Workers
- f. Executive Order 14149 – Restoring Freedom of Speech and Ending Federal Censorship
- g. Executive Order 14151 – Ending Radical and Wasteful Government DEI Programs and Preferencing
- h. Executive Order 14154 – Unleashing American Energy
- i. Executive Order 14168 – Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- j. Executive Order 14173 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity



## FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 and 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.<sup>3, 4, 5</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.<sup>1</sup>
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

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**FOOTNOTES TO ASSURANCE (C)(1)**

- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>5</sup> Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

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**SPECIFIC ASSURANCES**

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

**2. Responsibility and Authority of the Sponsor.**

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

**3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

**4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.



- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to 49 U.S.C. § 47107(a)(16) and (x), it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors



of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

**6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

**7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

**8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

**9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

**10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

**11. Pavement Preventive Maintenance-Management.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

**12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.



**13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

**14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

**15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

**16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

**17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in



accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

#### **18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

#### **19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
  1. Operating the airport's aeronautical facilities whenever required;
  2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions



interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

## **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

## **21. Compatible Land Use.**

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

## **22. Economic Nondiscrimination.**

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
  - 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  - 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers



which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for



which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

## **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
  2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
  3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the



public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

#### **27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

#### **28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.



**29. Airport Layout Plan.**

- a. The airport owner or operator will maintain a current airport layout plan of the airport showing:
  - 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  - 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  - 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.
- b. Subject to subsection 49 U.S.C. § 47107(x), the Secretary will review and approve or disapprove the plan and any revision or modification of the plan before the plan, revision, or modification takes effect.
- c. The owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—
  - 1. is outside the scope of the Secretary's review and approval authority as set forth in subsection (x); or
  - 2. complies with the portions of the plan approved by the Secretary.
- d. When the airport owner or operator makes a change or alteration in the airport or the facilities which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
  - 1. eliminate such adverse effect in a manner approved by the Secretary; or
  - 2. bear all costs of relocating such property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

**30. Civil Rights.**

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d to 2000d-4); creed and sex per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.



- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
  - 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  - 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
  - 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
  - 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(City of Tracy)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 ( 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, all businesses will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex , age, or disability in consideration for an award."

e. Required Contract Provisions.

- 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.



3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex, age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
  - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### 31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United



States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
  5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

### **32. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

### **33. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

### **34. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars ([https://www.faa.gov/sites/faa.gov/files/aip-pfc-checklist\\_0.pdf](https://www.faa.gov/sites/faa.gov/files/aip-pfc-checklist_0.pdf)) for AIP projects as of April 28, 2025.



**35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

**36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
  - 1. Describes the requests;
  - 2. Provides an explanation as to why the requests could not be accommodated; and

3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

#### **40. Access to Leaded Aviation Gasoline**

- a. If 100-octane low lead aviation gasoline (100LL) was made available at an airport, at any time during calendar year 2022, an airport owner or operator may not restrict or prohibit the sale of, or self-fueling with, 100-octane low lead aviation gasoline.
- b. This requirement remains until the earlier of December 31, 2030, or the date on which the airport or any retail fuel seller at the airport makes available an unleaded aviation gasoline that has been authorized for use by the FAA as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the FAA.
- c. An airport owner or operator understands and agrees, that any violation of this grant assurance is subject to civil penalties as provided for in 49 U.S.C. § 46301(a)(8).





STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

**STATE MATCHING GRANT FOR FAA AIRPORT IMPROVEMENT PROGRAM - APPLICATION**

DOT DOA-0012 (REV 10/2024)

PLEASE PRINT OR TYPE AND COMPLETE ALL APPLICABLE ITEMS

**AIRPORT INFORMATION**

PUBLIC ENTITY City of Tracy	COUNTY San Joaquin
AIRPORT NAME Tracy Municipal Airport	PERMIT NUMBER SJ-2
CONTACT NAME Paula Jessup	TITLE Airport manager
MAILING ADDRESS 5749 S. Tracy Blvd, Tracy, CA 95377	EMAIL paula.jessup@cityoftracy.org
	PHONE (209) 831-6215

**PROJECT INFORMATION**

Project must be in the Department's most recent Capital Improvement Plan and the project cannot commence prior to the State's award of a matching grant or the project becomes ineligible for a matching grant.

☒ Check to acknowledge statement

DESCRIPTIVE TITLE OF APPLICANT'S PROJECT (as shown on page one of the executed federal grant and in the adopted Capital Improvement Plan):

UPGRADE AIRFIELD GUIDANCE SIGNS AND TAXIWAY DESIGNATIONS

FEDERAL GRANT NUMBER

FEDERAL GRANT	\$ 307,148
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APPLICANT FUNDS	\$ 808
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STATE FUNDS*	\$ 15,357
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TOTAL COST OF PROJECT	\$ 323,313
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\*Maximum is 5% of the federal grant amount.

**REQUIRED SUPPORTING DOCUMENTS**

Pursuant to Public Utilities Code Section 21681-21684 and Section 4067 of the CAAP Regulations, submit the following documents with this application:

- Local government approval (*resolution or minute order*) as described in Section 4067(a).
- FAA Grant Agreement with FAA and sponsor signatures.
- Verification of full compliance with the California Environmental Quality Act (CEQA) by submitting information to fulfill either 1. or 2. below:
  1. Copy of Notice of Exemption or provide the Categorical Exemption Class # 6 (*CEQA Guidelines Sections 15300-15333*).
  2. Copy of Notice of Determination or provide the following information:
    - o Environmental Impact Report (Title/Date) \_\_\_\_\_ State Clearinghouse (SCH) # \_\_\_\_\_ or
    - o Negative Declaration (Title/Date) \_\_\_\_\_ State Clearinghouse (SCH) # \_\_\_\_\_ or
    - o National Environmental Policy Act (NEPA) document (Title/Date) \_\_\_\_\_  
(NEPA documents-Environmental Impact Statement or Finding of No Significant Impact must comply with CEQA provisions).
- Airport Layout Plan (ALP) showing project location(s) and dimensions or project sketch if no ALP exists.
- Completed CAAP Certification (Form DOA-0007), if not submitted to the Division of Aeronautics earlier for this fiscal year.
- Additional documentation may be required if items in the FAA AIP grant are not eligible for CAAP funding.

**AUTHORIZATION**

I agree that by providing my electronic signature for this form, I agree to conduct business transactions by electronic means and that my electronic signature is the legal binding equivalent to my handwritten signature. I hereby agree that my electronic signature represents my execution or authentication of this form, and my intent to be bound by it.

AUTHORIZED OFFICIAL'S SIGNATURE	DATE
PRINT NAME	TITLE
MAILING ADDRESS	EMAIL
	PHONE

SEND COMPLETED FORM AND ALL REQUIRED DOCUMENTS TO:

[AeronauticsGL@dot.ca.gov](mailto:AeronauticsGL@dot.ca.gov)

Americans with Disabilities Act (ADA) Notice: This document is available in alternative accessible formats. For more information, please contact the Forms Management Unit at (279) 234-2284, TTY 711, in writing at Forms Management Unit, 1120 N Street, MS-89, Sacramento, CA 95814, or by email at [Forms.Management.Unit@dot.ca.gov](mailto:Forms.Management.Unit@dot.ca.gov).



CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO.

- 
- 1) **AUTHORIZING THE SUBMITTAL OF AN APPLICATION WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION DIVISION OF AERONAUTICS FOR THE AIRPORT IMPROVEMENT PROGRAM MATCHING GRANT 3-06-0259-028-2025; AND**
  - 2) **AUTHORIZING THE MAYOR TO EXECUTE THE GRANT UPON AWARD; AND**
  - 3) **ACCEPTING GRANT FUNDS AND APPROPRIATING THE FULL GRANT AMOUNT OF \$15,357 TO CAPITAL IMPROVEMENT PROJECT 77603 – UPGRADE AIRFIELD GUIDANCE SIGNS AND TAXIWAY DESIGNATIONS**

**WHEREAS**, On September 2, 2025 the City Council approved the acceptance of a grant from the Federal Aviation Administration (FAA) in the amount of \$307,148 for CIP 77603 – Upgrade Airfield Guidance Signs And Taxiway Designations (Project); and

**WHEREAS**, A State Airport Improvement Program (AIP) matching grant is available which will offset the City's required match amount of \$16,165; and

**WHEREAS**, In order to finalize the State grant award process, the FAA requires that the City Council adopt a resolution authorizing the Mayor to submit the application and executing the grant agreement once awarded and accepting the allocation of State AIP Matching Grant funds; and

**WHEREAS**, Receiving this grant will result in \$15,357 from the State toward the Project, and reduce the amount paid by the City to \$808; and

**WHEREAS**, Staff recently applied for, and was offered, a grant in the amount of \$307,148, through the FAA, to complete CIP 77603 – Upgrade Airfield Guidance Signs And Taxiway Designations; and

**WHEREAS**, The State of California Department of Transportation Division of Aeronautics (Division of Aeronautics) provides matching grants of 5% of the FAA grant awards, not to exceed \$50,000; and

**WHEREAS**, The application for the grant must be submitted and approved before any work can be completed on the new Project; and

**WHEREAS**, To apply for the Division of Aeronautics matching grant and receive the grant funds, the Mayor needs to sign the grant application and return it to the Division of Aeronautics; and

**WHEREAS**, Applying for and accepting the Division of Aeronautics State Matching Grant will allow the City to complete the Project, CIP 77603 - Upgrade Airfield Guidance Signs And Taxiway

Designations and reduce the previous General Fund appropriation approved by the City Council; and

**WHEREAS**, The total estimated cost of this project is as follows:

Construction:	\$184,214
Engineering:	
Environmental Studies	\$1,000
Project Formulation	\$12,100
Engineering Design	30,000
Engineering Support during bidding and contract award	\$7000
Engineering Support During Construction and Final Closeout	\$25,000
Resident Engineering, Testing, and Inspection	\$58,000
Administration:	\$6,000
Total Project Cost	323,314
Participation Breakdown	
FAA Participation- Entitlement/Discretionary	\$307,148
State Matching Grant	\$15,357
Sponsor Local Match- City of Tracy	\$808

and;

**WHEREAS**, the City's acceptance of this grant application is exempt from review under the California Environmental Quality Act as an administrative and financing act that has no possibility of resulting in a potentially significant environmental impact under CEQA Guidelines Section 15378(b)(4,5) and as it facilitates the operations of an existing facility under CEQA Guidelines Section 15301; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy authorize the submittal of an application of a grant agreement with the California Department of Transportation Division of Aeronautics for the Airport Improvement Program Matching Grant 3-06-0259-028-2025; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy authorize the Mayor to execute the grant agreement; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy accept and appropriate the full grant amount of \$15,357 to Capital Improvement Project 77603-Upgrade Airfield Guidance Signs and Taxiway Designations.

\* \* \* \* \*



The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 2025, by the following vote:

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

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APRIL B.A. QUINTANILLA  
City Clerk and Clerk of the Council of  
the City of Tracy, California

Agenda Item 1.C

RECOMMENDATION

**Staff recommends that City Council adopt a Resolution:**

- 1) Approving the execution of a Professional Services Agreement with NEXGEN Asset Management for the annual software license related to Utilities Division computerized maintenance management system, for an initial term of three (3) years, and a total not-to-exceed amount of \$35,000 per fiscal year, retroactive to July 1, 2024; and**
- 2) Authorizing an administrative extension of up to two (2) additional years in any combination, contingent upon satisfactory performance and budget availability.**

EXECUTIVE SUMMARY

The Utilities Division utilizes a computerized maintenance management system (CMMS) to ensure that its city-owned assets are properly maintained, assessed, and its life cycle expectancy tracked. In 2018, under Capital Improvement Plan # 74094, Utilities selected NEXGEN to provide this software and integration services. The original professional services agreement (PSA) had an annual Not-to-Exceed (NTE) amount of \$204,568 that was identified to cover the integration services only and did not include the ongoing annual software license fee.

This agenda item seeks City Council adoption of a resolution approving the execution of the Professional Services Agreement (PSA) with NEXGEN Asset Management for the annual software license fees, set at \$35,000 per fiscal year. Staff is also requesting that the City Council authorize an administrative extension for up to two (2) additional years, contingent upon satisfactory performance and budget availability.

BACKGROUND AND LEGISLATIVE HISTORY

In 2017, Utilities staff identified the need for an asset management software solution to efficiently manage and maintain all utility-related assets. On July 28, 2017, the City issued a Request for Proposals (RFP) for design services related to develop software capable of tracking and managing maintenance tasks at both water and wastewater treatment facilities, including remote sites, under Capital Improvement Project (CIP) 74094.

Following a competitive selection process, staff conducted interviews with several firms in November 2017 and selected NEXGEN (Consultant) as the most qualified proposer. On January 16, 2018, the City Council authorized execution of a Professional Services Agreement (PSA) with NEXGEN, pursuant to Resolution No. 2018-016. The original Agreement established a not-to-exceed (NTE) amount of \$204,568 for software integration services however, the ongoing licensing fees (beyond the initial installation and long term contract) were not included in the NTE amount.



### ANALYSIS

At the time of execution, the PSA included annual software licensing fees only through FY22/23. Since then, the City relied on the Consultant to provide accurate invoicing for licensing costs, which the City has paid accordingly. The City recently received the FY24/25 & FY25/26 invoices in late July 2025. In the interest of transparency and long-term financial planning, the City has since renegotiated the agreement with the Consultant to include the annual software licensing fees for the next five (5) years, retroactive to July 1, 2024.

As the City is currently in the process of procuring a citywide Computerized Maintenance Management System (CMMS), it is practical and efficient for the Utilities Division to continue utilizing the existing asset management software during the interim.

### FISCAL IMPACT

There is no fiscal impact associated with this action. Funding is available in the current annual ongoing operation budgets in both the Water Fund (511) and Wastewater Fund (521) for these Agreements.

Below is a summary of expenses incurred since February 2018, along with projected costs through June 2027:

<b>Software License Fees</b>	
<b>Fiscal Year</b>	<b>Amount</b>
2019-2020	\$ 20,000.00
2020-2021	\$ 21,000.00
2021-2022	\$ 24,000.00
2022-2023	\$ 24,000.00
2023-2024	\$ 24,000.00
<b>Subtotal</b>	<b>\$ 113,000.00</b>

<b>Fees</b>	
Integration services	\$204,568.00
Software Licenses	\$113,00.00
<b>Total</b>	<b>\$317,568.00</b>

### CEQA DETERMINATION

This action is not a project under the California Environmental Quality Act (CEQA) and is therefore not subject to environmental review.

### STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council of the City of Tracy adopt a Resolution:

- 1) Approving the execution of a Professional Services Agreement with NEXGEN Asset Management for annual software license related to the current computerized maintenance management system, for an initial term of three (3) years, with a total not-to-exceed amount of \$35,000 per fiscal year, retroactive to July 1, 2024; and
- 2) Authorizing an administrative extension of up to two (2) additional years in any combination, contingent upon satisfactory performance and budget availability.

Prepared by: Tu Nguyen, Management Analyst II

Reviewed by: Stephanie Reyna-Hiestand, Assistant Director of Utilities  
Anush Nejad, Director of Public Works  
Sara Castro, Director of Finance  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachments: A – PSA with NEXGEN Asset Management

**CITY OF TRACY**  
**PROFESSIONAL SERVICES AGREEMENT WITH**  
*NEXGEN Asset Management, a Nevada Corporation*

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and NEXGEN Asset Management, a Nevada Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

**Recitals**

- A. City desires to retain the professional services of Consultant to provide asset management software licenses as further described herein and in Exhibit A.
- B. In 2018, the City entered into an Agreement with Consultant for the implementation of asset management services for a not-to-exceed amount of \$204,568 and the annual renewal of software licenses and shall automatically renew on the annual basis with no specified expiration date unless terminated by either party.
- C. As the ongoing annual software license fees were not included in the original Agreement, the Parties have agreed to compensate the Consultant for professional services as set forth in this Agreement, retroactive to July 1, 2024.
- D. This Agreement was approved on \_\_\_\_\_ pursuant to Tracy Municipal Code Section 2.20.140(3) and City Council Resolution No. \_\_\_\_\_.

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

1. **Scope of Work.** Consultant shall perform the professional services, tasks, and scope of work described in Exhibit A attached hereto and incorporated herein by this reference ("Scope of Work"). The Scope of Work shall be performed by, or under the direct supervision of, Consultant's "Authorized Representative": Vincent Yee. 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 the City's prior written consent. The City may terminate this Agreement if Consultant makes any such change or uses or replaces any such subcontractor or subconsultant. Unless otherwise stated on Exhibit A, Consultant shall furnish, at its own expense, the materials, equipment, supplies, and other resources necessary to perform the Scope of Work. The City reserves the right to contract with other firms and/or consultants during the term of this Agreement to provide the City with the same or similar Scope of Work as described in Exhibit A.

2. **Time of Performance.** Time is of the essence in the performance of the Scope of Work under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. If dates for performance are set out in Exhibit A, Consultant shall begin performance, and shall complete all required Scope of Work no later than the dates set forth in Exhibit A. Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. If Exhibit A indicates that Scope of Work shall only be performed upon request, or if the City otherwise communicates the same to Consultant, Consultant shall not perform said Scope of Work until the City requests such performance. Consultant shall submit all requests for time extensions to the City in writing no later than ten (10) days after the start of the condition which purportedly caused the delay,



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

and not later than the date on which performance is due. The City may grant or deny such requests in its sole and absolute discretion.

**2.1 Term.** The term of this Agreement shall commence on July 1, 2024, and expire and terminate automatically on June 30, 2029, or earlier by termination pursuant to Section 6 of this Agreement ("Term").

**3. Compensation.** City shall pay Consultant on a time and expense basis for Scope of Work performed under this Agreement at the billing rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference.

**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed Thirty-Five Thousand Dollars (\$35,000) per fiscal year. Notwithstanding the foregoing, the payment of any funds under this Agreement shall be subject to the City of Tracy appropriation of funds for the Scope of Work. This Agreement shall automatically terminate in the event that such funds are not appropriated. 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. It is understood and agreed that Consultant may not receive compensation up to the Not-to-Exceed Amount (or any other amount), and Consultant's total compensation under this Agreement will depend on the Scope of Work requested and approved by the City. 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 "Not-to-Exceed Amount" provided in this section without the City's prior written approval.

**3.1.1 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 for this Agreement. 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.

**3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe in detail satisfactory to the City: the services performed, the times and dates of performance, and the names of the person(s) performing the Scope of Work.

**3.2.1** If Consultant is providing the Scope of Work 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 this Section 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 portion of the Scope of Work. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Scope of Work.

**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 and portions of Scope of Work described on the invoice(s) and approved by the City.



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

**3.4 Final Payment.** The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to Consultant's services or performance of the Scope of Work. Consultant agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants 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 Consultant, its employees, subcontractors, agents and subconsultants.

**3.5 Books and Accounts.** Consultant agrees to maintain books, accounts, payroll records and other information relating to the performance of Consultant's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Consultant in the performance of Consultant'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.** 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, and reimburse the City for, any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, administrative and judicial proceedings and order, judgments, remedial action requirements, costs and expenses of every kind or nature, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs ("**Claims**") arising directly or indirectly from or out of (including any and all related costs and expenses), relating or pertaining to or resulting from, in whole or in part, this Agreement; any act, omission, or event relating in any way to Consultant's obligations under this Agreement; and/or Consultant's breach of this Agreement, except to the extent such Claim is caused solely by the active negligence or willful misconduct of the City. In this Section 4, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors.

In the event there is a finding and/or determination that Consultant 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), Consultant shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any and all Claims relating to or in connection with such a finding and/or determination.

The provisions of this section survive the expiration 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 the Scope of Work 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.



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

**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 in 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 and, in any event, within five (5) days of such request.

**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.** The City may terminate this Agreement in its sole and absolute discretion, without cause, by giving ten (10) days' written notice to Consultant. Within five (5) days of such a termination, Consultant shall return and deliver to City all original documents relating to the Scope of Work in Consultant's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Consultant pursuant to this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date the termination notice is given.



Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management

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 Scope of Work, upon termination of this Agreement, or within five (5) days of any 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. Consultant shall be solely responsible for, and shall save the City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and state income tax withholding and all other regulations governing employer-employee relations.

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 of 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 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; or 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.

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 the City:  
City of Tracy  
Attn: Assistant Director of Utilities  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:  
NEXGEN Asset Management  
Attn: Vincent Yee, President  
4010 Lennane Drive  
Sacramento, CA 95834

With a copy to:



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

## **12. General Provisions.**

**12.1 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's performance of the Scope of Work 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. No waiver shall be effective unless it is in writing and signed by the waiving party.

**12.4 Assignment and Delegation.** Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's advance 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.

**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, including, without limitation, those identified below, whether or not such 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.).



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

**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 authorized to do business in California, in good standing with the Secretary of State, and in good standing with all agencies having jurisdiction over Consultant (including any licensing agencies). If Consultant is a suspended entity 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 and the matters contemplated herein. This Agreement supersedes all prior negotiations, representations or agreements (in each case, whether oral or in writing). All exhibits attached hereto are incorporated by reference herein.

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

**12.15 Expenses for Enforcement.** Consultant 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.

**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.

*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

*[Signature Page to Follow]*



Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management

As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

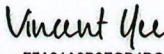
City of Tracy, a Municipal Corporation

By: \_\_\_\_\_  
Dan Arriola  
Title: Mayor  
  
Date: \_\_\_\_\_

Attest:  
  
\_\_\_\_\_  
April B.A. Quintanilla, City Clerk

Approved as to form:  
  
\_\_\_\_\_  
L. David Nefouse, City Attorney

NEXGEN Asset Management, a California Corporation

DocuSigned by:  
By:  \_\_\_\_\_  
F7A91A0D3ECD4DC...  
Vincent Yee  
Title: Chief Executive Officer / Chief Financial Officer / Secretary  
  
Date: 9/24/2025 | 10:02 PM PDT

Federal Employer Tax ID No. 87-4740231

- Exhibits:
- A Scope of Work
  - B Compensation

*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

## **EXHIBIT A - Scope of Work**

### **NEXGEN Asset Management Software License Agreement**

#### **City of Tracy**

This Agreement, effective as of July 1, 2024 ("Agreement") is between NEXGEN Utility Management, Inc. ("NEXGEN"), and City of Tracy ("LICENSEE"), a municipal corporation with an office at 333 Civic Center Plaza, Tracy, California, 95376.

#### **RECITALS**

Whereas, NEXGEN owns certain software programs, referred to collectively as the NEXGEN Asset Management® (NEXGEN AM) products; Whereas, Licensee desires to use those programs, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property contained in the programs.

Now, therefore, NEXGEN and Licensee agree as follows:

#### **1. DEFINITIONS**

- "Program(s)" means the object code version of the software programs and related documentation provided by NEXGEN to Licensee at any time under terms of this agreement.
- "Users" means the number of users (i.e., the number of users using the Program at one time) permitted to use a Program.
- "Domains" means the number of individual database setups that can be accessed by a Program.

#### **2. LICENSE GRANT**

- License of Program(s). Subject to the terms and conditions of this Agreement NEXGEN grants Licensee a nonexclusive, nontransferable license to use the object code version of the Program(s) during the term of this Agreement.
- Limited Grant. Except as expressly set forth in this Section 2, NEXGEN grants and Licensee receives no right, title or interest in or to the Program(s) or any other deliverables provided by NEXGEN in connection with this Agreement.

#### **3. LICENSE RESTRICTIONS**

- No Reverse Engineering. Licensee will not disassemble, decompile, reverse analyze, or reverse engineer the Program(s).
- No Modification. Licensee will not modify the Program(s).
- No Copying. Licensee will not copy the Program(s), in whole or in part.
- No Third Party Use. Licensee will not use the Program(s) in any manner to provide services to any third parties.

#### **4. PROPRIETARY RIGHTS**



*Professional Services Agreement between:  
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- NEXGEN Property. The Program(s), in whole and in part and all copies thereof, are and will remain the sole and exclusive property of NEXGEN.
- Proprietary Notices. Licensee will not delete or alter any copyright, trademark, and other proprietary rights notices of NEXGEN and its Licensors appearing on the Program(s). Licensee agrees to reproduce such notices on all copies it makes of the Program(s).

## **5. CONFIDENTIAL INFORMATION**

- Definition. "Confidential Information" refers to: (i) the Program(s), including, but not limited to their software source code, and any related documentation or technical or design information related to the Program(s); (ii) the business or technical information of NEXGEN, including but not limited to any information relating to NEXGEN's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; and (iii) any information designated by NEXGEN as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential.
- Confidential Information will not include information that: (i) is in or enters the public domain without Licensee's breach of this Agreement; (ii) Licensee receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; or (iii) Licensee develops independently, which it can prove with clear and convincing written evidence.
- Confidentiality Obligations. NEXGEN and Licensee agree to take all measures reasonably required in order to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event be less than the measures NEXGEN and Licensee use to maintain the confidentiality of their own information of equal importance. Licensee shall hold in confidence and shall not disclose to any other party any of the Confidential Information in connection with this Agreement, or otherwise learned or obtained by Licensee in connection with this Agreement, unless disclosure is required under federal or state law, including without limitation the Freedom of Information Act or the California Public Records Request Act. The obligations imposed by this Section shall survive any expiration or termination of this Agreement. Injunctive Relief. Licensee acknowledges that NEXGEN is a beneficiary of this Agreement and is specifically a beneficiary of this Section. Licensee further acknowledges that the Confidential Information of NEXGEN includes trade secrets of NEXGEN, the disclosure of which would cause substantial harm to NEXGEN that could not be remedied by the payment of damages alone. Accordingly, Licensee agrees that NEXGEN will be entitled to preliminary and permanent injunctive relief and other equitable relief for any breach of this Section.

## **6. MAINTENANCE AND SUPPORT**

- Maintenance or support is provided assuming the LICENSEE pays the annual maintenance and support fees in advance. Any new versions or modules of software provided to Licensee are automatically licensed according to provisions of this Agreement.

## **7. LIMITATIONS OF LIABILITY**



*Professional Services Agreement between:  
The City of Tracy and NEXGEN Asset Management*

- Licensee agrees that, as material consideration for NEXGEN extending to Licensee the license rights provided herein, in no event will NEXGEN be liable to Licensee or any third party under this Agreement for any Direct, Indirect, Special, Incidental, or Consequential Damages, whether based on breach of contract, tort (including negligence), product liability, or otherwise, and whether or not NEXGEN has been advised of the possibility of such damage.
- The parties have agreed that the limitations specified in this Section 8 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

## **8. TERM AND TERMINATION**

- Term. This Agreement shall be for the period of one year from the effective date above and shall automatically renew for one-year periods. This Agreement may be terminated by NEXGEN at any time at its sole discretion for any reason including but not limited to: (i) Licensee breaches any material term or condition of this Agreement; (ii) Licensee becomes the subject of a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors; or (iii) Licensee becomes the subject of an involuntary petition in bankruptcy or any involuntary proceeding relating to insolvency, receivership, liquidation, or composition for the benefit of creditors, if such petition or proceeding is not dismissed within sixty (60) days of filing. Licensee may also terminate this Agreement by providing NEXGEN sixty (60) days written notice.
- Effect of Termination. On termination of this Agreement, Licensee will immediately return to NEXGEN or (at NEXGEN's request) destroy all copies of the Program(s) in its possession or control, and an officer of Licensee will certify to NEXGEN in writing that it has done so.
- Survival. The provisions of Sections 4 (Proprietary Rights) and 6 (Confidential Information) will survive termination of this Agreement for any reason.
- Nonexclusive Remedy. The exercise by NEXGEN of any remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

## **9. GENERAL PROVISIONS**

- Assignment. The parties shall not assign this Agreement, and any attempted assignment shall be void.
- Modifications. This Agreement may only be modified, or any rights under it waived, by a written document executed by NEXGEN and Licensee.
- Conflicting Terms. Purchase orders or similar documents relating to the Program(s) will have no effect on the terms of this Agreement.
- Notices. All notices under this Agreement will be deemed given when delivered personally or sent by U.S. certified mail, return receipt requested, to the address shown below or as may otherwise be specified by either party to the other in accordance with this Section.
- Severability. If any provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected.
- Waiver. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.
- Entire Agreement. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all



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prior agreements, communications, and understandings (both written and oral) regarding such subject matter.

- Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of California applicable to agreements entered into, and to be performed entirely, within California between California residents.

*Professional Services Agreement between:  
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## **EXHIBIT B - Compensation**

Annual software licensing fees are as follows for:

<b>Fiscal Year</b>	<b>Amount</b>
2024-2025	\$ 28,000.00
2025-2026	\$ 29,400.00
2026-2027	\$ 30,870.00
2027-2028	\$ 32,414.00
2028-2029	\$ 34,035.00



APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

- 
- 1) APPROVING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH NEXGEN ASSET MANAGEMENT FOR THE ANNUAL SOFTWARE LICENSE FEES RELATED TO THE UTILITIES DIVISION COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM FOR AN INITIAL TERM OF THREE (3) YEARS, AND A TOTAL NOT-TO-EXCEED AMOUNT OF \$35,000 PER FISCAL YEAR, RETROACTIVE TO JULY 1, 2024; AND**
  - 2) AUTHORIZING AN ADMINISTRATIVE EXTENSION OF UP TO TWO (2) ADDITIONAL YEARS IN ANY COMBINATION, CONTINGENT UPON SATISFACTORY PERFORMANCE AND BUDGET AVAILABILITY.**

**WHEREAS**, in 2017, the City of Tracy (City) identified the need for an asset management software solution to efficiently manage and maintain all utility-related assets; and

**WHEREAS**, on July 28, 2017, the City issued a Request for Proposal for the development of software platform capable of tracking and managing maintenance tasks for water and wastewater treatment facilities, including remote sites, under Capital Improvement Project (CIP) 74094; and

**WHEREAS**, in November 2017, NEXGEN Asset Management (Consultant) was selected as the most qualified proposer through a competitive selection process; and

**WHEREAS**, on January 16, 2018, the City Council authorized the execution of a Professional Services Agreement (PSA) with Consultant, pursuant Resolution No. 2018-016; and

**WHEREAS**, the original PSA included a not-to-exceed (NTE) amount of \$204,568 for software integration services and was structured as an annual renewal contract with no specified annual fee or termination date, allowing either party to terminate the Agreement at any time; and

**WHEREAS**, the City and Consultant have since renegotiated the PSA to include annual software license fees as follows:

<b>Fiscal Year</b>	<b>Amount</b>
2024-2025	\$ 28,000.00
2025-2026	\$ 29,400.00
2026-2027	\$ 30,870.00
2027-2028	\$ 32,414.00
2028-2029	\$ 34,035.00

**WHEREAS**, the City is currently in the process of procuring a citywide asset management software solution, and it is in the best interest of operational efficiency for the Utilities Division to continue utilizing the current system in the interim; and

**WHEREAS**, staff is also requesting the City Council to approve the execution of the PSA with Consultant to account for the annual software licensing fees of a total not-to-exceed amount of \$35,000 per year for the initial three 3 years, retroactively to July 1, 2024; and

**WHEREAS**, the approval of this amendment does not constitute a "Project" under the California Environmental Quality Act (CEQA), and is therefore exempt from CEQA review; now, therefore, be it

**RESOLVED:** That the above recitals are true and correct; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy hereby approves the execution of a Professional Services Agreement with NEXGEN Asset Management for the annual software license fees related to the Utilities Division computerized maintenance management system for an initial three (3) years and a total not-to-exceed amount of \$35,000 per fiscal year; and be it

**FURTHER RESOLVED:** That the City Council authorizes an administrative extension up to two (2) years in any combination, by the City Manager, contingent upon satisfactory performance and budget availability; and be it

**FURTHER RESOLVED:** That the City Council finds the actions taken herein are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, as they do not constitute a project.

\*\*\*\*\*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 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: \_\_\_\_\_  
APRIL B.A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California



Agenda Item 1.D

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution authorizing the purchase of one (1) new 2025 John Deere ProGator 2030A GPS Precision Sprayer from Belcorp AG, LLC and (2) authorize the execution of a Sourcewell Purchase Agreement utilizing the Sourcewell Cooperative Program in the amount of \$134,500 for the Parks, Recreation, and Community Services Department.**

EXECUTIVE SUMMARY

City Council's approval of this request will authorize the purchase of new equipment from Belcorp AG, a Sourcewell cooperatively bid contract company. A current need exists to acquire a new 2025 ProGator 2030A GPS Precision Sprayer to support maintenance operations. Staff is requesting to purchase the equipment in the amount of \$134,500 using the Parks, Recreation, and Community Services Fund.

BACKGROUND

The Operations Department is responsible for managing most of the City's vehicle and equipment fleet. Operations Fleet Division received authorization in the Fiscal Year 2024-2025 budget process for the addition and purchase of the ProGator 2030A GPS Precision Sprayer. Staff requested bids from Sourcewell (formerly National Joint Powers Alliance NJPA).

The 2025 ProGator 2030A GPS Precision Sprayer is needed to ensure the consistent maintenance of the city's 151 acres of turf in our parks and sports facilities. With only one sprayer at this time parks cannot effectively apply fertilizer and pesticides during a limited optimal window. A second sprayer will enhance operational efficiency by reducing downtime and ensuring timely applications.

Without this asset the quality of the city's parks and sports fields will risk declining turf conditions and increase replanting costs.

ANALYSIS

Sourcewell (formerly NJPA) is a municipal contracting government agency that serves education and government agencies nationally through competitively bid and awarded contract purchasing solutions. The City of Tracy is an established customer with Sourcewell (customer number 18531). The city is authorized to make purchases using the Sourcewell cooperative purchasing agreements, per Tracy Municipal Code section 2.20.220.

**Green Fleet Policy Implications:** To convert Tracy public agency fleet to electric vehicles (EV) or alternative fuels, City staff is conducting extensive research on options and availability of Electric Vehicles for the vehicle contemplated herein. Currently the manufacturer does not offer a vehicle available on the marketplace for purchase. Staff also researched the vehicles availability list in California's Hybrid and Zero-Emission. Truck Voucher Incentive Project (HVIP), which plays a crucial role in the deployment of zero-emission and near-zero-emission technologies. HVIP accelerates commercialization by providing point-of-sale vouchers to make

advanced vehicles more affordable. The current list of eligible vehicles for point-of-sale incentives can be found here: <https://californiahvip.org/vehiclecatalog/>  
The HVIP website could not identify a vehicle that meets the required specifications. John Deere does not offer this unit in an EV model.

All internal combustion vehicles and equipment contemplated for purchase herein will meet the California Air Resources Board (CARB) requirements.

Below is a list of equipment that will be purchased.

<b>Description</b>	<b>Vendor</b>	<b>Cost</b>	<b>Public Bidding Procedure</b>
2025 John Deere ProGator 2020A	Belkorp Ag.LLC	\$134,500	Sourcewell (NJPA) 112324-DAC

#### FISCAL IMPACT

The funding for the purchase of the ProGator 2020A in the amount of \$134,500 is available in the Parks, Recreation, and Community Services Fund.

#### STRATEGIC PLAN

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

#### CEQA REVIEW

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

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution authorizing the purchase of one (1) new 2025 John Deere ProGator 2030A GPS Precision Sprayer from Belkorp AG, LLC and (2) authorize the execution of a Sourcewell Purchase Agreement utilizing the Sourcewell Cooperative Program in the amount of \$134,500 for the Parks, Recreation, and Community Services Department.



Prepared by: Adrian Taylor, Fleet Supervisor

Reviewed by: Anush Nejad, Public Works Director  
David Murphy, Assistant Director of Operations  
Jim Thompson, Operations Superintendent  
Sara Castro, Director of Finance  
L. David Nefouse, City Attorney  
Nilo Velazquez, Management Analyst

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachments:

- A – Sourcewell Contract 112324 (Belkorp)
- B – Belkorp Ag., LLC Quote.
- C – Sourcewell Purchase Agreement with Belkorp, Ag LLC

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**MASTER AGREEMENT #112624****CATEGORY: Grounds Maintenance Equipment and Related Attachments****SUPPLIER: Deere & Company**

This Master Agreement (Agreement) is between Sourcewell, a Minnesota service cooperative located at 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Deere & Company, 2000 John Deere Run, Cary, NC 27513 (Supplier).

Sourcewell is a local government and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) offering a Cooperative Purchasing Program to eligible participating government entities.

Under this Master Agreement entered with Sourcewell, Supplier will provide Included Solutions to Participating Entities through Sourcewell's Cooperative Purchasing Program.

**Article 1:  
General Terms**

The General Terms in this Article 1 control the operation of this Master Agreement between Sourcewell and Supplier and apply to all transactions entered by Supplier and Participating Entities. Subsequent Articles to this Master Agreement control the rights and obligations directly between Sourcewell and Supplier (Article 2), and between Supplier and Participating Entity (Article 3), respectively. These Article 1 General Terms control over any conflicting terms. Where this Master Agreement is silent on any subject, Participating Entity and Supplier retain the ability to negotiate mutually acceptable terms.

- 1) **Purpose.** Pursuant to Minnesota law, the Sourcewell Board of Directors has authorized a Cooperative Purchasing Program designed to provide Participating Entities with access to competitively awarded cooperative purchasing agreements. To facilitate the Program, Sourcewell has awarded Supplier this cooperative purchasing Master Agreement following a competitive procurement process intended to meet compliance standards in accordance with Minnesota law and the requirements contained herein.
- 2) **Intent.** The intent of this Master Agreement is to define the roles of Sourcewell, Supplier, and Participating Entity as it relates to Sourcewell's Cooperative Purchasing Program.
- 3) **Participating Entity Access.** Sourcewell's Cooperative Purchasing Program Master Agreements are available to eligible public agencies (Participating Entities). A Participating Entity's authority to access Sourcewell's Cooperative Purchasing Program is determined through the laws of its respective jurisdiction.
- 4) **Supplier Access.** The Included Solutions offered under this Agreement may be made available to any Participating Entity. Supplier understands that a Participating Entity's use of this Agreement is at the Participating Entity's sole convenience. Supplier will educate its sales and service forces about Sourcewell eligibility requirements and required documentation. Supplier will be responsible for ensuring sales are with Participating Entities.



- 5) **Term.** This Agreement is effective upon the date of the final signature below. The term of this Agreement is four (4) years from the effective date. The Agreement expires at 11:59 P.M. Central Time on January 31, 2029, unless it is cancelled or extended as defined in this Agreement.
- a) **Extensions.** Sourcewell and Supplier may agree to up to three (3) additional one-year extensions beyond the original four-year term. The total possible length of this Agreement will be seven (7) years from the effective date.
- b) **Exceptional Circumstances.** Sourcewell retains the right to consider additional extensions as required under exceptional circumstances.
- 6) **Survival of Terms.** Notwithstanding the termination of this Agreement, the obligations of this Agreement will continue through the performance period of any transaction entered between Supplier and any Participating Entity before the termination date.
- 7) **Scope.** Supplier is awarded a Master Agreement to provide the solutions identified in RFP #112624 to Participating Entities. In Scope solutions include:
- a) Lawn and garden equipment for all types of lawn, field and turf care, golf course, landscape, sidewalk, walking path, and parking lot maintenance, and snow removal;
- b) Irrigation and aeration equipment, systems, parts, and installation; and
- c) Beach and waterfront maintenance equipment and accessories.
- 8) **Included Solutions.** Supplier's Proposal to the above referenced RFP is incorporated into this Master Agreement. Only those Solutions included within Supplier's Proposal and within Scope (Included Solutions) are included within the Agreement and may be offered to Participating Entities.
- 9) **Indefinite Quantity.** This Master Agreement defines an indefinite quantity of sales to eligible Participating Entities.
- 10) **Pricing.** Pricing information (including Pricing and Delivery and Pricing Offered tables) for all Included Solutions within Supplier's Proposal is incorporated into this Master Agreement.
- 11) **Not to Exceed Pricing.** Suppliers may not exceed the prices listed in the current Pricing List on file with Sourcewell when offering Included Solutions to Participating Entities. Participating Entities may request adjustments to pricing directly from Supplier during the negotiation and execution of any transaction.
- 12) **Open Market.** Supplier's open market pricing process is included within its Proposal.
- 13) Supplier Representations:**
- i) **Compliance.** Supplier represents and warrants it will provide all Included Solutions under this Agreement in full compliance with applicable federal, state, and local laws and regulations.

ii) **Licenses.** As applicable, Supplier will maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of Supplier's business with Participating Entities. Participating Entities may request all relevant documentation directly from Supplier.

iii) **Supplier Warrants.** Supplier warrants that all Included Solutions furnished under this Agreement are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Solutions are suitable for and will perform in accordance with the ordinary use for which they are intended.

14) **Bankruptcy Notices.** Supplier certifies and warrants it is not currently in a bankruptcy proceeding. Supplier has disclosed all current and completed bankruptcy proceedings within the past seven years within its Proposal. Supplier must provide notice in writing to Sourcewell if it enters a bankruptcy proceeding at any time during the term of this Agreement.

15) **Debarment and Suspension.** Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Agreement. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time during the term of this Agreement.

16) **Provisions for non-United States federal entity procurements under United States federal awards or other awards (Appendix II to 2 C.F.R § 200).** Participating Entities that use United States federal grant or other federal funding to purchase solutions from this Agreement may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Section, all references to "federal" should be interpreted to mean the United States federal government. The following list applies when a Participating Entity accesses Supplier's Included Solutions with United States federal funds.

i) **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all agreements that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

ii) **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5,



“Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must comply with all applicable Davis-Bacon Act provisions.

iii) **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708).**

Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies, materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Agreement. Supplier certifies that during the term of an award for all Agreements by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

iv) **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all Agreements by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

v) **CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387).** Contracts and subgrants of amounts in excess of

\$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Agreement it will comply with applicable requirements as referenced above.

vi) **DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689).** A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

vii) **BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352).** Suppliers must file any required certifications. Suppliers must not have 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. Suppliers must 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 non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

viii) **RECORD RETENTION REQUIREMENTS.** To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

ix) **ENERGY POLICY AND CONSERVATION ACT COMPLIANCE.** To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

x) **BUY AMERICAN PROVISIONS COMPLIANCE.** To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

xi) **ACCESS TO RECORDS (2 C.F.R. § 200.336).** Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions. The



right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

xii) **PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322).** A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

xiii) **FEDERAL SEAL(S), LOGOS, AND FLAGS.** The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

xiv) **NO OBLIGATION BY FEDERAL GOVERNMENT.** The U.S. federal government is not a party to this Agreement or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Agreement or any purchase by an authorized user.

xv) **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** The Contractor acknowledges that 31 U.S.C. § 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Agreement or any purchase by a Participating Entity.

xvi) **FEDERAL DEBT.** The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

xvii) **CONFLICTS OF INTEREST.** The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Agreement or any aspect related to the anticipated work under this Agreement raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

xviii) **U.S. EXECUTIVE ORDER 13224.** The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

xix) **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.** To the extent applicable, Supplier certifies that during the term of this Agreement it will comply with applicable requirements of 2 C.F.R. § 200.216.

xx) **DOMESTIC PREFERENCES FOR PROCUREMENTS.** To the extent applicable, Supplier certifies that during the term of this Agreement, Supplier will comply with applicable requirements of 2 C.F.R. § 200.322.

## **Article 2: Sourcewell and Supplier Obligations**

The Terms in this Article 2 relate specifically to Sourcewell and its administration of this Master Agreement with Supplier and Supplier's obligations thereunder.

- 1) **Authorized Sellers.** Supplier must provide Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers which may complete transactions of Included Solutions offered under this Agreement. Sourcewell may request updated information in its discretion, and Supplier agrees to provide requested information within a reasonable time.
- 2) **Product and Price Changes Requirements.** Supplier may request Included Solutions changes, additions, or deletions at any time. All requests must be made in writing by submitting a Sourcewell Price and Product Change Request Form to Sourcewell. At a minimum, the request must:
  - Identify the applicable Sourcewell Agreement number;
  - Clearly specify the requested change;
  - Provide sufficient detail to justify the requested change;
  - Individually list all Included Solutions affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
  - Include a complete restatement of Pricing List with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Included Solutions offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Agreement and will be incorporated by reference.

- 3) **Authorized Representative.** Supplier will assign an Authorized Representative to Sourcewell for this Agreement and must provide prompt notice to Sourcewell if that person is changed. The Authorized Representative will be responsible for:
  - Maintenance and management of this Agreement;
  - Timely response to all Sourcewell and Participating Entity inquiries; and
  - Participation in reviews with Sourcewell.

Sourcewell's Authorized Representative is its Chief Procurement Officer.

- 4) **Performance Reviews.** Supplier will perform a minimum of one review with Sourcewell per agreement year. The review will cover transactions to Participating Entities, pricing and terms, administrative fees, sales data reports, performance issues, supply chain issues, customer issues, and any other necessary information.

- 5) **Sales Reporting Required.** Supplier is required as a material element to this Master Agreement to report all completed transactions with Participating Entities utilizing this Agreement. Failure to provide complete and accurate reports as defined herein will be a material breach of the Agreement and Sourcewell reserves the right to pursue all remedies available at law including cancellation of this Agreement.
- 6) **Reporting Requirements.** Supplier must provide Sourcewell an activity report of all transactions completed utilizing this Agreement. Reports are due at least once each calendar quarter (Reporting Period). Reports must be received no later than 45 calendar days after the end of each calendar quarter. Supplier may report on a more frequent basis in its discretion. Reports must be provided regardless of the amount of completed transactions during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Sourcewell Participating Entity Account Number;
- Transaction Description;
- Transaction Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Transaction was invoiced/sale was recognized as revenue by Supplier.

If collected by Supplier, the Report may include the following fields as available:

- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;

- 7) **Administrative Fee.** In consideration for the support and services provided by Sourcewell, Supplier will pay an Administrative Fee to Sourcewell on all completed transactions to Participating Entities utilizing this Agreement. Supplier will include its Administrative Fee within its proposed pricing. Supplier may not directly charge Participating Entities to offset the Administrative Fee.
- 8) **Fee Calculation.** Supplier's Administrative Fee payable to Sourcewell will be calculated as a stated percentage (listed in Supplier's Proposal) of all completed transactions utilizing this Master Agreement within the preceding Reporting Period. For certain categories, a flat fee may be proposed. The Administrative Fee will be stated in Supplier's Proposal.
- 9) **Fee Remittance.** Supplier will remit fee to Sourcewell no later than 45 calendar days after the close of the preceding calendar quarter in conjunction with Supplier's Reporting Period obligations defined herein. Payments should note the Supplier's name and Sourcewell-assigned Agreement number in the memo; and must be either mailed to Sourcewell above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions.



- 10) **Noncompliance.** Sourcewell reserves the right to seek all remedies available at law for unpaid or underpaid Administrative Fees due under this Agreement. Failure to remit payment, delinquent payments, underpayments, or other deviations from the requirements of this Agreement may be deemed a material breach and may result in cancellation of this Agreement and disbarment from future Agreements.
- 11) **Audit Requirements.** Pursuant to Minn. Stat. § 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell and the Minnesota State Auditor for a minimum of six years from the end of this Agreement. Supplier agrees to fully cooperate with Sourcewell in auditing transactions under this Agreement to ensure compliance with pricing terms, correct calculation and remittance of Administrative Fees, and verification of transactions as may be requested by a Participating Entity or Sourcewell.
- 12) **Assignment, Transfer, and Administrative Changes.** Supplier may not assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of Sourcewell. Such consent will not be unreasonably withheld. Sourcewell reserves the right to unilaterally assign all or portions of this Agreement within its sole discretion to address corporate restructurings, mergers, acquisitions, or other changes to the Responsible Party and named in the Agreement. Any prohibited assignment is invalid. Upon request Sourcewell may make administrative changes to agreement documentation such as name changes, address changes, and other non-material updates as determined within its sole discretion.
- 13) **Amendments.** Any material change to this Agreement must be executed in writing through an amendment and will not be effective until it has been duly executed by the parties.
- 14) **Waiver.** Failure by Sourcewell to enforce any right under this Agreement will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right.
- 15) **Complete Agreement.** This Agreement represents the complete agreement between the parties for the scope as defined herein. Supplier and Sourcewell may enter into separate written agreements relating specifically to transactions outside of the scope of this Agreement.
- 16) **Relationship of Sourcewell and Supplier.** This Agreement does not create a partnership, joint venture, or any other relationship such as employee, independent contractor, master-servant, or principal-agent.
- 17) **Indemnification.** Supplier must indemnify, defend, save, and hold Sourcewell, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell, arising out of any act or omission in the performance of this Agreement by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in design, condition, or performance of Included Solutions under this Agreement. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.
- 18) **Data Practices.** Supplier and Sourcewell acknowledge Sourcewell is subject to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13. As it applies to all data created and

maintained in performance of this Agreement, Supplier may be subject to the requirements of this chapter.

**19) Grant of License.**

**a) During the term of this Agreement:**

i) **Supplier Promotion.** Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising, promotional materials, and informational sites for the purpose of marketing Sourcewell's Agreement with Supplier.

ii) **Sourcewell Promotion.** Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising, promotional materials, and informational sites for the purpose of marketing Supplier's Agreement with Sourcewell.

b) **Limited Right of Sublicense.** The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, partners, or agents (collectively "Permitted Sublicensees") in advertising, promotional, or informational materials for the purpose of marketing the Parties' relationship. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this section by any of their respective sublicensees.

**c) Use; Quality Control.**

i) Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

ii) Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Each party may make written notice to the other regarding misuse under this section. The offending party will have 30 days of the date of the written notice to cure the issue or the license/sublicense will be terminated.

d) **Termination.** Upon the termination of this Agreement for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

**20) Venue and Governing law between Sourcewell and Supplier Only.** The substantive and procedural laws of the State of Minnesota will govern this Agreement between Sourcewell and Supplier. Venue for all legal proceedings arising out of this Agreement between Sourcewell and Supplier will be in court of competent jurisdiction within the State of Minnesota. This section does not apply to any dispute between Supplier and Participating Entity. This Agreement reserves the right for Supplier and Participating Entity to negotiate this term to within any transaction documents.

- 21) **Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Agreement is capable of being performed, it will not be affected by such determination or finding and must be fully performed.
- 22) **Insurance Coverage.** At its own expense, Supplier must maintain valid insurance policy(ies) during the performance of this Agreement with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:
- a) **Commercial General Liability Insurance.** Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Agreement.
    - \$1,500,000 each occurrence Bodily Injury and Property Damage
    - \$1,500,000 Personal and Advertising Injury
    - \$2,000,000 aggregate for products liability-completed operations
    - \$2,000,000 general aggregate
  - b) **Certificates of Insurance.** Prior to execution of this Agreement, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Agreement. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or provided to in an alternative manner as directed by Sourcewell. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. Failure of Supplier to maintain the required insurance and documentation may constitute a material breach.
  - c) **Additional Insured Endorsement and Primary and Non-contributory Insurance Clause.** Supplier agrees to list Sourcewell, including its officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.
  - d) **Waiver of Subrogation.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Agreement or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.



- e) **Umbrella/Excess Liability/SELF-INSURED RETENTION.** The limits required by this Agreement can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.
- 23) **Termination for Convenience.** Sourcewell or Supplier may terminate this Agreement upon 60 calendar days' written notice to the other Party. Termination pursuant to this section will not relieve the Supplier's obligations under this Agreement for any transactions entered with Participating Entities through the date of termination, including reporting and payment of applicable Administrative Fees.
- 24) **Termination for Cause.** Sourcewell may terminate this Agreement upon providing written notice of material breach to Supplier. Notice must describe the breach in reasonable detail and state the intent to terminate the Agreement. Upon receipt of Notice, the Supplier will have 30 calendar days in which it must cure the breach. Termination pursuant to this section will not relieve the Supplier's obligations under this Agreement for any transactions entered with Participating Entities through the date of termination, including reporting and payment of applicable Administrative Fees.

### **Article 3: Supplier Obligations to Participating Entities**

The Terms in this Article 3 relate specifically to Supplier and a Participating Entity when entering transactions utilizing the General Terms established in this Master Agreement. Article 1 General Terms control over any conflict with this Article 3. Where this Master Agreement is silent on any subject, Participating Entity and Supplier retain the ability to negotiate mutually acceptable terms.

- 1) **Quotes to Participating Entities.** Suppliers are encouraged to provide all pricing information regarding the total cost of acquisition when quoting to a Participating Entity. Suppliers and Participating Entities are encouraged to include all cost specifically associated with or included within the Suppliers proposal and Included Solutions within transaction documents.
- 2) **Shipping, Delivery, Acceptance, Rejection, and Warranty.** Supplier's proposal may include proposed terms relating to shipping, delivery, inspection, and acceptance/rejection and other relevant terms of tendered Solutions. Supplier and Participating Entity may negotiate final terms appropriate for the specific transaction relating to non-appropriation, shipping, delivery, inspection, acceptance/rejection of tendered Solutions, and warranty coverage for Included Solutions. Such terms may include, but are not limited to, costs, risk of loss, proper packaging, inspection rights and timelines, acceptance or rejection procedures, and remedies as mutually agreed include notice requirements, replacement, return or exchange procedures, and associated costs.
- 3) **Applicable Taxes.** Participating Entity is responsible for notifying supplier of its tax-exempt status and for providing Supplier with any valid tax-exemption certification(s) or related documentation.
- 4) **Ordering Process and Payment.** Supplier's ordering process and acceptable forms of payment are included within its Proposal. Participating Entities will be solely responsible for payment to Supplier and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.
- 5) **Transaction Documents.** Participating Entity may require the use of its own forms to complete transactions directly with Supplier utilizing the terms established in this Agreement. Supplier's

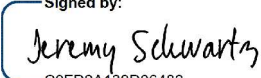
standard form agreements may be offered as part of its Proposal. Supplier and Participating Entity may complete and document transactions utilizing any type of transaction documents as mutually agreed. In any transaction document entered utilizing this Agreement, Supplier and Participating Entity must include specific reference to this Master Agreement by number and to Participating Entity’s unique Sourcewell account number.

- 6) **Additional Terms and Conditions Permitted.** Participating Entity and Supplier may negotiate and include additional terms and conditions within transaction documentation as mutually agreed. Such terms may supplant or supersede this Master Agreement when necessary and as solely determined by Participating Entity. Sourcewell has expressly reserved the right for Supplier and Participating Entity to address any necessary provisions within transaction documents not expressly included within this Master Agreement, including but not limited to transaction cancellation, dispute resolution, governing law and venue, non-appropriation, insurance, defense and indemnity, force majeure, and other material terms as mutually agreed.
- 7) **Subsequent Agreements and Survival.** Supplier and Participating Entity may enter into a separate agreement to facilitate long-term performance obligations utilizing the terms of this Master Agreement as mutually agreed. Such agreements may provide for a performance period extending beyond the full term of this Master Agreement as determined in the discretion of Participating Entity.
- 8) **Participating Addendums.** Supplier and Participating Entity may enter a Participating Addendum or similar document extending and supplementing the terms of this Master Agreement to facilitate adoption as may be required by a Participating Entity.

Sourcewell

Deere & Company

Signed by:



C0FD2A139D06489...

By: \_\_\_\_\_

Jeremy Schwartz

Title: Chief Procurement Officer

Date: 1/29/2025 | 7:20 PM CST

Signed by:



C44230CF47A24D5...

By: \_\_\_\_\_

Jennifer Smith

Title: Contract Administrator

Date: 1/29/2025 | 4:20 PM CST

# RFP 112624 - Grounds Maintenance Equipment and Related Attachments

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## Vendor Details

Company Name: Deere & Company  
Address: 2000 John Deere Run  
Cary, NC 27513  
Contact: Jennifer Smith  
Email: GovContractSupport@JohnDeere.com  
Phone: 800-358-5010 2652  
Fax: 309-749-2313  
HST#: 362382580

## Submission Details

Created On: Wednesday October 30, 2024 08:18:25  
Submitted On: Tuesday November 26, 2024 10:28:52  
Submitted By: Jennifer Smith  
Email: GovContractSupport@JohnDeere.com  
Transaction #: c2dfa048-0a04-4f03-9f38-1f30eca50e45  
Submitter's IP Address: 136.226.3.100

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## Specifications

**Table 1: Proposer Identity & Authorized Representatives (Not Scored)**

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Table 1 Specific Instructions. Sourcewell requires identification of all parties responsible for providing Solutions under a resulting master agreement(s) (Responsible Supplier). Proposers are strongly encouraged to include all potential Responsible Suppliers including any corporate affiliates, subsidiaries, D.B.A., and any other authorized entities within a singular proposal. All information required under this RFP must be included for each Responsible Supplier as instructed. Proposers with multiple Responsible Supplier options may choose to respond individually as distinct entities, however each response will be evaluated individually and only those proposals recommended for award may result in a master agreement award. Unawarded entities will not be permitted to later be added to an existing master agreement through operation of Proposer's corporate organization affiliation.

Line Item	Question	Response *	
1	Provide the legal name of the Proposer authorized to submit this Proposal.	Deere & Company	*
2	In the event of award, is this entity the Responsible Supplier that will execute the master agreement with Sourcewell? Y or N.	Yes	*
3	Identify all subsidiaries, D.B.A., authorized affiliates, and any other entity that will be responsible for offering and performing delivery of Solutions within this Proposal (i.e. Responsible Supplier(s) that will execute a master agreement with Sourcewell).	No other suppliers will execute a master agreement with Sourcewell	*
4	Provide your CAGE code or Unique Entity Identifier (SAM):	CAGE Code: 0XWZ3 UEID Number: FNSWEDARMK53	*
5	Provide your NAICS code applicable to Solutions proposed.	333111, 333112	
6	Proposer Physical Address:	2000 John Deere Run, Cary, NC 27513	*
7	Proposer website address (or addresses):	www.deere.com	*
8	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer):	Jennifer Smith - Contract Administrator 2000 John Deere Run, Cary, NC 27513 GovContractSupport@JohnDeere.com 800-358-5010 Ext. 2652	*
9	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Jennifer Smith - Contract Administrator 2000 John Deere Run, Cary, NC 27513 GovContractSupport@JohnDeere.com 800-358-5010 Ext. 2652	*
10	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Adrienne Larson, Sr. Strategic Account Manager 10789 S Ridgeview Rd, Olathe, KS 66061 LarsonAdrienneL@JohnDeere.com 913-310-8085	*

**Table 2A: Financial Viability and Marketplace Success (50 Points)**

Line Item	Question	Response *	
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11	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested Solutions.	<p>We Run For All. We innovate on behalf of humanity. It doesn't matter if you've never driven a tractor, mowed a lawn, or operated a dozer. With our role in helping produce food, fiber, fuel and infrastructure, we work for every single person on the planet.</p> <p>Deere &amp; Company, founded in 1837 (collectively known as John Deere), began as a simple one-man blacksmith. Today it has grown into a corporation that does business around the world. The company is guided by the same core values established by its founder: integrity, quality, commitment and innovation. John Deere produces intelligent, connected machines and applications that are helping revolutionize the agriculture and construction industries. Our easy-to-use products and solutions deliver results our customers see in the field, on the job site, and in their pockets.</p> <p>Deere &amp; Company at a glance: <a href="https://www.deere.com/assets/pdfs/common/ourcompany/deere-&amp;-company-at-a-glance.pdf">https://www.deere.com/assets/pdfs/common/ourcompany/deere-&amp;-company-at-a-glance.pdf</a></p>	*
12	What are your company's expectations in the event of an award?	If awarded, John Deere will be able to offer a wide array of products that fall within the scope of the products requested in this RFP. John Deere will continue to grow its successful partnership and relationship with Sourcewell to provide its members the best option for acquiring our Ground Maintenance Equipment and Related Attachments.	*
13	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response. DO NOT PROVIDE ANY TAX INFORMATION OR PERSONALLY IDENTIFIABLE INFORMATION.	Please see Deere & Company's 2023 Annual Report that has been uploaded as part of our proposal.	*
14	What is your US market share for the Solutions that you are proposing?	John Deere considers its market share data to be proprietary information. While we do not publicly release market share information, John Deere holds a top-level market share position across our entire Ag & Turf product portfolio in the US.	*
15	What is your Canadian market share for the Solutions that you are proposing?	John Deere considers its market share data to be proprietary information. While we do not publicly release market share information, John Deere holds a top-level market share position across our entire Ag & Turf product portfolio in the Canada.	*
16	Disclose all current and completed bankruptcy proceedings for Proposer and any included possible Responsible Party within the past seven years. Proposer must provide notice in writing to Sourcewell if it enters a bankruptcy proceeding at any time during the pendency of this RFP evaluation.	Not Applicable	*
17	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer the question that best applies to your organization, either a) or b). a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	<p>John Deere is a manufacturer (b).</p> <p>John Deere has a dedicated governmental sales department (SABD) based out of Cary, NC. All employees of this group are full time John Deere employees. We have 4 Strategic Account Managers responsible for state governmental sales in their respective geographies, dedicating 100% of their time to grow the John Deere governmental sales business. The account managers work with John Deere dealers to provide training and a greater understanding of the contracts and selling process.</p> <p>John Deere has a nationwide dealer network. The dealer network is independently owned and operated businesses. The John Deere dealers will deliver and service the products being offered in the RFP.</p> <p>Upon contract award, the John Deere dealers can become an authorized seller on our contract. The dealers would have to successfully complete a contract training program administered by our account managers. The dealers would agree to the contract's terms and conditions and sign a dealer agreement. We do retain the right to sell directly if the dealer does not complete training and accept the contract's terms and conditions.</p>	*
18	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Deere & Company maintains all licenses and certifications necessary to conduct its business in the United States and Canada.	*

19	Disclose all current and past debarments or suspensions for Proposer and any included possible Responsible Party within the past seven years. Proposer must provide notice in writing to Sourcewell if it enters a debarment or suspension status any time during the pendency of this RFP evaluation.	There are no suspensions or debarments.	*
20	Describe any relevant industry awards or recognition that your company has received in the past five years.	<p>2024</p> <p>World's Most Ethical Companies – Ethisphere Institute</p> <p>World's Most Admired Companies – Fortune</p> <p>World's Best Companies of 2024 – Time</p> <p>Excellence 1000 Index – ranked #9 – Newsweek</p> <p>The Civic 50 Honoree 2024 – Points of Light</p> <p>2023</p> <p>Sourcewell Legacy Award Winner</p> <p>Ranked #3 for Brand Reputation - Axios/Harris Poll 100</p> <p>World's Most Ethical Companies - Ethisphere Institute</p> <p>America's Best Large Employers - Forbes</p> <p>100 Most Influential Companies - Times</p> <p>World's Most Admired Companies – Fortune</p> <p>2022</p> <p>World's Most Ethical Companies - Ethisphere Institute</p> <p>50 Most Community-Minded Companies - The Civic 50</p> <p>Consumer Electronics Show (CES) Innovation Awards</p> <p>AE50 Awards for Innovation</p> <p>2021</p> <p>World's Most Ethical Companies - Ethisphere Institute</p> <p>Most Admired Companies - Fortune</p> <p>Most Influential Black Corporate Directors for 2021 - Savoy</p> <p>Social Responsibility Award - Fast Company</p> <p>2020</p> <p>World's Most Ethical Companies - Ethisphere Institute</p> <p>Most Innovative Product Engineering Designs - AE50 Awards</p> <p>Best Global Brands - Interbrand</p> <p>Best CES Sustainability Award - GadgetMatch</p> <p>Best Place to Work - Glassdoor</p>	*
21	What percentage of your sales are to the governmental sector in the past three years?	Due to proprietary information, we would prefer not to provide the sales volume history of government agencies. We can assure you that we are a partner who is fully aligned with governmental customer purchase requirements. With a dedicated governmental sales department that works solely with public agencies and our dealer network, we continue to increase our sales volume in this key segment.	*
22	What percentage of your sales are to the education sector in the past three years?	Due to proprietary information, we would prefer not to provide the sales volume history of government agencies. We can assure you that we are a partner who is fully aligned with governmental customer purchase requirements. With a dedicated governmental sales department that works solely with public agencies and our dealer network, we continue to increase our sales volume in this key segment.	*
23	List all state, cooperative purchasing agreements that you hold. What is the annual sales volume for each of these agreement over the past three years?	<p>John Deere currently holds over 110 government contracts consisting of federal, state, county and cooperative contracts. The full list can be found at <a href="http://www.deere.com">www.deere.com</a>.</p> <p>Sales volumes are not publicly shared on any of these contracts.</p>	*
24	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	<p>John Deere currently holds GSA, AFNAF and DLA contracts.</p> <p>Sales volumes are not publicly shared on any of these contracts.</p>	*

**Table 2B: References/Testimonials**

**Line Item 25.** Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
University of Georgia Procurement	Megan Sheridan	706-542-7083	*
Orange County Procurement	Carlos Corona	714-667-9694	*
State of Indiana - Sourcewell Participating Addendum	Stephanie Nelson	317-234-0963	*



**Table 3: Ability to Sell and Deliver Solutions (150 Points)**

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
26	Sales force.	<p>Our sales force would include both the John Deere Government Sales group and our independent dealer network.</p> <p>John Deere has a dedicated governmental sales department based in Cary NC that focuses 100% of their time on the sales and processing of agriculture and turf equipment purchases to governmental and other public agencies. We have a total of 5 Strategic Account Managers, one of which is dedicated strictly to federal sales. The 4 remaining account managers are responsible for state governmental sales in their respective geographies, dedicating 100% of their time to grow the John Deere governmental sales business. The account managers work with John Deere dealers to provide training and a greater understanding of the contracts and selling process.</p> <p>The John Deere dealers can also become an authorized seller on our contract and would be able to accept Purchase Orders and Invoice Sourcewell members. The dealers would have to successfully complete a contract training program administered by our account managers. The dealers would agree to the contract's terms and conditions and sign a dealer agreement. The dealers would be responsible for delivering and supporting the equipment purchased.</p> <p>In relation to the new Sourcewell Grounds Maintenance contract, the account managers would promote the contract to state purchasing agents who either do not have their own purchasing contract or have product gaps in their contract.</p>
27	Describe the network of Authorized Sellers who will deliver Solutions, including dealers, distributors, resellers, and other distribution methods.	<p>John Deere has a nationwide independent dealer network offering best-in-class parts, service, and support. We know the government customer and make everything easy, from the initial purchase to service and support. Our dealer network, with over 1,700 locations nationwide, would be responsible for delivering and servicing the equipment sold to end users using this contract. John Deere dealers offer a combination of afterhours service (varies by dealer) and online support (online parts ordering system), which gives end-users the service needed to avoid costly downtime. The John Deere parts ordering system is available for all dealers and gives them access to over 800,000 unique parts which are ready to ship overnight, if needed. Most dealers also offer some form of mobile maintenance service, which provides on-site service. Dealer technicians are factory-trained on the service and support of the products offered in this RFP.</p>
28	Service force.	<p>John Deere has a nationwide independent dealer network offering best-in-class parts, service, and support. We know the government customer and make everything easy, from the initial purchase to service and support. Our dealer network, with over 1,700 locations nationwide, would be responsible for delivering and servicing the equipment sold to end users using this contract. John Deere dealers offer a combination of afterhours service (varies by dealer) and online support (online parts ordering system), which gives end-users the service needed to avoid costly downtime. The John Deere parts ordering system is available for all dealers and gives them access to over 800,000 unique parts which are ready to ship overnight, if needed. Most dealers also offer some form of mobile maintenance service, which provides on-site service. Dealer technicians are factory-trained on the service and support of the products offered in this RFP.</p>
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	<p>We will have two processes in which Sourcewell members can order products.</p> <ol style="list-style-type: none"> <li>1. Dealer Direct - John Deere dealers who have completed training and certified by the Government Sales group would be an authorized seller on our contract. The dealer would be able to quote, accept purchase orders and invoice the Sourcewell member directly. The Government Sales group has a sales reporting process to capture the sale and report it to Sourcewell.</li> <li>2. Deere Direct - Our dealer network has the ability to quote a Sourcewell member. John Deere would still be the vendor and the PO would still be made out to John Deere. The dealer would upload the quote and PO to the Government Sales Order Processing for audit. Once audited, we will send the dealer confirmation to deliver the equipment. John Deere will invoice the member upon delivery of the product. The Government Sales group has a sales reporting process to capture the sale and report it to Sourcewell.</li> </ol>

30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	<p>The support of the equipment takes place through the John Deere dealer network. While customer service varies within the dealer network, the consistent training that is offered by John Deere Company to dealer technicians and parts personnel helps provide each agency with a similar customer experience. Should there be a need for equipment service, it will be the Sourcewell member's responsibility to contact the delivering dealer for service. The member can also work with other dealers, if necessary, as warranty and service work can be performed by any authorized John Deere dealer. In the event of service issues that cannot be solved by the John Deere dealer, the dealer works with John Deere Company's dealer technical assistance center for elevated support.</p> <p>As far as the John Deere Government Sales Department, we have an entire department of approximately 25 people dedicated to government sales. This includes an Order Management Team, that within an average of 15 days of submission, audits and processes the PO to verify contract pricing and verify the items quoted are eligible for the contract. Contract Administrators in the department ensure contract compliance is maintained.</p>	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities.	<p>John Deere will serve Sourcewell member entities in the United States. The nationwide John Deere dealer network is able to provide products and services throughout the United States.</p> <p>Equipment Delivery Time After Receipt of Order (ARO) is as follows:</p> <ol style="list-style-type: none"> <li>1. Grounds Maintenance Equipment - 90 to 365 days after receipt of order.</li> <li>2. Related Attachment and Accessories - 90 to 365 after receipt of order.</li> </ol>	*
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	John Deere will serve Sourcewell member entities in Canada. The Canadian John Deere dealer network is able to provide products and services throughout Canada.	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed agreement.	John Deere will serve the entire United States, including Alaska and Hawaii, and Canada.	*
34	Identify any account type of Participating Entity which will not have full access to your Solutions if awarded an agreement, and the reasoning for this.	John Deere will serve all Sourcewell member entity sectors.	*
35	Define any specific requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	John Deere has assigned dealer in Hawaii and Alaska. Factory to dealer freight and local delivery by the dealer will be quoted as a separate line item and paid by the Sourcewell member.	*
36	Will Proposer extend terms of any awarded master agreement to nonprofit entities?	John Deere will serve all Sourcewell member entity sectors.	*

**Table 4: Marketing Plan (100 Points)**

Line Item	Question	Response *	
37	Describe your marketing strategy for promoting this opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	<p>John Deere currently uses several forms of marketing to target the governmental and public customer segment:</p> <ol style="list-style-type: none"> <li>1. We have created a website where we prominently advertise the cooperative contracts we currently hold.</li> <li>2. Each year, the company produces a purchasing guide for government equipment. This purchasing guide, available in both print and electronic Flash Drive format, is used by the John Deere dealer network to promote the products.</li> <li>3. John Deere also prints detailed marketing brochures for the products being offered in this RFP. This literature is made available to dealers and includes features and benefits and equipment specifications.</li> </ol> <p>A sample of marketing materials have been uploaded for review and include: Government Municipal Lease Literature, Government Sales Folder Packet and Government Sport Turf Banner.</p>	*
38	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	<p>John Deere's public website, <a href="http://www.deere.com">www.deere.com</a>, provides detailed product information for the products being offered in this RFP. Customers are able to view information on product features, specifications, and accessories. Utilizing <a href="http://www.deere.com">www.deere.com</a>, Sourcewell members would be able to "build-their own" product. Customers choose the product category and subsequent product options to configure their desired piece of equipment. Manufacturer's Suggested Retail List Price is shown. The website will not show the Sourcewell contract discount, but if the Sourcewell member knows the discount on the particular product category, they will be able to determine their purchase price.</p> <p>Through our Marketing Communications group, John Deere is also active promoting our brand and customer relationships on;</p> <ol style="list-style-type: none"> <li>1. Facebook - <a href="http://www.facebook.com/JohnDeereUSCA">www.facebook.com/JohnDeereUSCA</a></li> <li>2. Twitter - <a href="https://twitter.com/JohnDeere">https://twitter.com/JohnDeere</a></li> <li>3. YouTube - <a href="https://www.youtube.com/user/JohnDeere">https://www.youtube.com/user/JohnDeere</a></li> <li>4. Instagram - <a href="https://www.instagram.com/johndeere">instagram.com/johndeere</a></li> </ol>	*
39	In your view, what is Sourcewell's role in promoting agreements arising out of this RFP? How will you integrate a Sourcewell-awarded agreement into your sales process?	<p>Sourcewell, the John Deere Government Sales group and the dealer network will all play a critical role in promoting this new contract. Sourcewell's role will be to continue to promote the John Deere brand to Sourcewell members, so they understand cooperative purchasing and the benefits of becoming a member. John Deere Government sales role will be to promote the Sourcewell contract to the dealer network and properly train dealers on the sales process (quoting, ordering and delivery of products), ensure entities are Sourcewell members and assist nonmembers on how to become a member. The dealers' role will be to partner with the Sourcewell member to identify the correct product and solution based on the application and use of the equipment being purchased. Continued communication between all three areas is critical for success and sales growth with this new contract.</p>	*
40	Are your Solutions available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	<p>We currently use e-procurement systems in North Carolina and Virginia (eVA) because we are contractually required to do so. The system does provide the state a constant record of sales activity, however, administratively, e-procurement is not a seamless process for us. When it comes to John Deere equipment, there are thousands of equipment configurations. Because Deere's price pages are in pdf format, we cannot just simply upload the pricing into the e-procurement systems. We have to manually construct base machines by model and enter them individually. Doing it this way means the agency is not getting the complete picture of what we have available. For the most part, agencies still feel most comfortable with working directly with the dealer to ensure they're getting equipment that will best suit their needs.</p>	*

**Table 5A: Value-Added Attributes (100 Points)**

Line Item	Question	Response *	
41	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	<p>Training on equipment operation and safety is provided through the local dealer at the time of delivery. The dealer will provide a walk-around of the equipment and explain operation and maintenance procedures. This training is free of charge and is part of the purchase. If the entity requires additional product, service or technical training, the dealer will provide at a cost agreed to between the dealer and the entity.</p>	*



42	Describe any technological advances that your proposed Solutions offer.	Recent technological advances that have been introduced include: 1. New for 2024, the Q800 QuikTrac Mowers lineup updates the E Series and introduces the all-new M and R Series models with 7Iron PRO Mower Decks. These models deliver features to meet the needs of professional landscape contractors like more powerful engines, proven low maintenance decks, concrete curb clearance, all-day operation without the need to refuel, traction when its needed, comfortable operator platform, and longer warranties. 2. John Deere is working towards connecting all commercial mowers to John Deere Operations Center to enable professional landscape contractors and government agencies to manage their fleets remotely. Select model year 2024 and 2025 mowers include provisions in the wiring harness to simplify field installation of JDLink M Modem – 4G which connects the mower to Operations Center. 3. Fastback™ PRO Rear-Discharge Mower Deck for the gas and diesel Z900 Ztrak Mowers. The rear-discharge mower deck increases productivity and improves operator comfort without sacrificing cut quality. The rear-discharge design, the chance of damage from objects being thrown from the mower deck is decreased, and minimize the amount of debris blown onto the operator. While allowing the operators to mow closely around fixed objects with either side of the deck. 4. Compact Tractor Quik-Knect™ System Awarded with 2020 AE50 Award. The Quik-Knect System was Named One of This Year's Most Innovative Products in the Food and Agriculture Industry. Quik-Knect prevents twisting or forcing to line-up the splines when attaching rear implements. Developed to help increase operator ease and enhance productivity. Operators slide the tractor and implement connectors together until they click into place. 5. Commercial Walk Behind Mowers Recognized with 2020 AE50 Award. The AE50 awards highlight the most innovative designs in product engineering. The recoil start M Series and electric start R Series Walk Behind Mowers have been a gamechanger for the commercial mowing industry. Redesigned machines directly address the primary customer needs of productivity, operator comfort, weight distribution, and frame clearance.	*
43	Describe any "green" initiatives that relate to your company or to your Solutions, and include a list of the certifying agency for each.	John Deere continually evaluates and identifies these initiatives and can be found in our most recently published Sustainability Report. <a href="https://www.deere.com/en/our-company/sustainability/">https://www.deere.com/en/our-company/sustainability/</a> John Deere green initiatives include: By 2026 1. Ensure 100% of new Small Ag equipment is connectivity enabled. 2. Offer an electric option in each Turf and Compact Utility Tractor product family. 3. Deliver a fully autonomous, battery-powered electric ag tractor to the market. By 2030 1. Achieve 95% recyclable product content. 2. Ensure 65% of product content is sustainable material.	*
44	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the Solutions included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Sustainability is foundational to the John Deere strategy. We are committed to reducing the environmental impact on 90% of new products to include emissions reductions and invest \$4 Million dollars per day in research and development. Third-party initiatives and recognition include: 1. Best of CES Sustainability Award (GadgetMatch) 2. 50 Sustainability & Climate Leader (Bloomberg) 3. World's Most Ethical Companies (Ethisphere) 4. John Deere received notification that its emissions reduction targets have been validated by Science Based Targets initiatives (SBTi). 5. John Deere acquires majority ownership in Kreisel Electric. A leading pioneer in the development of immersion-cooled battery technology.  John Deere continually evaluates and identifies these initiatives and can be found in our most recently published Sustainability Report. <a href="https://www.deere.com/en/our-company/sustainability/">https://www.deere.com/en/our-company/sustainability/</a>	*
45	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	John Deere is the world's leading manufacturer of agricultural equipment. John Deere also has a strong presence in the construction and forestry industry. John Deere is a major force in the grounds maintenance and commercial landscape equipment industry. John Deere Financial is one of the largest equipment finance companies. John Deere also has the most advanced, well-trained national dealer network. All these attributes reinforce that John Deere is an organization that will provide quality products, and its dealer network will partner and support the Sourcewell participating entities for the long term.	*

46	Describe the safety features your equipment offers such as emergency stop, operator presence control, roll over protection systems, guarding, noise reduction, stability controls, warning lights, etc.	John Deere places operator safety first when designing and introducing new safety features. All John Deere equipment - except for machines classified as 'Lawn Tractors' or 'Lawn and Garden tractors' - have a seatbelt and ROPS (external or built into the cab). John Deere riding lawn or garden tractors are all equipped with an auto-shutoff feature. When weight is taken off the seat, the mower or power take off (PTO) will immediately turn off. The tractor will not turn on again until weight is back in the seat. Guards or shields are in place to conceal the fast-moving power take off (PTO) shaft on implements to prevent any injury. John Deere implemented the engagement override valve in all 50 series and newer tractors in the early 1980s, which means the tractor will not move unless the clutch is cycled. The override valve prevents tractors that are left in gear from moving upon startup. Along with the engagement override valve, all John Deere equipment is equipped with a neutral start switch preventing equipment from starting while in gear. The colour-coded system present on all John Deere equipment from 1975 onward, indicates the related function of every switch, lever and other mechanisms. Red is associated with running the machine (key switch, shut off knob, throttle or speed control, and gear shift), black relates to the hydraulics, and yellow correlates with the PTO functions (PTO on/off, PTO speed, etc).
47	Describe any ergonomic features your equipment has such as anti-vibration, suspension and swivel seating, adjustable handles, ergonomic control layout for ease of reach, padded shoulder straps or harnesses, easy pull-start cords, etc.	John Deere has prioritized ergonomic features while designing our equipment. For the M & R Series commercial walk-behinds, hands were what was considered first when designing the controls on these machines. Hand position is important for minimum fatigue. Levers that didn't need constant force to operate. To slow down or turn, all you need to do is gently squeeze the handles. With ergonomic controls and adjustable seating, operators of all sizes can comfortably handle long hours at the controls. The John Deere Compact Tractors are designed with ergonomic features, including a comfortable seat, controls that are easily within reach, and adjustable steering wheels. Noise reduction is also considered. John Deere tractors are designed to minimize noise and vibration levels, providing a quieter and more comfortable working environment for operators.
48	Describe features your equipment offers that positively impact the environment such as low-emission engines, battery powered and electric, eco-mode settings, biodegradable fuel use, water conservation technology, solar powered charging capability, smart technology, auto-shut off/no-idling systems, etc.	John Deere has created a Product Sustainability goal where we offer machines and technology solutions that are not only more productive and efficient but also minimize the impact on the environment. Some Product Sustainability Goals include: 1. Reduce environment impact, including CO2 emissions on 90% of new products. 2. Increase the use of sustainable materials by growing remanufactured and rebuild sales by 30%. 3. Increasing recyclable, renewable and recycled content.  Further we have received the following awards: Best Global Brands - Interbrand Top Ten Innovative Companies in U.S. - American Innovation Index World's Most Ethical Companies - Ethisphere Institute
49	Describe the serviceability of the products included in your proposal (parts availability, warranty and technical support, etc.)	The average lifespan of a residential John Deere lawn tractor is 10 years or 5000 hours. The commercial mowers are designed to be used more per week and take more abuse. A John Deere can regularly last four to five times the factory warranty if maintained and used correctly. John Deere equipment includes one copy of the operator's manual upon delivery of the equipment. Other manuals are available for purchase upon request such as the technical and parts manuals. John Deere Warranty terms are limited to years or hours used, whichever comes first, and varies by model. See the LIMITED WARRANTY FOR NEW JOHN DEERE TURF AND UTILITY EQUIPMENT at JohnDeere.com or JohnDeere.ca/TUWarranty for details.

**Table 5B: Value-Added Attributes**

Line Item	Question	Certification	Offered	Comment	
50	Select any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation and a listing of dealerships, HUB partners or resellers if available. Select all that apply.		<input checked="" type="radio"/> Yes <input type="radio"/> No	<p>John Deere continues to proactively engage small and diverse businesses to support the economic growth of communities. Benefits of a thriving Supplier Diversity Program include:</p> <ol style="list-style-type: none"> <li>1. Generates economic opportunities for disadvantaged communities.</li> <li>2. Promotes supply base competition and creates risk mitigation options.</li> <li>3. Unlocks innovation and diversity of thought.</li> </ol> <p>John Deere Government Sales is increasingly setting aside opportunities for small business entities. John Deere Government Sales has partnered with two small business entities to address this gap. Bravo, Inc. and The Akana Group (Akana). Bravo, Inc. is a certified Service-Disabled Veteran Owned Small Business and Akana is an authorized Native American Small Business.</p>	*
51		Minority Business Enterprise (MBE)	<input checked="" type="radio"/> Yes <input type="radio"/> No	The Akana Group (Akana), Akana is an authorized Native American Small Business.	*
52		Women Business Enterprise (WBE)	<input type="radio"/> Yes <input checked="" type="radio"/> No	n/a	*
53		Disabled-Owned Business Enterprise (DOBE)	<input type="radio"/> Yes <input checked="" type="radio"/> No	n/a	*
54		Veteran-Owned Business Enterprise (VBE)	<input type="radio"/> Yes <input checked="" type="radio"/> No	n/a	*
55		Service-Disabled Veteran-Owned Business (SDVOB)	<input checked="" type="radio"/> Yes <input type="radio"/> No	Bravo, Inc. is a certified Service-Disabled Veteran Owned Small Business	*
56		Small Business Enterprise (SBE)	<input checked="" type="radio"/> Yes <input type="radio"/> No	The Akana Group (Akana), Akana is an authorized Native American Small Business.	*
57		Small Disadvantaged Business (SDB)	<input type="radio"/> Yes <input checked="" type="radio"/> No	n/a	*
58		Women-Owned Small Business (WOSB)	<input type="radio"/> Yes <input checked="" type="radio"/> No	n/a	*

**Table 6: Pricing (400 Points)**

Provide detailed pricing information in the questions that follow below.

Line Item	Question	Response *	
59	Describe your payment terms and accepted payment methods.	John Deere's payment terms are Net 30.	*
60	Describe any leasing or financing options available for use by educational or governmental entities.	John Deere offers financing and leasing options through John Deere Financial. The John Deere Municipal Lease Purchase Plan is a special low rate financing plan that is designed to provide flexibility of leasing while building equity toward ownership of the John Deere equipment. Any state or local government body or their political subdivisions may be eligible for the John Deere Municipal Lease Purchase Plan, subject to approval and if the agencies rules and guidelines allow.	*
61	Describe any standard transaction documents that you propose to use in connection with an awarded agreement (order forms, terms and conditions, service level agreements, etc.). Upload all template agreements or transaction documents which may be proposed to Participating Entities.	<p>John Deere dealers use a quoting system called JDQuote2 which allows them to access the Sourcewell contract held by John Deere and apply the correct discount for equipment on contract. John Deere dealers can also become an authorized seller on our contract and would be able to accept Purchase Orders and Invoice Sourcewell members. The dealers would agree to the contract's terms and conditions and sign a dealer agreement.</p> <p>Examples of a Quote and Dealer Agreement are attached.</p>	*



62	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	No	*
63	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	John Deere is offering product-category discounts. See uploaded Price Schedule and Price Pages.pdf.	*
64	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	The percentage discount range is 4% to 24% off Current MSRP.	*
65	Describe any quantity or volume discounts or rebate programs that you offer.	John Deere offers a Multiple Unit Discount (MUD) based on the following schedule: 3-4 units – 1% 5-6 units – 2% 7-8 units – 3% 9 units or more – 4% For sales of three or more like self-propelled equipment sold to one customer on the same purchase order qualifies for an additional discount. Implements and attachments sold with and for self-propelled ride-on machines are also eligible for multi-unit discounts, but do not count towards the total number of ride-on units, which determines the multi-unit discount percentage. Frontier Equipment is excluded from the Multiple Unit Discount.	*
66	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “non-contracted items”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	John Deere will allow Sourced or Open Market items if requested by the Sourcewell member to complete the purchase of John Deere equipment awarded on the contract. Discounts will not be applied to these items. Non-contract and allied items would be sold as “open market” and the price of the item would be negotiated between the John Deere dealer and the Sourcewell Member. The non-contract/allied item would appear on the purchase order (PO) with the contract item but would be listed as ‘non-contract’. We successfully use this process on other contracts.	*
67	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	For deliveries to Alaska, Hawaii, factory freight to the delivering dealer will be paid by the Sourcewell member. Factory freight is known at the time of quoting and will be included on the quote to the Sourcewell member.  The dealer may charge \$8.00 per loaded mile to deliver equipment from the dealership to the agency's location. The charge must appear on the quote or purchase order.	*
68	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	For deliveries to Alaska, Hawaii, factory freight to the delivering dealer will be paid by the Sourcewell member. Factory freight is known at the time of quoting and will be included on the quote to the Sourcewell member.  The dealer may charge \$8.00 per loaded mile to deliver equipment from the dealership to the agency's location. The charge must appear on the quote or purchase order.	*
69	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	For deliveries to Alaska, Hawaii, factory freight to the delivering dealer will be paid by the Sourcewell member. Factory freight is known at the time of quoting and will be included on the quote to the Sourcewell member.	*
70	Describe any unique distribution and/or delivery methods or options offered in your proposal.	None	*

71	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed agreement with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing.	Dealers who desire to become an authorized seller of the Sourcewell contract must complete a sales training class to ensure they understand and promote the contract per the Terms and Conditions. The dealers also sign a Dealer Agreement stating, they will abide by the contract Terms and Conditions. This process is conducted and facilitated by our Strategic Account Managers. Sourcewell members who purchase from John Deere will receive their equipment quote directly from the John Deere dealer. The dealer is able to create the quote by utilizing the contract information (discounts, contract guidelines, eligible equipment, etc.) that we have posted on our website as well as a quoting tool that we've made available to them. The member will submit their purchase order (PO) to the dealer. John Deere will be listed as the vendor on the PO and the dealer, who created the quote, will be the delivering dealer. The dealer will then upload the quote and the PO to Deere's online order management system. Our Order Management Team will then retrieve the quote and the PO and audit them based on the contract guidelines. If an issue is discovered with PO and/or quote, the Order Management Team will contact the dealer and work with the dealer and the member to get the issue resolved. The Sourcewell contract is assigned a Price Group or Bonus Code that is used capture each sale on a quarterly basis. A quarterly sales report is generated and audited by the Contract Administration group. After the audit and review is completed, the Contract Administration group submits the proper admin fee to Sourcewell.	*
72	If you are awarded an agreement, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the agreement.	Our Strategic Account Managers have sales goals and will monitor the use of the Sourcewell contract and the sales performance of the dealer groups in their assigned geographic region. Quarterly sales reports are reviewed to compare the Sourcewell contract sales growth quarter over quarter and year over year.	*
73	Provide a proposed Administration Fee payable to Sourcewell. The Fee is in consideration for the support and services provided by Sourcewell. The propose an Administrative Fee will be payable to Sourcewell on all completed transactions to Participating Entities utilizing this Agreement. The Administrative Fee will be calculated as a stated percentage, or flat fee as may be applicable, of all completed transactions utilizing this Master Agreement within the preceding Reporting Period defined in the agreement.	John Deere will pay Sourcewell a 1.0% admin fee on sales generated from this new contract. John Deere has been a strategic partner of Sourcewell for 14 years and we are honored to be awarded the Sourcewell Legacy Award in 2023. The Sourcewell contracts we hold are very popular and frequently used by our dealers. The utilization continues to grow and expand.	*

**Table 7: Pricing Offered**

Line Item	The Pricing Offered in this Proposal is: *	Comments	
74	The pricing offered is as good as or better than pricing typically offered through existing cooperative contracts, state contracts, or agencies.	Pricing offered in this bid is consistent with discounts offered on existing current-priced contracts held by Deere.	*

**Table 8A: Depth and Breadth of Offered Solutions (200 Points)**

Line Item	Question	Response *	
75	Provide a detailed description of all the Solutions offered, including used, offered in the proposal.	<p>John Deere will offer its complete product offering that fall within the scope of this RFP. Description of the products John Deere will offer include:</p> <p>Residential Zero Turn Radius Mowers  Lawn Tractors  Garden Tractors  Equipment for Lawn &amp; Garden Tractors  Commercial Walk-Behind Mowers  Commercial QuikTrack Mowers  Commercial Zero Turn Radius Mowers  Commercial Front Mowers  Commercial Wide Area Mowers  Equipment for Commercial Mowers  Compact Utility Tractors  Equipment for Compact Utility Tractors  Reel Mowers  Special Application Mowers  Special Application Vehicles  Aercore  Debris Maintenance  Mid-size Crossover Utility Vehicles  Full-size Crossover Utility Vehicles  Traditional Utility Vehicles  HPX Utility Vehicles  Frontier Implements and Attachments</p> <p>Our independent dealer network will provide aftermarket services upon request.</p>	*
76	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	<p>See response to question 75 for categories of equipment John Deere will offer within this RFP. Only Frontier Implements and Attachments would contain further subcategories:</p> <p>Frontier:  -Cutting &amp; Mowing  -Hay &amp; Forage  -Landscape  -Livestock  -Material Handling  -Planting &amp; Seeding  -Snow Equipment  -Tillage  -Sprayers</p>	*

**Table 8B: Depth and Breadth of Offered Solutions**

Indicate below if the listed types or classes of Solutions are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
77	Lawn and garden equipment for all types of lawn, field and turf care, golf course, landscape, sidewalk, walking path, and parking lot maintenance, and snow removal	<input checked="" type="radio"/> Yes <input type="radio"/> No	See uploaded Price Schedule and Price Pages.pdf.	*
78	Irrigation and aeration equipment, systems, parts, and installation	<input type="radio"/> Yes <input checked="" type="radio"/> No	No bid	*
79	Beach and waterfront maintenance equipment and accessories	<input type="radio"/> Yes <input checked="" type="radio"/> No	No bid	*



Table 9: Exceptions to Terms, Conditions, or Specifications Form

**Line Item 80. NOTICE:** To identify any exception, or to request any modification, to Sourcewell standard Master Agreement terms, conditions, or specifications, a Proposer must submit the proposed exception(s) or requested modification(s) via redline in the Master Agreement Template provided in the “Bid Documents” section. Proposer must upload the redline in the “Requested Exceptions” upload field. All exceptions and/or proposed modifications are subject to review and approval by Sourcewell and will not automatically be included in the Master Agreement.

Do you have exceptions or modifications to propose?	Acknowledgement *
	<input type="radio"/> Yes
	<input checked="" type="radio"/> No

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as “Marketing Plan.”
  - [Pricing](#) - Price Pages.zip - Monday November 25, 2024 14:23:36
  - [Financial Strength and Stability](#) - 2023-deere-company-annual-report.pdf - Wednesday November 20, 2024 17:16:04
  - [Marketing Plan/Samples](#) - Marketing Literature Samples.pdf - Wednesday November 20, 2024 17:24:07
  - WMBE/MBE/SBE or Related Certificates (optional)
  - [Standard Transaction Document Samples](#) - Combined Quote - Dealer Agree - Invoice.pdf - Tuesday November 26, 2024 10:14:33
  - Requested Exceptions (optional)
  - [Upload Additional Document](#) - Warranty Statement Ag - Turf - Golf.pdf - Tuesday November 26, 2024 10:15:24

## Addenda, Terms and Conditions

### PROPOSER AFFIDAVIT OF COMPLIANCE

I certify that I am an authorized representative of Proposer and have authority to submit the foregoing Proposal:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for award.

3. The Proposer certifies that:

(1) The prices in this Proposal have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Proposer or competitor relating to-

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this Proposal have not been and will not be knowingly disclosed by the Proposer, directly or indirectly, to any other Proposer or competitor before award unless otherwise required by law; and

(3) No attempt has been made or will be made by Proposer to induce any other concern to submit or not to submit a Proposal for the purpose of restricting competition.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest is created when a current or prospective supplier is unable to render impartial service to Sourcewell due to the supplier's: a. creation of evaluation criteria during performance of a prior agreement which potentially influences future competitive opportunities to its favor; b. access to nonpublic and material information that may provide for a competitive advantage in a later procurement competition; c. impaired objectivity in providing advice to Sourcewell.

5. Proposer will provide to Sourcewell Participating Entities Solutions in accordance with the terms, conditions, and scope of a resulting master agreement.

6. The Proposer possesses, or will possess all applicable licenses or certifications necessary to deliver Solutions under any resulting master agreement.

7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

8. Proposer its employees, agents, and subcontractors are not:

1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Jennifer Smith, Contract Administrator, Deere & Company

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the obligations contemplated in the solicitation proposal.

☒ Yes    ☐ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum 6 Grounds Maintenance Eqpt RFP Tue November 12 2024 03:29 PM	<input checked="" type="checkbox"/>	1
RFP 112624 Grounds Maintenance Equipment Pre-Proposal Recording Link Mon November 11 2024 08:17 AM	<input checked="" type="checkbox"/>	1
Addendum 5 Grounds Maintenance Eqpt RFP Fri November 8 2024 10:31 AM	<input checked="" type="checkbox"/>	2
Addendum 4 Grounds Maintenance Eqpt RFP Mon November 4 2024 04:03 PM	<input checked="" type="checkbox"/>	1
Addendum 3 Grounds Maintenance Eqpt RFP Mon October 28 2024 03:53 PM	<input checked="" type="checkbox"/>	2
Addendum 2 Grounds Maintenance Eqpt RFP Wed October 16 2024 08:40 AM	<input checked="" type="checkbox"/>	2
Addendum 1 Grounds Maintenance Eqpt RFP Wed October 9 2024 07:54 AM	<input checked="" type="checkbox"/>	2



# Selling Equipment

Attachment B

Quote Id: 32504893

Customer: CITY OF TRACY

JOHN DEERE ProGator 2020A (Gas) GPS				
				<b>Suggested List</b> \$ 174,391.00
				<b>Selling Price</b> \$ 134,477.32
Hours: Stock Number:				
Code	Description	Qty	Unit	Extended
140HTC	ProGator 2020A (Gas) GPS	1	\$ 163,214.00	\$ 163,214.00
Standard Options - Per Unit				
001A	US/Canada	1	\$ 0.00	\$ 0.00
183E	JDLink™ Modem	1	\$ 0.00	\$ 0.00
191G	G5Plus Universal Display	1	\$ 0.00	\$ 0.00
198J	G5 Advanced - Universal 1-year License	1	\$ 750.00	\$ 750.00
0443	All Other Countries - Operator's Manual - English/Spanish	1	\$ 0.00	\$ 0.00
1139	Standard Front (2) Tires and (2) Wheels, 23x10.5-12 (4 PR)	1	\$ 0.00	\$ 0.00
1159	Standard Rear (2) Tires and (2) Wheels, 26x12-12 (4 PR)	1	\$ 0.00	\$ 0.00
1191	4WD Traction Unit	1	\$ 8,174.00	\$ 8,174.00
6478	18 ft. (5.5 m) Spray Boom with Electro-Hydraulic Lift	1	\$ 0.00	\$ 0.00
6480	GPS HD300 Sprayer Tank	1	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>				<b>\$ 8,924.00</b>
Technology Options				
1884	StarFire™ 6000 Receiver, SF3 Ready and RTK	1	\$ 0.00	\$ 0.00
<b>Technology Options Total</b>				<b>\$ 0.00</b>
Dealer Attachments				
BTC10397	MIRROR KIT	1	\$ 197.94	\$ 197.94
BUC10874	STEP KIT, PROGATOR SPRAYER STEP	1	\$ 188.31	\$ 188.31
<b>Dealer Attachments Total</b>				<b>\$ 386.25</b>
Other Charges				
	Setup	1	\$ 1,264.00	\$ 1,264.00
	MDF	1	\$ 602.75	\$ 602.75
<b>Other Charges Total</b>				<b>\$ 1,866.75</b>

# Selling Equipment

**Quote Id:** 32504893**Customer:** CITY OF TRACY

<b>Suggested Price</b>		<b>\$ 174,391.00</b>
<b>Customer Discounts</b>		
<b>Customer Discounts Total</b>	<b>\$ -39,913.68</b>	<b>\$ -39,913.68</b>
<b>Total Selling Price</b>		<b>\$ 134,477.32</b>

**CITY OF TRACY  
PURCHASE AGREEMENT FOR EQUIPMENT WITH DITCH WITCH WEST**

This Purchase Agreement for Equipment, ("**Agreement**") is entered into between the City of Tracy, a municipal corporation ("**City**"), and Belkorp Ag, LLC, Stockton, California (Supplier). City and Supplier are sometimes referred to individually as "**Party**" and collectively as "**Parties**."

**Recitals**

- A. City desires to retain Supplier to provide a John Deere ProGator 2020A GPS Sprayer and related accessories and supplies.
- B. Pursuant to Tracy Municipal Code 2.20.220, the City is utilizing a Sourcewell cooperative purchasing agreement to purchase the Equipment.
- C. Sourcewell and the Supplier entered into an agreement for the purchase of equipment referred to as contract with Solicitation #112624 ("**Contract**").
- D. After negotiations between the City and the Supplier, the parties have reached an agreement for purchase of such equipment in accordance with the terms set for in this agreement.
- E. This Agreement is being executed pursuant to Resolution No. 2025-\_\_\_\_, which was adopted by the City Council for the City of Tracy on \_\_\_\_\_

**Now therefore, the parties mutually agree as follows:**

- 1. **CONTRACT APPLICABILITY.** The Contract is fully incorporated herein by reference, except as expressly modified herein, and the Parties agree to abide by the terms set forth therein. All capitalized terms used herein but not defined shall have the meaning attributed to them in the Contract.
  - 1.1. **EQUIPMENT.** The City agrees to purchase, and the Supplier agrees to sell, the Equipment as more specifically outlined and described in the Contract. The Equipment shall comply with all of the standards and specifications outlined in Contract.
  - 1.2 **NO SUBSTITUTIONS; AUTHORIZED REPRESENTATIVE.** There shall be no substitution for the Equipment, without the prior written authorization of the City. All Services shall be performed by or under the direct supervision of, the Supplier's Authorized Representative: Matt Graves, Director of Sales. Supplier shall not replace its Authorized Representative without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel may result in the termination of this Agreement.
- 2. **DELIVERY DATES.** The Equipment must be shipped and must arrive at the destination of 520 Tracy Blvd. Tracy, CA 95376.
  - 2.1 Any failure by the Supplier to meet the Delivery Timeline will constitute a material default of this Purchase Agreement and the City may cancel any equipment not



delivered in a timely manner without liability. The Supplier must notify the City immediately if the Supplier reasonably believes the Supplier will not be able to meet the Delivery Timeline for any reason and provide the City with a schedule that the Supplier reasonably believes it will be able to meet. It is within the City's discretion whether it will accept the revised timeline.

3. **PURCHASE PRICE.** City shall pay Supplier on a fixed fee basis, at the fee amounts outlined in the Contract, attached, and incorporated by reference.

3.1 **NOT TO EXCEED AMOUNT.** Supplier's total contract amount, under this Agreement shall not exceed \$134,477.32.

4. **CANCELLATION AND TERMINATION.** The City reserves the right to terminate or cancel any portion of this Agreement at any time prior to the delivery, with or without cause, by giving Supplier written notice. There shall be no period of grace after giving the notice of cancellation or termination. Cancellation or termination shall become effective immediately upon the giving of notice by personal delivery or mail.

5. **BREACH.** In the event of a breach of the Agreement by Supplier, City may terminate the Agreement immediately without notice, may reduce payment to the Supplier in the amount necessary to offset City's resulting damages, may procure substitute equipment at Supplier's expense, and/or may pursue any other available recourse against Supplier. Supplier may not terminate this Agreement except for cause.

6. **DELIVERY RISK OF LOSS.** All orders will be Free on Board (**FOB**) destination. Risk of loss or damage to the Equipment must remain with the Supplier until the equipment has been delivered to and accepted by the City. All equipment will be received by the City subject to its right of inspection, rejection, and revocation of acceptance under the Uniform Commercial Code. The City will be allowed a reasonable period of time to inspect the Equipment and to notify Supplier of any nonconformance with the terms and conditions of the specifications. The City may reject any Equipment that do not conform to the terms and conditions outlined in the Contract. Any Equipment rejected may be returned to the Supplier at the Supplier's risk and expense.

7. **INDEMNIFICATION.** Supplier 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 Supplier'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.

7.1 **DEFINITION.** For the purposes of this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Supplier" means the Supplier, its employees, and agents; "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".

7.2 **PROVISION SURVIVAL.** The provisions of this Section 7 survive the completion of the services or the termination of this Agreement and are not limited by the provisions of Section 7 relating to insurance.

8. **INSURANCE.** Supplier shall, throughout the duration of this Agreement, maintain insurance to cover , its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein, which may be achieved with an equivalent umbrella policy.

8.1 **COMMERCIAL GENERAL LIABILITY.** 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.

8.2 **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.

8.3 **WORKERS' COMPENSATION.** coverage shall be maintained as required by the State of California.

8.4 **ENDORSEMENTS.** Supplier shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

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

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

8.5 **NOTICE OF CANCELLATION.** Supplier shall notify the City if the policy is canceled before the expiration date. For this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Supplier shall immediately obtain a replacement policy.

8.6 **INSURANCE CERTIFICATE.** Supplier 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.

8.7 **SUBSTITUTE CERTIFICATES.** Supplier 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.

8.8 **SUPPLIER'S OBLIGATION.** Maintenance of insurance by the Supplier as specified in this Agreement shall in no way be interpreted as relieving the Supplier of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Supplier 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.

9. **PACKING AND SHIPPING.** Deliveries must be made as specified, without charge, for boxing, crating, or storage unless otherwise specified. Equipment must be suitably packed to secure the lowest transportation costs and, in accordance with the requirements of common carriers, in a manner to assure against damage from weather or transportation.
10. **TAXES.** The Supplier must separately state on all invoices any taxes imposed by the local, state, or federal state government applicable to furnishing the Equipment; however, where a tax exemption is available, the tax must be subtracted from the total price and identified. Unless otherwise outlined in the Agreement, the Purchase Price will be considered to include state and city sales or use tax.
11. **WARRANTY.** The Supplier warrants that all Equipment will conform to applicable specifications, drawings, descriptions, and samples, and will be merchantable, of good workmanship in material, and free from defect. Unless manufactured according to detailed design furnished by the City, the Supplier assumes design responsibility and warrants the Equipment to be free from design defect and suitable for the purposes intended by the City, and that such Equipment if installed by the Supplier shall conform to applicable specifications.
  - 11.1 The Supplier's warranties, together with its service guarantees, must run to the City and its customers or users of the equipment and must not be deemed exclusive. The City's inspection, approval, acceptance, use of, and payment for all or any part of the equipment must in no way affect its warranty rights whether a breach of warranty had become evident in time.
12. **DUTY TO DEFEND.** Supplier agrees, (1) at its cost and expense, to promptly defend the City and the City's employees, officers, managers, agents, and council members (collectively the **Parties to be Defended**) from and against any and all claims, allegations, lawsuits or other legal proceedings which arise out of, or are related to, or are in any manner connected with: (i) 2 International Dump Trucks provided pursuant this Agreement; (ii) allegations that the Equipment are defective in manufacture or design; (iii) any patent or other intellectual property right related to the Equipment and or (2) any breach of this Agreement by Supplier.
  - 12.1 This duty to defend shall apply whether or not such claims, allegations, lawsuits, or proceedings have merit or are meritless, or which involve claims or allegations that any of the Parties to be Defended were actively, passively, or concurrently negligent, or which otherwise assert that the parties to be defended are responsible, in whole or in part, for any loss, damage or injury. Supplier agrees to provide this defense immediately upon written notice from the City, and with well-qualified, adequately insured, and experienced legal counsel acceptable to the City.
13. **REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATIONS.** Supplier 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 performed, or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.



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

To City:  
Assistant Director – Operations  
520 N. Tracy Blvd.  
Tracy, CA 95376

To Supplier:  
Belkorp Ag. LLC  
1120 W Charter Way  
Stockton, Calif. 95206

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

15. **MISCELLANEOUS**

- 15.1 **STANDARD OF CARE.** Unless otherwise specified in this Agreement, the standard of care applicable to Supplier'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.
- 15.2 **AMENDMENTS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.
- 15.3 **WAIVER.** 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.
- 15.4 **ASSIGNMENT AND DELEGATION.** Supplier 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 consent to any subsequent assignment.
- 15.5 **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.
- 15.6 **COMPLIANCE WITH THE LAW.** Supplier shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

- 15.6.1 HAZARDOUS MATERIAL.** Supplier is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.
- 15.6.2 NON-DISCRIMINATION.** Supplier represents and warrants that it is an equal opportunity employer and it shall not discriminate against any third-party Supplier, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Supplier 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.).
- 15.7 BUSINESS ENTITY STATUS.** Supplier 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 Supplier. By entering into this Agreement, Supplier represents that it is not a suspended corporation. If Supplier is a suspended corporation at the time, it enters this Agreement, City may take steps to have this Agreement declared voidable.
- 15.8 SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 15.9 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.
- 15.10 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.
- 15.11 CONTROLLING PROVISIONS.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, Contract and Supplier's proposal (if any), the Agreement shall control.
- 15.12 ENTIRE AGREEMENT.** This Agreement, the Contract and 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.
- 16. SIGNATURES.** The individuals executing this Agreement on behalf of Supplier represent and warrant that they have the right, power, legal capacity, and authority to enter and execute this Agreement on behalf of Supplier.

[SIGNATURES ON FOLLOWING PAGE]

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

**City of Tracy**

By: Dan Arriola

Title: Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
April B. A. Quintanilla, City Clerk

Approved as to form:

\_\_\_\_\_  
L. David Nefouse, City Attorney

**Supplier**

Belcorp Ag, LLC

Stockton, California

By: Peter Young  
Peter Young

Title: President/Managing Member

Date: 7/21/2025 | 6:03 PM CDT

Federal Employer Tax ID No. 99-0367364



APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

---

**STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) NEW 2025 JOHN DEERE PROGATOR 2030A GPS PRECISION SPRAYER FROM BELKORP AG, LLC AND (2) AUTHORIZE THE EXECUTION OF A SOURCEWELL PURCHASE AGREEMENT UTILIZING THE SOURCEWELL COOPERATIVE PROGRAM IN THE AMOUNT OF \$145,529 FOR THE PARKS, RECREATION, AND COMMUNITY SERVICES DEPARTMENT.**

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

**WHEREAS,** Operations Fleet Division received authorization in the Fiscal Year 2024-2025 budget process for the addition and purchase of the ProGator 2030A GPS Precision Sprayer; and

**WHEREAS,** The 2025 ProGator 2030A GPS Precision Sprayer is needed to ensure the consistent maintenance of the city's 151 acres of turf in our parks and sports facilities; and

**WHEREAS,** With only one sprayer at this time parks cannot effectively apply fertilizer and pesticides during a limited optimal window, additionally, a second sprayer will enhance operational efficiency by reducing downtime and ensuring timely applications; and

**WHEREAS,** Staff requested bids from Sourcewell (formerly National Joint Powers Alliance NJPA), a municipal contracting government agency that serves education and government agencies nationally through competitively bid and awarded contract purchasing solutions; and

**WHEREAS,** Below is a list of equipment that will be purchased.

Description	Vendor	Cost	Public Bidding Procedure
2025 John Deere ProGator 2020A	Belkorp Ag.LLC	\$145,529	Sourcewell (NJPA) 112324-DAC

and;

**WHEREAS,** The funding for the purchase of the ProGator 2020A in the amount of \$145,529 is available in the Parks, Recreation, and Community Services Fund; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy adopt a Resolution authorizing the purchase of one (1) 2025 John Deere ProGator 2030A GPS Precision Sprayer from Belkorp AG, LLC; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy authorize the execution of a Sourcewell Purchase Agreement utilizing the Sourcewell Cooperative Program in the amount of \$145,529 for the Parks, Recreation, and Community Services Department.

\* \* \* \* \*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 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: \_\_\_\_\_  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Agenda Item 1.E

RECOMMENDATION

**Staff recommends that the City Council adopts a resolution:**

**(1) Determining that compliance with standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.180 (b)(4) and dispensing such requirement for the actions herein, and;**

**(2) Approving a General Service Agreement with Motorola, Inc. for the purchase of the police department's specified equipment, smart connect and smart programming, and essential with accidental damage warranties for a term of five years and for a total not-to-exceed amount of \$2,700,000.**

EXECUTIVE SUMMARY

This agenda item seeks adoption of a Resolution approving a General Service Agreement (GSA) with Motorola Solutions, Inc, (Consultant) for a five-year term and for a total not to exceed amount of \$2,700,000. The compliance with the standard procurement procedures is not in the best interests of the City because the Tracy Police Department (TPD) uses Motorola equipment for all its communication needs and Consultant is the exclusive vendor for all Motorola products, equipment, installation and maintenance services.

BACKGROUND AND LEGISLATIVE HISTORY

TPD uses Motorola equipment for all police communication needs. This includes all portable police radios, vehicle radios, radio tower equipment, 9-1-1 Communication Center equipment, and all accessories including antennas, receivers, and voters.

Consultant is the exclusive vendor for all Motorola products, equipment, installation services, and maintenance services.

Staff recommends entering into a five-year agreement with Consultant in the form attached hereto as Attachment A.

ANALYSIS

TPD's APX6000 portable radio are at end of life. Motorola, Inc. no longer supports this equipment and no longer manufactures replacement parts.

After careful evaluation, TPD has determined the APXNEXT radio to be the best radio to support expanding communication needs. APXNEXT not only supports the everyday need for dynamic and reliable communication but is compatible with progressing radio technologies and TPD's future goals for radio interoperability and transition to a P25 trunked radio system.



Through this agreement, TPD will upgrade with a scalable and dynamic radio platform through SmartConnect. The SmartConnect for Astro K-Core will extend communication over broadband without having to invest in a new Core System. By integrating the Cloud based SmartConnect Service with an ASTRO K-Core, Motorola APXNEXT platform radios can take full advantage of their advanced capabilities. These advanced radios come equipped with broadband (LTE), Wi-Fi, Bluetooth 5.0, and GPS, enabling a power suite of optional SmartApplications.

With this agreement and purchase of the APXNEXT, TPD will also be purchasing the SmartConnect application which extends critical voice communications over broadband when radios are outside the traditional Land Mobile Radio (LMR) network and Smart Programming which provides streamline radio programming and updates with the push of a button. This replaces the need for a technician to physically program every individual radio.

Additional features are available for future consideration and include:

- SmartLocate: Pinpoints radio locations for enhanced situational awareness.
- Smartmapping: Visualizes radio locations on maps.
- SmartMessaging: Enables text-based communication.
- VIQI Virtual Partner: Provides intelligent voice assistance.

Upgrading TPD's 189 portable radios requires upgrading radio infrastructure to the SmartConnect Astro K Core and purchasing compatible radio chargers and ample spare batteries. Each radio will include seven (7) years of SmartConnect and Smart Programming services and a seven (7) years of Essential with Accidental Damage warranty. To accomplish a portable radio replacement, the recommendation is for a phased approach over four-years. The department will purchase 155 portable radios with SmartConnect Services for sworn personnel and professional staff field personnel, and 34 radios without SmartConnect. The purchase schedule is attached hereto as Attachment A.

As Motorola Solutions, Inc. is the exclusive provider for Motorola equipment, and maintenance of Motorola equipment is only provided by Motorola Solutions, Inc. a transition to another brand of equipment would be extremely costly as the entire inventory would need to be replaced to include equipment, hardware, software, installation costs, programming costs, and other similar expenses.

An exception to the procurement procedure requiring a procurement process can be made Pursuant to Tracy Municipal Code 2.20.180(b)(4), when, in the determination of the City Council, compliance with the procedure is not in the best interest of the City for those commodities, equipment or general services the costs of which equal or exceed Fifty Thousand and no/100ths (\$50,000.00) Dollars.

### FISCAL IMPACT

The total not to exceed amount of this agreement is \$2,700,000. The funding for year one is provided through the Police Department's operating budget in the General Fund.

Annual breakdown:

Year 1: \$674,853.65  
Year 2: \$674,927.28  
Year 3: 674,168.61  
Year 4: 621,072.33

This proposed project is an annual replacement project and was presented during the 25/26 CIP discussions. \$675,000 for year one has already been appropriated to the police department's operating budget. Additional years will be included in the annual CIP process. A Non-Appropriation Clause has been incorporated into the Agreement (Attachment A) in the event annual funding is not approved.

TPD also has a separate existing contract with Motorola, Inc. for the preventative maintenance on all existing radio equipment. As this project is a phased approach for radio replacement, the existing maintenance contract will remain in effect to cover existing radio infrastructure and radios until they are replaced. Any amendments to the maintenance contract will be processed as necessary.

Previous contracts for Motorola for preventative maintenance include:

- July 1, 2025 to June 20, 2028 - \$537,945
- July 1, 2024 to June 30, 2025 - \$120,000
- December 1, 2023 to June 30, 2024 - \$81,000

### PUBLIC OUTREACH/ INTEREST

This is an operational item for the police department. No public outreach was conducted.

### COORDINATION

This is an operational item. No coordination is needed with any other city department.

### CEQA DETERMINATION

The proposed action is not a "project" under the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment.

### STRATEGIC PLAN

This agenda item is related to Council's strategic priority for Public Safety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution:

(1) determining that compliance with standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.180 (b)(4) and dispensing such requirement for the actions herein, and;

(2) approving a General Service Agreement with Motorola, Inc. for the purchase of the police department's specified equipment, smart connect and smart programming, and essential with accidental damage warranties for a term of five years and for a total not-to-exceed amount of \$2,700,000.

Prepared by: Beth Lyons-McCarthy, Support Operations Manager

Reviewed by: Sekou Millington, Chief of Police  
Sara Castro, Director of Finance  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachments:

Attachment A: General Service Agreement Motorola Solutions, Inc.





**MOTOROLA SOLUTIONS**

**Proposal**

**Tracy Police Department**

# **ASTRO 25 SmartConnect K- Core**

**September 24, 2025**

The design, technical, and price information furnished with this proposal is proprietary information of Motorola Solutions, Inc. (Motorola). Such information is submitted with the restriction that it is to be used only for the evaluation of the proposal, and is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the proposal, without the express written permission of Motorola Solutions, Inc.

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Motorola Solutions, Inc.  
500 W. Monroe Street Suite 4400  
Chicago, IL 60661

Beth Lyons-McCarthy  
Tracy Police Department  
1000 Civic Center Drive  
Tracy, California 95376

Subject: APXNext Subscribers and SmartConnect

Dear Ms. Beth Lyons-McCarthy,

Motorola Solutions, Inc. (Motorola) is pleased to have the opportunity to provide the City of Tracy Police Department with quality communications equipment and services. The Motorola project team has taken great care to propose a solution that will meet your needs and provide unsurpassed value.

To meet the functional and operational specifications of this solicitation our solution includes a combination of hardware, software, and services. Specifically this solution provides:

- SmartConnect for Astro K-Core solution
- APXNext Subscribers (Contra Costa County contract pricing)
- Implementation of the SmartConnect solution
- Programming of the APXNext subscribers

This proposal consists of this cover letter, description of offering, and the attached Motorola Solutions Customer Agreement ("MCA"). This proposal shall remain valid for 60 days from the date of this cover letter. You may accept the proposal by delivering to Motorola the signed MCA and Purchase Order. Any questions may be directed to your Motorola Account Executive, Mike Marraccini, Senior Account Manager, at 916-201-5670.

We thank you for the opportunity to furnish the Tracy Police Department with "best in class" solutions, and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,



Michael De Benedetti  
Territory Vice-President  
Motorola Solutions, Inc



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## Section 1

# Technical Description

After carefully reviewing Tracy PD's requirements for improved radio communications, Motorola Solutions, Inc. (Motorola Solutions) has prepared this proposal to provide Tracy PD with a scalable and dynamic radio platform through SmartConnect.

The ASTRO® 25 K-Core is a robust and cost-effective communication system designed for conventional radio networks. It supports everything from basic, single-site analog and P25 digital voice communication to extensive region-wide voice and data networks.

While the standard ASTRO K-Core system doesn't natively extend communications over broadband, the **SmartConnect for ASTRO K-Core** Service unlocks this capability without needing to invest in a complete ASTRO NEXT Core System.

## Unlocking Next-Generation Radio Capabilities

By integrating the Cloud based SmartConnect Service with an ASTRO K-Core, Motorola APX NEXT and N-Series platform radios can take full advantage of their advanced capabilities. These advanced radios come equipped with broadband (LTE), Wi-Fi, Bluetooth 5.0, and GPS, enabling a power suite of optional SmartApplications:

- **SmartConnect:** Extends critical voice communications over broadband when radios are outside the traditional Land Mobile Radio (LMR) network.
- **SmartLocate:** Pinpoints radio locations for enhanced situational awareness.
- **Smartmapping:** Visualizes radio locations on maps.
- **SmartMessaging:** Enables text-based communication.
- **SmartProgramming:** Streamlines radio programming and updates.
- **VIQI Virtual Partner:** Provides intelligent voice assistance.

The SmartConnect for K-Core Service seamlessly bridges the gap, enabling your ASTRO K-Core system to provide critical voice communication over broadband (LTE) when a radio moves outside the LMR coverage area

## Solution Design Highlights

- CirrusCentral Core access
- (2) APX 8500 Consolettes to provide the required interface to the existing ASTRO K-Core system via the existing Conventional Channel Gateway (CCGW)

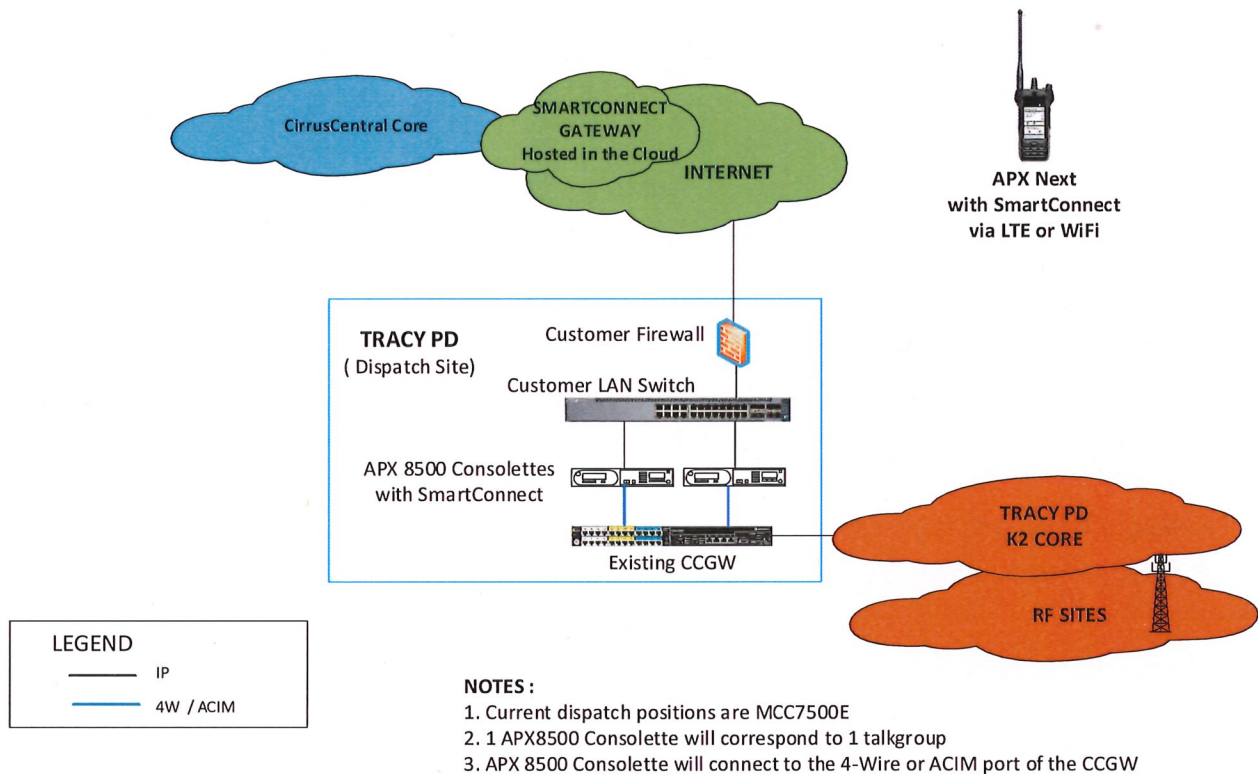


Figure 1-1: Tracy PD System Diagram

## 1.1 Solution Components

### 1.1.1 SmartConnect for ASTRO K-Core Solution

The SmartConnect for ASTRO K-Core solution is built on CirrusCentral Core and SmartConnect deployed in Motorola Solutions' secure cloud infrastructure hosted in the Microsoft Azure USGov Cloud. This multi-tenant architecture ensures secure data segregation and continuous service monitoring by Motorola Solutions.

- **SmartConnect Gateway:** Extends critical voice communications over broadband to your APX NEXT and N70 radios when they're outside LMR coverage.
- **CirrusCentral Core:** Manages call processing, seamlessly integrating broadband SmartConnect with your ASTRO K-Core system.

The SmartConnect Subscription for your APX 8500 Consolettes includes CirrusCentral Core Call Processing to enable SmartConnect for ASTRO K-Core. To integrate broadband channels with your ASTRO K-Core, a SmartConnect-enabled APX 8500 Consolette connects to the ASTRO K-Core audio service via a Conventional Channel Gateway (CCGW). This setup, along with your customer-furnished internet connection, allows the Consolette to access the SmartConnect Cloud Service.



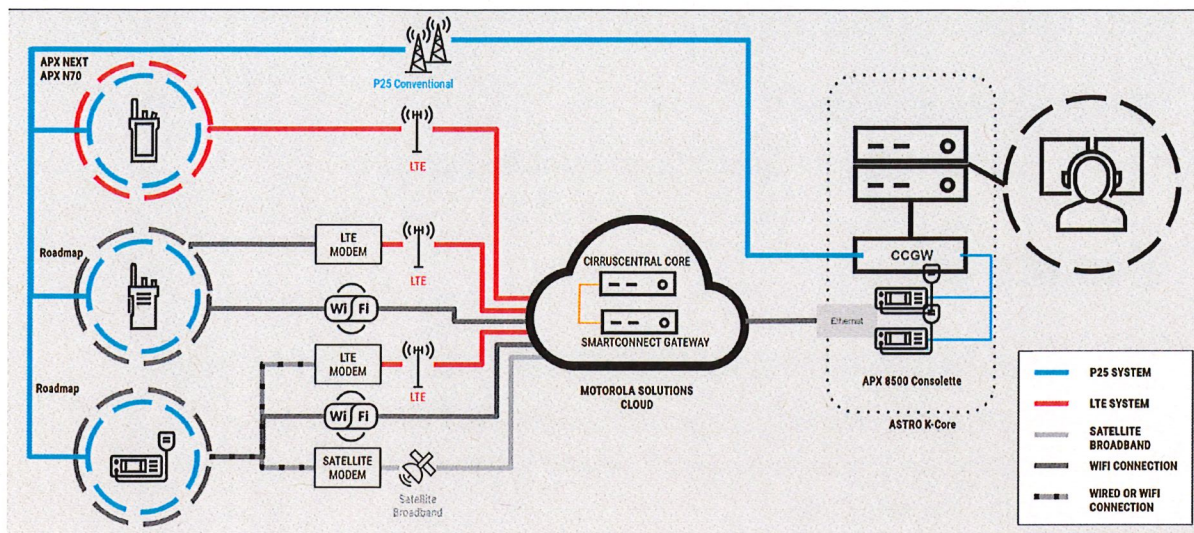


Figure 1-2: SmartConnect for ASTRO K-Core Solution

### 1.1.2 Key On-Premises components for ASTRO K-Core

- Conventional Site Controller (CSC): conventional voice call controller
- Core LAN switches: One to three core LAN switches are part of the K1 core.
- Core Hub Router: Interfaces to the LAN and WAN with multiple Ethernet connections and routing
- Core Backhaul Switch: A single optional core backhaul switch is part of the K1 core. Used to interface with IP equipment remote from the core.
- Conventional Channel Gateway (CCGW): provides an interface between the ASTRO® 25 K-Core Network and conventional radio frequency (RF) equipment like base stations and comparators
  - One 4 Wire and ACIM Interface for each SmartConnect enabled APX 8500 Console
- **MCC 7500E or MCC 7500 Consoles:** Supported in the ASTRO® 25 K1/K2 configurations. They connect directly to the IP network at the core or at a Hub site.
  - Radio Resource required for each Broadband Channel
- **Configuration Manager:** Included in the K1 core. The ASTRO® 25 Express Trunking Configuration Manager can reside on a system manager's laptop or a standalone computer.
- **System Key:** A system key is required to program SmartConnect enabled Radios and Consolettes.
- **Broadband SmartConnect Channel:** SmartConnect enabled APX 8500 Console Control Station
  - On-Premises component to enable Broadband Channel for ASTRO K-Core.

### 1.1.3 Cloud Components for SmartConnect for K-Core

- SmartConnect Gateway (Service that provides Broadband Voice Connectivity to the ASTRO K-Core)

- CirrusCentral Core (Call Processing for ASTRO K-Core Service)

### 1.1.4 Mission Critical Radios

- APX NEXT, N70 Radios, and /or SmartConnect capable APX Radios.

## 1.2 Feature Set

### 1.2.1 Supported SmartConnect for K-Core Call Processing Features

- P25 Conventional Voice (Clear) over broadband to affiliated Console Resource
- P25 Conventional Voice (Encrypted) over broadband to affiliated Console Resource
- Emergency (to the Console Only)
- PTT ID (to the Console)
- Status Update (to the Console)
- Call Alert (to the Console)
- Console Patch
  - To P25 Conventional Channel
  - To Analog Channel <sup>Note 1</sup>

Note 1: Audio Quality is degraded when patching a Broadband Channel, clear or encrypted with a LMR Analog Channel due to tandem coding, there is no impact when patching to a P25 Conventional.

## 1.3 Radio User Experience

The radio user experience for switching between LMR Coverage and Broadband Coverage is simple and straightforward:

- Out of LMR Range: When a radio user determines they are out of LMR coverage range, they simply press a pre-programmed button to select a Broadband Talkgroup.
  - Optionally, the radio can be preprogrammed for out-of-range alert (bonk) on PTT which provides a notification to the user that they are not in coverage and should select the Broadband Channel.
- Extended Communication: The radio's voice communications will be received by consoles monitoring the broadband channel and, if patched, by radios on the mapped LMR Radio Channel.
- Return to LMR: To return to LMR, the radio simply presses the same pre-programmed button to select their working LMR Conventional Channel. LMR is always preferred when in coverage for its full feature set and deterministic coverage.



## 1.4 Flexible System Design for Your Needs

The design of your SmartConnect for ASTRO K-Core system is tailored to the number of broadband channels required to support your specific needs to extend critical voice communications to the Dispatch Console and LMR Radio channel:

- **Console Extension:** Each unique group of radios that needs voice continuity with the console when outside LMR coverage requires a broadband channel. For example, separate channels for Police and Public Works ensure distinct communication lines.
  - **How it works:** Users manually select a SmartConnect channel when out of LMR range.
  - **Result:** Their voice communication extends over broadband and connects them to the dispatch console(s) monitoring that channel.
- **LMR Radio Channel Extension:** A dedicated broadband channel is needed for each unique ASTRO K-Core LMR Radio Channel requiring voice continuity between radio users on LMR and broadband. For example, three broadband channels are needed to support Site 1, Channel 1 and Channel 2, and Site 3 Channel 3.
  - **How it works:** The broadband SmartConnect Channel is permanently patched by the console to its associated LMR Radio Channel. Users simply press the preprogrammed button when out of LMR range.
  - **Result:** The Broadband channel effectively extends voice communications from the broadband-connected radio user back into the LMR Channel and Console Radio Resource, ensuring everyone stays connected

## 1.5 Supported Devices

SmartConnect for ASTRO K-Core supports all SmartConnect enabled mobile and portable APX devices. To integrate each SmartConnect Channel with an ASTRO K-Core an APX6500 (Must be Enhanced "BN" for Wi-Fi), APX 8500 or APX 8500 Consolette with an internet connection is required. All SmartConnect enabled devices require an operational Trunking License to enable the SmartConnect Subscription.

## 1.6 APX All-Band Consolette

The APX All-Band Consolette provides a low-cost, mid-power wireless dispatch solution as an ideal complement to a modern P25 dispatch center. Equipped with leading edge P25 Phase 2 TDMA technology and multi-band interoperability, the APX All-Band Consolette can also be used as an emergency backup station when infrastructure is offline, or for wireless access to different system types for increased interoperability between agencies.

The APX All-Band Consolette's P25 operation and compatibility with legacy systems ensures that communications are clear, continuous, and coordinated across multiple users, agencies, and systems. The durable robust metal housing provides durability and allows for easy



Figure 1-3: APX All-Band Consolette



servicing, while the integrated front panel numeric keypad allows fast access to radio controls. In addition, optional features and benefits of the APX All-Band Consolette include:

- **Optional Multi-Band Operation in One Radio** – The APX All-Band Consolette delivers the convenience of three radios in one while maintaining APCO TIA receiver specifications. With the APX All-Band, personnel can use one consolette to communicate and provide dispatch operations across multiple digital and analog networks that operate in any three of the following frequency bands: 700 MHz, 800 MHz, VHF, and UHF (R1/R2).
- **Meets Radio Users' Needs** – The APX All-Band Consolette is compatible with the following optional advanced features and data applications: Programming over Project 25 (POP25), Text Messaging, Over the Air Rekeying (OTAR), and Enhanced Encryption Software Options. It is also capable of Extended Dispatch Operation including: Emergency Alarm ACK Encode, Radio Inhibit/ Uninhibit Encode, Radio Monitor Encode, Radio Check Encode, Status Query Encode, Status Query Response Decode, Status Update Decode, and Message Update Decode.

Two (2) APX Consolettes at Tracy PD Dispatch are included in this proposal. It will be used to connect to the CirrusCentral Core via SmartConnect. Connection to the internet will be via the Tracy PD's Ethernet network.

## 1.7 APX Next Portable Radio

### 1.7.1 Overview

The APX NEXT is Motorola's next-generation P25 platform, purpose-built for first responders to access and act on information while maintaining their focus in critical situations. With natural and accessible touch interface, audio optimized for high-noise environments, and extended coverage through broadband connectivity, APX NEXT delivers actionable intelligence to the point of engagement for personnel to stay connected and in control wherever the mission takes them.



Figure 1-4: APX All-Band Consolette

Equipped with broadband, LTE, Wi-Fi, Bluetooth 5.0 and GPS capabilities, APX NEXT brings future-ready applications, services, and connectivity to the field and control room. The APX NEXT platform's cloud-based provisioning system will allow your agency to procure, provision, and update the APX NEXT fleet, reducing the downtime needed to get devices into the field and saving your support staff valuable time.

Key benefits and advanced capabilities of the APX NEXT device include the following:

- **SmartTouch Experience** – Easier operation with a redefined touch UI, centered around a new 3.6" impact resistant touch display and shallow menu hierarchy that offer more information at a glance and quicker engagement with critical applications. This cleaner and more intuitive visual layout increases the usability of the APX NEXT radio and helps your users find the information they need without pause or distraction.
- **Ruggedized, Ergonomic Design** – Increased personnel safety and efficiency with an improved T-Grip ergonomic design, full-color top display, and tactile knobs for efficient use in emergency



situations. Patented touch technology enables reliable gloved use, while also making the screen immune to false actuations from water, snow, ice, or debris. The APX Next device meets the same MIL standards for ruggedization achieved by our APX platform radios.

- **Interoperability** – Supports all public safety frequency bands (7/800 MHz, VHF, UHF) for full interoperability across radio systems with minimal intervention by the radio user.
- **Simplified Fleet Management** – Simplified radio provisioning, remote updates, and streamlined management for support staff, delivering greater awareness of your APX NEXT fleet. Using Motorola's cloud-based RadioCentral (RC) programming, APX NEXT supports faster provisioning and deployment to get devices in the hands of responders and out into the field.

Across all aspects of the radio experience — deployment, operation, maintenance, and evolution — APX NEXT brings critical advancements to usability and performance. This platform brings streamlined interfaces, accelerated workflows, and mission-critical reliability to your agency's operation, and protects the focus that responders, dispatchers, and technicians need to stay safe and effective.

## 1.7.2 Device Management Services – Essential

Device Management Services - Essential ("DMS") is an additional option that provides remote technical support and hardware repair to maximize the effectiveness of the APX NEXT solution, while reducing maintenance risk, workload, and total cost of ownership. The offering consists of:

## 1.7.3 Technical Support

Our experienced technicians are available to help isolate and resolve any issues you may have with your APX NEXT radios. With an extensive knowledge base and trained and certified technical engineers, this team can troubleshoot and provide prompt resolution to your technical device issues. We apply leading industry standards to record, monitor, escalate and report technical service calls from our customers.

## 1.7.4 Hardware Repair

Your APX NEXT radio fleet components are protected in the event of an unexpected failure and are back in operation as soon as possible. All device components are returned to you with original factory specifications and updated with the latest firmware. Service centers are certified to comply with ISO 9001, ensuring the highest quality repairs.

## 1.7.5 Managing and Provisioning Devices

APX NEXT provides users greater awareness and faster radio management through Customer Programming Software ("CPS"), Radio Management ("RM"), or RadioCentral programming. These tools transform accurate data into smarter action by enabling dispatchers and network managers to keep radios in the field, make informed operational decisions, and, above all, protect first responders' focus and safety.

## 1.7.6 Customer Programming Software

CPS is a proprietary, Windows-based application used to configure APX subscriber radios in offline situations. The CPS application offers drag-and-drop, clone-wizard, and basic import/export functions that allow for the addition of new software and feature enhancements. APX NEXT radios can be programmed one at a time on a local PC, via secure USB port connection, with TLS-PSK based

encryption. Once loaded, subscriber radios are read and edited, and codeplugs and templates can be saved and duplicated to program other fleet radios.

### 1.7.7 Evolving with Application Services

A host of optional application services enhance the APX NEXT device's capabilities. Included in this proposal is SmartConnect

#### 1.7.7.1 SmartConnect

SmartConnect keeps first responders connected and maintains critical LMR features through a broadband connection. By seamlessly switching between P25 LMR and LTE cellular networks, SmartConnect extends reliable Push-to-talk ("PTT") communications as users roam onto supported broadband networks. Authentication, status, talkgroups, and encryption are all preserved automatically, without interruptions or resets providing continued access to the critical features needed in dangerous situations.

### 1.7.8 Securing Communications

APX NEXT uses Motorola's hardened end-to-end security to protect communications and allow only authorized units in the system to listen to transmissions. End-to-end security provides seamless protection from the device and data in transit to the cloud and the LMR system.

This solution ensures each component in the system is designed and validated against ongoing threat assessments to ensure vulnerabilities are detected and remedied, while potential new vulnerabilities will be addressed with seamless security updates. This offers transparent, real-time protection and keeps critical information and infrastructure safe.

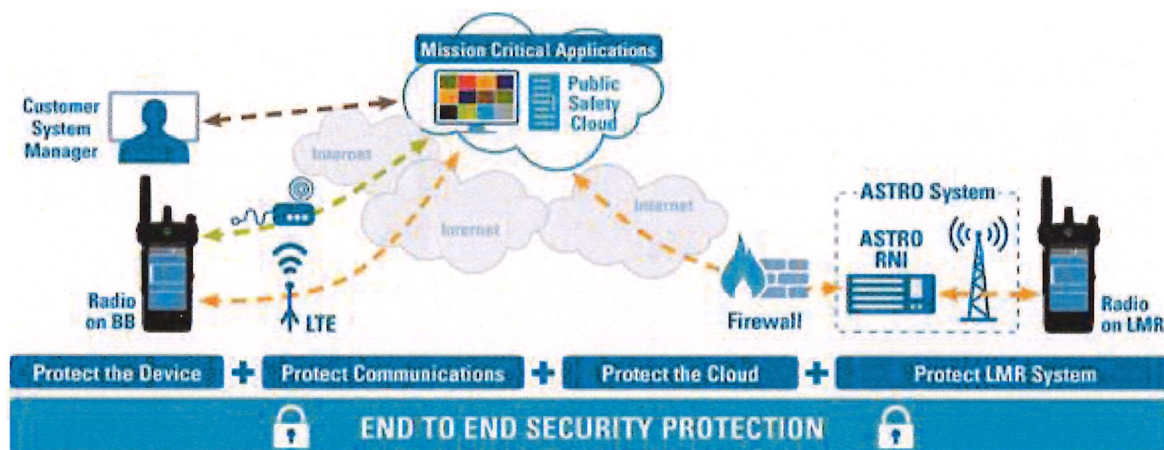


Figure 1-5: Motorola's End-to-End Security Solution



## 1.8 Ports Requirement

The following ports must be enabled for APX subscribers with SmartConnect.

Application	Port	Protocol	Security
<b>SmartConnect PTT TLS</b> production.smartconnect-usgov.motorolasolutions.com	49665	TLS/TCP	TLS-Mutual
<b>SmartConnect PTT Media</b> media-blue.usgov.msibptt.com media-green.usgov.msibptt.com	49600- 49699	SRTP/UDP	SRTP
<b>SmartConnect PTT Discovery</b> media-blue.usgov.msibptt.com media-green.usgov.msibptt.com	3000- 3999	UDP	STUN Authentication
If DNS is external then whatever IP is assigned as part of the DHCP grant to the subscriber needs to be allowed through the firewall.			

Figure 1-6: Port Requirement

## 1.9 Proposed Subscription Package

A standard SmartConnect Subscription is required for each Control Station. CirrusCentral Core call processing is included with the standard SmartConnect Subscription.

Five (5) years SmartConnect subscriptions for the two (2) APX Consolettes are included in this proposal. Subsequent annual subscription must be renewed after the 5<sup>th</sup> year.

## Section 2

# Equipment List

## 2.1 Infrastructure

SUB SYS	BLOCK	LIM	O	QTY	NOMENCLATURE	DESCRIPTION
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	-	2	L37TSS9PW1AN	MOBILE RADIO ALL BAND CONSOLETTTE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	a	2	GA09001AC	ADD: WI-FI CAPABILITY CONSOLETTTE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	b	2	GA00318AB	ADD: 5Y ESSENTIAL SERVICE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	c	2	GA09007AA	ADD: OUT OF THE BOX WIFI PROVISIONING
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	d	2	QA07940AA	ADD: AES, NO ADP
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	e	2	GA01787AB	ADD: APX8500 CONSOLETTTE ETHERNET
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	f	2	CA01598AB	ADD: AC LINE CORD US
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	g	2	G51AT	SOFTWARE LICENSE ENH:SMARTZONE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	h	2	L999AG	ADD: FULL FP W/E5/KEYPAD/CLOCK/VU
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	i	2	G806BL	SOFTWARE LICENSE ENH: ASTRO DIGITAL CAI OP APX
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	j	2	QA09113AB	ADD: BASELINE RELEASE SW
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	k	2	GA01630AA	ADD: SMARTCONNECT
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	l	2	GA09011AA	ADD: THIRD PARTY DATA MODEM TETHERING
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	m	2	G361AH	SOFTWARE LICENSE ENH: P25 TRUNKING SOFTWARE APX
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	n	2	GA00250AA	ADD: GNSS/BT-WIFI THRU MNT ANT, 17FT LOW LOSS PFP-100A/240, QMA
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	o	2	W969BG	SOFTWARE LICENSE ENH: MULTIKEY OPERATION
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	p	2	W22BA	ADD: STD PALM MICROPHONE APX



TRACY PD - SMARTCONNECT	APX CONSOLETTES	2	-	2	HKN6233C	MOBILE RADIO APX CONSOLETT RACK MOUNT KIT
TRACY PD - SMARTCONNECT	APX CONSOLETTES	3	-	2	SSV01S01663A	APX SMART CONNECT
TRACY PD - SMARTCONNECT	APX CONSOLETTES	4	-	1	DVN4046B	MASTER SYSTEM KEY STARTER KIT



### Section 3

# Implementation Statement of Work

## 3.1 System Integration

### 3.1.1 Professional Integration Services

Motorola Solutions internal methodologies, processes, and personnel are aligned to support our core business — the design, installation, and maintenance of wireless communications solutions.

We leverage our technical expertise and program management resources so Tracy PD can avoid the common issues that impact implementation timelines, budget, and system performance. We are offering a focused set of our implementation services to deploy the proposed system on time and on budget.

Motorola Solutions' will provide a Project Team to perform the proposed Professional Services. The project team will include the following roles:

- Project Manager (PM) — serves as the single point of contact for all system activities and issues, and will be responsible for coordinating team resources. The PM will make sure resulting contract obligations are addressed efficiently, professionally, and in a timely manner, with minimal impact on current system operations.
- System Engineer (SE) — responsible for the technical design of the proposed solution. The SE will gather and validate the requirements to finalize the design of the system to ensure it meets Tracy PD's requirements. The SE provides system design documentation, resolution of technical issues, and system support during system implementation and testing.
- System Installation Technicians — perform the physical installation, cabling, and grounding of the equipment.
- System Technologist — finalizes the system implementation, including in-field programming, system configuration, integration, and acceptance testing.

## 3.2 Motorola Solutions Responsibilities

Motorola Solutions will assume responsibility for the installation and performance of the proposed system described in the Technical Description section of this document. The services and deliverables we will provide to implement the proposed system are described in the System Integration section.

- Provide authorized administrator access to provision devices in the cloud gateway via a third-party identity management system.
- Maintain, update, and monitor the SmartConnect cloud platform.

- Provide technical support, security control and service improvements related to SmartConnect. Customer Data may be accessed by Motorola Solution employees residing outside of the Customer's country for the sole purpose of providing such support.
- Provide device access to the SmartConnect cloud-hosted gateway via the supported broadband network.
- Display SmartConnect subscription status per device (including start and end dates) on Customer Hub.
- Provide device software updates for SmartConnect per Device Managed Services (DMS) Software Maintenance
- Install the APX 8500 Consolettes in the existing rack. Provide the necessary cabling needed to connect the equipment to the available 4-Wire / ACIM ports of the existing Conventional Channel Gateway (CCGW).
- Provide the cables required and label all fabricated cables.
- Wire all new equipment to the Customer provided cabinet and power strips / PDUs.
- Configure the APX 8500 Consolettes so that it can connect using SmartConnect to the CirrusCentral Core. Connectivity will be via the Customer's ethernet network.
- Configure the CCGW for the 2 APX 8500 Consolettes so that it can connect to the existing ASTRO K-Core and Dispatch System.
- Install the GNSS / WiFi antenna of the APX Consolettes.
- Configure the MCC7500E consoles by creating a patch between the APX Consolettes and the customer's talkgroups.
- Permanently install, cable and ground all new and existing Motorola-provided hardware in accordance with Motorola-supplied design review drawings. (Final drawings will be submitted when available).
- Provide necessary miscellaneous hardware and grounding cable for installation of Motorola provided equipment.
- Ensure all installation work meets or exceeds specifications set forth in Motorola's latest revision of R56 "Standards and Guidelines for Communication Sites."
- All pertinent national and local codes shall be rigidly adhered to.
- All work shall be performed in a neat and professional, workmanlike manner.
- Provide onsite assistance during customer cutover activities.

### 3.3 Tracy PD Responsibilities

- Responsible for making room for new equipment.
- Electrical work is a customer responsibility.
- Equipment moves or decommissioning to make room for new equipment will be a customer responsibility
- All civil/site upgrade is a customer responsibility.
- Power backup power is a customer responsibility.
- HVAC is customer responsibility.



- Network connectivity is a customer responsibility.
- Internet connectivity of the APX 8500 Consolette using Customer's ethernet network is a customer responsibility.
- Network security through the firewall to the internet is a customer responsibility.
- Provide test units to use for FATP.
- Witness and signoff of Acceptance Testing.

## 3.4 Assumptions and Responsibilities

Motorola Solutions has identified the following assumptions and responsibilities during the development of the system's technical and service design for this proposal. These are based upon our understanding of Tracy PD's system requirements and the services to be provided.

Motorola Solutions has documented these assumptions and responsibilities to avoid ambiguities, and ensure that we share a common understanding of all conditions and responsibilities. As part of the process leading to a final system design and implementation plan, we welcome Tracy PD's comments and suggested changes to the identified assumptions and responsibilities.

### Solutions Design Assumptions and Clarifications

Motorola Solutions has made the following design and implementation assumptions in the development of this proposal:

- Unless specifically stated otherwise herein, this proposal does not address modifications, upgrades, or repairs to any existing equipment; site civil work; tower construction; or other building installations or renovations that may be required to prepare the sites for equipment installation.
- Any required system interconnections not specifically outlined here will be provided by Tracy PD. These may include dedicated phone circuits, microwave links or other types of connectivity.
- Emergency backup power (generator and UPS) is available or will be provided by Tracy PD.
- All proposed equipment is AC powered. No DC battery plants are included in this proposal.
- Adequate cooling is available from the HVAC system to support the proposed equipment.
- Any site/location upgrades or modifications are the responsibility of Tracy PD.
- All existing sites or equipment locations will have sufficient space available for the system described as required/specified by R56.
- R56 compliance for all sites is required. If any site changes or additions are needed, it will result in a Change Order.
- All existing sites or equipment locations will have adequate electrical power in the proper phase and voltage and site grounding to support the requirements of the system described.
  - Demarcation is the Motorola Solutions proposed hardware itself.
- All recurring and non-recurring utility costs including, but not limited to, generator fuel, electrical, Telco) will be borne by Tracy PD.
- All utility installations performed by the utility company shall be paid for by Tracy PD and located at jointly agreed to location within or around the existing communications shelter or equipment room.



- Approved local, State or Federal, FCC/FAA and any other permits as may be required for the installation and operation of the proposed equipment are the responsibility of Tracy PD.
- Any necessary demarcation points are defined as the Motorola Solutions-provided equipment. This includes demarcation for the following services:
  - 120VAC/ -48DC Power & Circuits
  - Backup Power
  - Grounding
  - Communication Circuits and backhaul links between sites
- Any issues that arise with connecting existing infrastructure with components included in this project will need to be addressed by a design change via the change order process.
- Any third-party interfaces including fire station alerting, logging recorder, paging, CAD, 911 and telephony (if applicable) are not included in this proposal.
- Existing MCC7500E dispatch consoles will be used. No upgrade of the consoles is included in this proposal.
- The existing Conventional Channel Gateway (CCGW) has available 2 x 4-Wire or ACIM ports that will be used for this project.
- Radio user(s) manually selects the SmartConnect channel when they are outside of LMR range to extend voice services over broadband.
- All call features supported are based on Section 1.2.
- Logging recorder solution is not included in this proposal. Tracy PD will use their existing logging recorder.
- Motorola is not responsible for interference caused or received by the Motorola-provided equipment except for interference that is directly caused by the Motorola-provided transmitter(s) to the Motorola-provided receiver(s). Should Tracy PD's system experience interference, Motorola can be contracted to investigate the source and recommend solutions to mitigate the issue.
- Hazardous materials are not present at the work location. Testing and removal of hazardous materials found during site investigations, construction or equipment installation will be the responsibility of the Tracy PD.
- If extremely harsh or difficult weather conditions delay the site work for more than a week, Motorola will seek excusable delays rather than risk job site safety.
- AM detuning or electromagnetic emission studies will not be required.
- The APX Consolette to be installed at Tracy PD Dispatch Center must have a stable connection to the ethernet network at the dispatch center.
- Dedicated Internet Connection. A reliable, dedicated internet connection with a minimum symmetrical bandwidth of 10 Mbps.

Customer-Provided Firewall. A customer provided and managed firewall is required to protect the network. Refer to Section 1.5,

- Ports Requirement for IP ports that must be enabled.
- Network Switch. A customer provided and managed network switch with available ports for the two (2) APX 8500 Consolettes and Firewall.
- The customer is responsible for providing and installing all necessary CAT6 ethernet cables.
- Network security through the firewall to the internet is a customer responsibility.
- Any third-party data modem for tethering is not included in this proposal.
- Two (2) SmartConnect applications with five (5) years subscriptions for the APX Consolettes are included in this proposal. Subsequent annual subscription must be renewed after the 5<sup>th</sup> year.
- Subscribers are not included in this proposal.
- No flash upgrade of existing subscribers is included in this proposal.
- Codeplug development is included in this proposal.
- Tracy PD will provide the test units needed for the FATP.
- Training is not included in the scope of this proposal.
- Performance bond is not required.
- Prevailing wages are required.
- Union labor is not required.
- Work is performed on non-holidays during normal business hours, Monday - Friday, 7:30am – 5:00pm

## Section 4

# Acceptance Test Procedure

## 4.1 SmartConnect

### 4.1.1 SmartConnect - Subscriber Mobility - Manual Switchover to Broadband

#### DESCRIPTION

Upon losing LMR RF coverage and no other LMR sites are available, a user may choose to manually switch to a SmartConnect site by selecting a personality configured as "Broadband Only".

The broadband access type used is dependent on the capabilities/configuration of the radio and the following preferred order: WiFi, LTE and Satellite.

The following test demonstrates manual switchover between LMR and SmartConnect via WiFi.

#### SET UP

RADIO-1 – TALKGROUP 1", "LMR Only" (personality 1)

RADIO-1 – TALKGROUP 1", "Broadband Only"  
(personality 2)

RADIO-2 - TALKGROUP 1, "LMR Only"  
CONSOLE-1 - TALKGROUP 1

Notes:

- Both radios are configured for WiFi.

#### TEST PROCEDURE

**Step 1** With RADIO-1 and RADIO-2 on LMR Site 1, initiate a Wide Area Call from RADIO-1 on TALKGROUP 1.

**Step 2** Observe that RADIO-2 and CONSOLE-1 will be able to receive and respond to the call. Dekey RADIO-1.

**Step 3** Change RADIO-1 to a "Broadband Only" personality for TALKGROUP 1.

**Step 4** Observe that RADIO-1 moves to the broadband SITE 2 and displays the SmartConnect banner. The radio may briefly display "Out of Range" during this transition.

**Step 5** Initiate a Wide Area Call from RADIO-1 on TALKGROUP 1.

**Step 6** Observe that RADIO-2 and CONSOLE-1 are able to receive and respond to the call.

**Step 7** Dekey RADIO-1 and select the "LMR Only" personality.



**Step 8** Observe that RADIO-1 moves back to LMR SITE 1 and no longer displays the SmartConnect banner.

**Step 9** Observe that RADIO-2 and CONSOLE-1 are still able to receive and respond to calls from RADIO-1.

Comments:	Test Passed: Yes / No	
	Tested By:	Witnessed By:
	Title:	Title:
	Date:	Date:

## 4.2 Sign-off

The Site Acceptance Tests are completed in accordance with the SAT Procedure Document and the requirements of the contract.

Contact:	Name:	Date:	Signature:
Witness1:			
Witness2:			
Witness3:			
Motorola Solutions Project Manager:			
Motorola Solutions System Engineer:			
Motorola Solutions Field Technical Representative:			
<b>Tested by:</b>			
Test Engineer:			

## Section 5

# Project Schedule

The estimated time for completion of the project is 4 months from Project Kickoff through Final Project Acceptance. The dates for the installation and activation are highly dependent on the contract award date. A final performance schedule will be developed based upon mutual agreement between Motorola Solutions and the City of Tracy PD at the Contract Design Review.



## Section 6

# Pricing Summary

## 6.1 Main Offering

Motorola's pricing is based on the equipment list and services for the system designed for City of Tracy PD. The Statement of Work (SOW) describes the work to be performed for the installation, optimization, and testing of the system and the equipment list provides the equipment necessary for this project.

Description	Price (USD)
System Hardware & Equipment	\$36,625
Implementation & Installation/Warranty Services	\$258,305
<b>System Total:</b>	<b>\$294,930</b>
<i>HGAC Discount</i>	<i>(\$9,333)</i>
<b>Total System Excluding Tax</b>	<b>\$285,597</b>

## 6.2 Subscribers & Accessories Annual Unit Pricing

Each year has a 4% annual escalator

Annual Product Cost	2025	2026	2027	2028
APXNext w/ SmartConnect	\$10,897.14	\$11,333.03	\$11,786.35	\$12,257.80
APXNext w/o SmartConnect	\$9,296.94	\$9,668.82	\$10,055.57	\$10,457.79
Single Unit Charger	\$136.07	\$141.51	\$147.17	\$153.06
Multi Unit Charger	\$1,139.71	\$1,185.30	\$1,232.71	\$1,282.02
Spare Batteries	\$186.04	\$193.48	\$201.22	\$209.27
Programming	\$76.92	\$80.00	\$83.20	\$86.53

## 6.3 Subscriber & Accessories Annual Units

Annual Quantities Purchased	2025	2026	2027	2028	Total
APXNext w/ SmartConnect	32	54	53	16	155
APXNext w/o SmartConnect				34	34
Single Unit Charger	42	23	2		67
Multi Unit Charger	6	4	3	10	23
Spare Batteries		50		50	100

Programming	32	54	53	50	189
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## 6.4 Total Annual Pricing

Annual Cost	2025	2026	2027	2028	Total
SmartConnect FNE	\$285,597.00				\$285,597.00
APXNext w/ SmartConnect	\$348,708.48	\$611,983.38	\$624,676.37	\$196,124.81	\$1,781,493.04
APXNext w/o SmartConnect	\$0.00	\$0.00	\$0.00	\$355,564.97	\$355,564.97
Single Unit Charger	\$5,714.94	\$3,254.79	\$294.35	\$0.00	\$9,264.08
Multi Unit Charger	\$6,838.26	\$4,741.19	\$3,698.13	\$12,820.19	\$28,097.77
Spare Batteries	\$0.00	\$9,674.08	\$0.00	\$10,463.48	\$20,137.56
Programming	\$2,461.54	\$4,320.00	\$4,409.60	\$4,326.40	\$15,517.54
Sub Total	\$649,320.22	\$633,973.45	\$633,078.45	\$579,299.85	\$2,495,671.96
Estimated Tax	\$25,533.43	\$40,953.83	\$41,090.16	\$41,772.48	\$158,879.20
Grand Total	\$674,853.65	\$674,927.28	\$674,168.61	\$621,072.33	\$2,654,551.16

## 6.5 Main Offering Payment Terms

Except for a payment that is due on the Effective Date, City of Tracy PD will make payments to Motorola within thirty (30) days after the date of each invoice. City of Tracy PD will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following milestones.

### System Purchase

1. 50% of the Contract Price due upon Contract Execution (due upon effective date); and
2. 50% of the Contract Price due upon Final Acceptance.

**If Subscribers are purchased, 100% of the Subscriber/Professional Services Contract Price will be invoiced upon shipment (as shipped).**

Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.



## Section 7

# Contractual Documentation

### Motorola Solutions Customer Agreement

This Motorola Solutions Customer Agreement (the "**MCA**") is entered into between Motorola Solutions, Inc., and affiliated companies, with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 ("**Motorola**") and the entity purchasing Products (as defined below) from Motorola ("**Customer**"). Motorola and Customer will each be referred to herein as a "**Party**" and collectively as the "**Parties**". This Agreement (as defined below) is effective as of the earlier of (a) the first purchase of a Product from Motorola, and (b) the date of the last signature on the Agreement (the "**Effective Date**").

#### 1. Agreement.

- 1.1. Scope; Agreement Documents. This MCA governs Customer's purchase of Products (as defined below) from Motorola. Additional terms and conditions applicable to specific Products are set forth in one or more agreed upon addenda incorporated within this MCA (each an "**Addendum**", and collectively the "**Addenda**"). This MCA, the applicable Addenda, and Proposal collectively form the Parties' "**Agreement**".
- 1.2. Order of Precedence. In interpreting this Agreement and resolving any ambiguities each Addendum will control with respect to conflicting terms in the Agreement, but only as applicable to the Products described in such Addendum. The Proposal will control with respect to conflicting terms in the MCA or any Addenda, but only as applicable to the Products and Services described in the Proposal.

#### 2. Definitions.

"**Authorized Users**" means Customer's employees and contractors engaged for the purpose of supporting or using the Products and Services on behalf of Customer, and that are not competitors of Motorola, and the entities (if any) specified in a Proposal or otherwise approved by Motorola in writing (email from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

"**Change Order**" means a written amendment to this Agreement after the Effective Date.

"**Communications System**" is a solution that includes at least one radio Product, whether devices, software, or infrastructure, and requires Integration Services to deploy such radio Product at a Customer Site or onto any Customer-Provided Equipment or Equipment provided to Customer.

"**Contract Price**" or "**Fees**" means the charges applicable to the Products, excluding applicable sales or similar taxes and freight charges.

"**Confidential Information**" means any and all non-public information provided by one Party to the other that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable business person would consider non-public and confidential by its nature. With respect to Motorola, Confidential Information will also include Products, and Documentation, as well as any other information relating to the Products.

"**Customer Data**" has the meaning given to it in the DPA.

"**Customer-Provided Equipment**" means components, including equipment and software, not provided by Motorola which may be used with the Products.



**"Data Processing Addendum" or "DPA"** means the Motorola [Data Processing Addendum](#) applicable to processing of data, including Customer Data, as updated, supplemented, or superseded from time to time. The DPA is incorporated into and made a part of this Agreement for all purposes pertaining to the contents of the DPA. Where terms or provisions in the Agreement conflict with terms or provisions of the DPA, the terms or provisions of the DPA will control with respect to the contents of the DPA.

**"Delivery"** means the applicable delivery for a Product as described in Section 5.7 of this Agreement.

**"Documentation"** means the documentation for the Products, or data, that is delivered or made available with the Products that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information.

**"Equipment"** means hardware provided by Motorola.

**"Equipment Lease-Purchase Agreement"** means the agreement by which Customer finances all or a portion of the Contract Price.

**"Feedback"** means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including end users, in connection with or relating to the Products.

**"Integration Services"** means the design, deployment, implementation, and integration Services provided by Motorola in order to design, install, set up, configure, and/or integrate the applicable Products as agreed upon by the Parties.

**"Licensed Software"** means software which is made available to Customer by Motorola (for example software preinstalled on Equipment, accessible via a website provided by Motorola, or software installed on or made available for Customer-Provided Equipment) and is licensed to Customer by Motorola.

**"Lifecycle Management Services" or "LMS"** means upgrade services as set out in the applicable Proposal.

**"Maintenance and Support Services"** means the break/fix maintenance, technical support, or other Services described in the applicable Proposal.

**"Motorola Data"** means data owned by Motorola and made available to Customer in connection with the Products;

**"Motorola Materials"** means proprietary equipment, hardware, content, software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which Motorola has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by Motorola or another party). Products, Motorola Data, Third-Party Data (as defined in the DPA), and Documentation, are considered Motorola Materials.

**"Non-Motorola Materials"** means collectively, Customer or third-party equipment, software, services, hardware, content, and data that is not provided by Motorola.

**"Proposal"** means solution descriptions, pricing, equipment lists, statements of work ("**SOW**"), schedules, technical specifications, quotes, order forms, and other documents setting forth the Products to be purchased by Customer and provided by Motorola. The Proposal may also include an Acceptance Test Plan ("**ATP**"); a "Payment" Form (Communications System purchase only); or a "System Acceptance Certificate" (Communications System only), depending on the Products purchased by Customer.

**"Products" or "Product"** is how the Equipment, Licensed Software and Services being purchased by the Customer is collectively referred to in this Agreement (collectively as "Products", or individually as a "Product").

**“Professional Services”** are services provided by Motorola to Customer under this Agreement, including Integration Services, the nature and scope of which are more fully described in the Proposal.

**“Prohibited Jurisdiction”** means any jurisdiction in which the provision of such Products is prohibited under applicable laws or regulations.

**“Services”** means services, including access to services, as described in the Proposal, and includes Integration Services, Subscription Services, Professional Services, Maintenance & Support Services, and Lifecycle Management Services provided by Motorola.

**“Service Completion Date”** means the date of Motorola’s completion of the Services described in a Proposal.

**“Service Use Data”** has the meaning given to it in the DPA.

**“Site”** or **“Sites”** means the location where the Integration Services, Lifecycle Management Services, or Maintenance and Support Services will take place.

**“Software-as-a-Service”** or **“SaaS”** means a solution that includes at least one Subscription Service and associated Licensed Software, which may include, as an example, client software or a web page.

**“Software System”** means a solution that includes at least one Licensed Software Product and requires Integration Services to deploy such Licensed Software Product at a Customer Site or onto any Customer-Provided Equipment or Equipment provided by or made available to Customer by Motorola.

**“Subscription”** means a recurring payment for Products, as set out in the Proposal.

**“Subscription Services”** or **“Recurring Services”** means Services, including access to Services, paid for on a subscription basis. Subscription Services includes services available through SaaS Products.

**“Term”** means the term of this MCA which will commence on the Effective Date and continue until six (6) months after the later of (a) the termination, expiration, or discontinuance of Services under the last Proposal in effect, or (b) the expiration of all applicable warranty periods, unless the MCA is earlier terminated as set forth herein.

### 3. Products and Services.

3.1. **Products.** Motorola will sell (a) Equipment, (b) licenses to Licensed Software, and (c) Services to Customer, to the extent each is set forth in this Agreement. At any time during the Term, Motorola may substitute any Products at no cost to Customer, if the substitute is substantially similar to the Products set forth in this Agreement. All Licensed Software is provided pursuant to the terms of the [Software License Agreement](#).

#### 3.2. Services.

3.2.1. Motorola will provide Services, to the extent set forth in this Agreement.

3.2.2. Integration Services; Maintenance and Support Services. Motorola will provide (a) Integration Services at the applicable Sites, agreed upon by the Parties, or (b) Maintenance and Support Services or Lifecycle Management Services, each as further described in the applicable SOW. Terms applicable to Maintenance, Support and Lifecycle Management can be found in the [Maintenance, Support and Lifecycle Management Addendum](#).

3.2.3. Service Proposals. The Fees for Services will be set forth in Motorola’s Proposal. A Customer point of contact may be set forth in the applicable SOW for the Services.

3.2.4. Service Completion. Services described in a Proposal will be deemed complete upon the Service Completion Date, or as Services expire, or are renewed or terminated.



### 3.2.5. Professional Services

- 3.2.5.1. Additional Service Terms. If Customer is purchasing Professional Services to evaluate or assess networks, systems or operations; network security assessment or network monitoring; software application development Services; or transport connectivity services, [Additional Services Terms](#) apply.

- 3.3. Additional Product Terms. If the Products include one of the following Products or Product types, additional terms apply as found in the below links:

[AI Terms](#)

[Comparison Manager](#)

[Data licensed from Motorola](#)

[Drone related Products](#)

[Mobile Video Products, such as LPR cameras, bodycams, or vehicle cameras, and related software](#)

- 3.4. Non-Preclusion. If, in connection with the Products provided under this Agreement, Motorola performs assessments of its own, or related, products or makes recommendations, including a recommendation to purchase other products, nothing in this Agreement precludes such efforts nor precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products to Customer. Customer represents that this paragraph does not violate its procurement standards or other laws, regulations, or policies.
- 3.5. Customer Obligations. Customer represents that information Customer provides to Motorola in connection with receipt of Products are accurate and complete in all material respects. If any assumptions in the Proposals or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, Motorola's ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.
- 3.6. Documentation. Products may be delivered with Documentation. Documentation is and will be owned by Motorola, unless otherwise expressly stated in a Proposal that certain Documentation will be owned by Customer. Motorola hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Products.
- 3.7. Motorola Tools and Equipment. As part of delivering the Products, Motorola may provide certain tools, equipment, models, and other materials of its own. Such tools and equipment will remain the sole property of Motorola unless they are to be purchased by Customer as Products and are explicitly listed on the Proposal. The tools and equipment may be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Customer will safeguard all tools and equipment while in its custody or control, and be liable for any loss or damage. Upon the expiration or earlier termination of this Agreement, Customer, at its expense, will return to Motorola all such tools and equipment in its possession or control.
- 3.8. Authorized Users. Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to Products.
- 3.9. Export Control. Customer, its employees, and any other Authorized Users will not access or use the Products in any Prohibited Jurisdiction, and Customer will not provide access to the Products to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Products or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.



- 3.10. Change Orders. Unless a different change control process is agreed upon in writing by the Parties, a Party may request changes to an Addendum or a Proposal by submitting a Change Order to the other Party. If a requested change causes an increase or decrease in the Products, the Parties by means of the Change Order will make appropriate adjustments to the Fees, project schedule, or other matters. Change Orders are effective and binding on the Parties only upon execution of the Change Order by an authorized representative of both Parties.

#### 4. Term and Termination.

- 4.1. Term. The applicable Addendum or Proposal will set forth the Term for the Products governed thereby.

- 4.1.1. Subscription Terms. Unless otherwise specified in the Proposal, if the Products are purchased as a Subscription, the Subscription commences upon Delivery of, or Customer having access to, the first applicable Product ordered under this Agreement and will continue for a twelve (12) month period or such other period identified in a Proposal (the "**Initial Subscription Period**") and, unless otherwise stated in the Proposal, will automatically renew for additional twelve (12) month periods (each, a "**Renewal Subscription Year**"), unless either Party notifies the other of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial Subscription Period and each Renewal Subscription Year will each be referred to herein as a "**Subscription Term**".) Motorola may increase Fees prior to any Renewal Subscription Year by notifying Customer of the proposed increase no later than thirty (30) days prior to commencement of the Renewal Subscription Year.
- 4.2. Termination. Either Party may terminate the Agreement or the applicable Addendum or Proposal if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to produce a cure plan within such period of time. Each Addendum and Proposal may be separately terminable as set forth therein.
- 4.3. Termination for Non-Appropriation. In the event any identified funding is not appropriated or becomes unavailable, the Customer reserves the right to terminate this Agreement for non-appropriation upon thirty (30) days' advance written notice to Motorola. In the event of such termination, Motorola shall be entitled to compensation for all conforming Products delivered or performed prior to the date of termination.
- 4.4. Suspension of Services. Motorola may promptly terminate or suspend any Products under a Proposal if Motorola determines: (a) the related Product license has expired or has terminated for any reason; (b) the applicable Product is being used on a hardware platform, operating system, or version not approved by Motorola; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays Motorola's ability to perform.
- 4.5. Wind Down of Subscription. In addition to the termination rights in this Agreement, Motorola may terminate any Subscription Term, in whole or in part, in the event Motorola plans to cease offering the applicable Licensed Software or Subscription Services to customers.
- 4.6. Effect of Termination or Expiration. Upon termination for any reason or expiration of this Agreement, an Addendum, or a Proposal, Customer and the Authorized Users will return or destroy (at Motorola's option) all Motorola Materials and Motorola's Confidential Information in their possession or control and, as applicable, provide proof of such destruction, except that Equipment purchased by Customer should not be returned. If Customer has any outstanding payment obligations under this Agreement, Motorola may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer agrees to pay Motorola for Products already delivered or performed. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by Motorola and Customer's termination of this Agreement.
- 4.7. Equipment. In the event that Customer purchases any Product at a price below the published list price for such Product in connection with Customer entering into a fixed- or minimum required-term agreement for Products, and Customer or Motorola terminates the Agreement prior to the expiration of such fixed- or minimum required-term, then Motorola will have the right to invoice Customer for, and Customer will pay, the amount of the discount to the published list price for the Product or such other amount set forth in writing. This Section will not limit any other remedies Motorola may have with respect to an early termination.

## 5. Payment, Invoicing, Delivery and Risk of Loss

- 5.1. The Contract Price of \$2,495,671.96, excluding taxes, is fully committed and identified, including all subsequent years of any contracted Services. The Customer will pay all invoices as received from Motorola subject to the terms of this Agreement and any changes in scope will be subject to the change order process as described in this Agreement.

Motorola acknowledges the Customer may require the issuance(s) of a purchase order or notice to proceed as part of the Customer's procurement process. However, Customer agrees that the issuance or non-issuance of a purchase order or notice to proceed does not preclude the Customer from its contractual obligations as defined in this Agreement.

- 5.2. Fees. Fees and charges applicable to the Products and Services will be as set forth in the applicable Proposal. Changes in the scope of Products described in a Proposal that require an adjustment to the Fees will be set forth in the applicable pricing schedule. The Fees for any Products exclude expenses associated with unusual and costly Site access requirements (e.g., if Site access requires a helicopter or other equipment), tariffs, fluctuations in the costs of energy, raw materials, and fuel. Motorola reserves the right to equitably adjust the Fees for these expenses upon written notice to Customer. Customer will reimburse Motorola for expenses reasonably incurred by Motorola in connection with the Products. The annual Subscription Fee for Products may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in a Proposal. Motorola may suspend Licensed Software and any Subscription Services if Customer fails to make any payments within thirty (30) days of invoice due date when due.
- 5.3. Taxes. The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, "Taxes"), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in a Proposal. If Motorola is required to pay any Taxes, Customer will reimburse Motorola for such Taxes (including any interest and penalties) within thirty (30) days after Customer's receipt of an invoice therefore. Customer will be solely responsible for reporting the Products for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income and net worth.
- 5.4. Invoicing. Motorola will invoice Customer as described in this Agreement and Customer will pay all invoices within thirty (30) days of the invoice date or as otherwise specified in writing. In the event Customer finances the purchase of the Motorola Products contemplated herein via Motorola Solutions Credit Corporation ("MSCC"), invoices for such purchase will be paid via the disbursement of the financing proceeds pursuant to the Equipment Lease - Purchase Agreement executed between the parties and the payment schedule enclosed therein shall control payment of the related invoices. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. Motorola may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in Section 5.6. Customer acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Products.
- 5.5. Payment. Customer will pay invoices for the Products provided under this Agreement in accordance with the invoice payment terms set forth in Section 5.4. Generally, invoices are issued after shipment of Equipment or upon Motorola's Delivery of Licensed Software, Customer access to SaaS, or upon System Completion Date of a Software System, as applicable, but if a specific invoicing or payment schedule is set forth in the Agreement, such schedule will determine the invoicing cadence.
- Motorola will have the right to suspend future Deliveries of Products if Customer fails to make any payments when due.
- 5.6. Due to significant market and tariff volatility, as well as fluctuations in the cost of energy and raw materials including, but not limited to, steel, copper, finished wood, and concrete, Motorola Solutions reserves the right to equitably adjust the contract price, completion schedule, and/or contract requirements. Additionally, Motorola Solutions reserves the right to apply a fuel surcharge to quoted freight rates based on the prevailing diesel cost at the time of shipment.
- 5.7. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:

Name: Tracy Police Department  
Address: 1000 Civic Center, Tracy, CA 95376  
Phone: 209-831-6568

E-INVOICE. To receive invoices via email:

Customer Account Number: \_\_\_\_\_  
Customer Accounts Payable Email: pdaccounting@tracypd.com  
Customer CC (optional) Email: Beth.Lyons-McCarthy@tracypd.com

The address which is the ultimate destination where the Equipment will be delivered to Customer is:

Name: Tracy Police Department - Manager Beth Lyons-McCarthy  
Address: 1000 Civic Center, Tracy, CA 95376

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name: Tracy Police Department - Manager Beth Lyons-McCarthy  
Address: 1000 Civic Center, Tracy, CA 95376  
Phone: 209-831-6594

Customer may change this information by giving written notice to Motorola.

- 5.8. Delivery, Title and Risk of Loss.** Motorola will provide to Customer the Products set forth in a Proposal, in accordance with the terms of the Agreement. Motorola will, using commercially reasonable practices, pack the ordered Equipment and ship such Equipment to the Customer address set forth in **Section 5.6** or otherwise provided by Customer in writing, using a carrier selected by Motorola.

Notwithstanding the foregoing and unless otherwise stated in a Equipment Lease - Purchase Agreement, Delivery of Equipment (and any incorporated Licensed Software) will occur, and title and risk of loss for the Equipment will pass to Customer, upon shipment by Motorola in accordance with ExWorks, Motorola's premises (Incoterms 2020). Customer will pay all shipping costs, taxes, and other charges applicable to the shipment and import or export of the Products and Services, as applicable, and Customer will be responsible for reporting the Products for personal property tax purposes.

Delivery of Licensed Software for installation on Equipment or Customer-Provided Equipment will occur upon the earlier of (a) electronic delivery of the Licensed Software by Motorola, or (b) the date Motorola otherwise makes the Licensed Software available for download or use by Customer. If agreed upon in a Proposal, Motorola will also provide Services related to such Products. Title to Licensed Software will not pass to Customer at any time. Delivery of SaaS Products will occur when the Services are made available to Customer.

- 5.9. Delays.** Any shipping dates set forth in a Proposal are approximate. While Motorola will make reasonable efforts to ship Products by any such estimated shipping date, Motorola will not be liable for any delay or related damages to Customer. Time for Delivery will not be of the essence, and delays will not constitute grounds for cancellation, penalties, termination, or a refund.
- 5.10. Future Regulatory Requirements.** The Parties acknowledge and agree that certain Products (for example, cyber services) are in evolving technological areas and therefore, laws and regulations regarding Products may change. Changes to existing Products required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Products.
- 5.11. Resale of Equipment.** Equipment may contain embedded Licensed Software. If Customer desires to sell its used Equipment to a third party, Customer must first receive prior written authorization from Motorola, which will not be unreasonably denied, and obtain written acceptance of the applicable Licensed Software license terms, including



the obligation to pay relevant license fees, from such third party. Customer will take appropriate security measures when disposing of Equipment, including the deletion of all data stored in the Equipment.

**6. Sites; Customer-Provided Equipment; Non-Motorola Materials.**

- 6.1. Access to Sites.** Customer will be responsible for providing all necessary permits, licenses, and other approvals necessary for the performance, installation and use of the Products at each applicable Site, including for Motorola to perform its obligations hereunder, and for facilitating Motorola's access to the Sites. No waivers of liability will be imposed on Motorola or its subcontractors by Customer or others at Customer facilities or other Sites, but if and to the extent any such waivers are imposed, the Parties agree such waivers are void.
- 6.2. Site Conditions.** Customer will ensure that (a) all Sites are safe and secure, (b) Site conditions meet all applicable industry and legal standards (including standards promulgated by OSHA or other governmental or regulatory bodies), (c) to the extent applicable, Sites have adequate physical space, air conditioning, and other environmental conditions, electrical power outlets, distribution, equipment, connections, and telephone or other communication lines (including modem access and interfacing networking capabilities), and (d) Sites are suitable for the installation, use, and maintenance of the Products. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.
- 6.3. Site Issues.** Upon its request, which will not be unreasonably denied, Motorola will have the right to inspect the Sites and advise Customer of any deficiencies or non-conformities with the requirements of this **Section 6 – Sites; Customer-Provided Equipment; Non-Motorola Materials**. If Motorola or Customer identifies any deficiencies or non-conformities, Customer will promptly remediate such issues or the Parties will select a replacement Site. If a Party determines that a Site identified in a Proposal is not acceptable or desired, the Parties will cooperate to investigate the conditions and select a replacement Site or otherwise adjust the installation plans and specifications as necessary. A change in Site or adjustment to the installation plans and specifications may cause a change in the Fees or performance schedule under the applicable Proposal.
- 6.4. Customer-Provided Equipment.** Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit Motorola to access and use the applicable Customer-Provided Equipment to provide the Products under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not Motorola) will be fully liable for Customer-Provided Equipment, and Customer will immediately notify Motorola of any Customer-Provided Equipment damage, loss, change, or theft that may impact Motorola's ability to provide the Products under this Agreement, and Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Proposal.
- 6.5. Non-Motorola Materials.** In certain instances, Customer may be permitted to access, use, or integrate Non-Motorola Materials with or through the Products. If Customer accesses, uses, or integrates any Non-Motorola Materials with the Products, Customer will first obtain all necessary rights and licenses to permit Customer's and its Authorized Users' use of the Non-Motorola Materials in connection with the Products. Customer will also obtain the necessary rights for Motorola to use such Non-Motorola Materials in connection with providing the Products, including the right for Motorola to access, store, and process such Non-Motorola Materials (e.g., in connection with SaaS Products), and to otherwise enable interoperation with the Products. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-Motorola Materials with the Products, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-Motorola Materials. If any Non-Motorola Materials requires access to Customer Data, Customer hereby authorizes Motorola to allow the provider of such Non-Motorola Materials to access Customer Data, in connection with the interoperation of such Non-Motorola Materials with the Products.
- 6.6.** Customer acknowledges and agrees that Motorola is not responsible for, and makes no representations or warranties with respect to, the Non-Motorola Materials (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-Motorola Materials or failure to properly interoperate with the Products). If Customer receives notice that any Non-Motorola Materials must be removed, modified, or disabled within the Products, Customer will promptly do so. Motorola will have the right to disable or remove Non-Motorola Materials if

Motorola believes a violation of law, third-party rights, or Motorola's policies is likely to occur, or if such Non-Motorola Materials poses or may pose a security or other risk or adverse impact to the Products, Motorola, Motorola's systems, or any third party (including other Motorola customers).

- 6.7. Motorola may provide certain Non-Motorola Materials as an authorized sales representative of a third party as set out in a Proposal. As an authorized sales representative, the third party's [terms and conditions](#) will apply to any such sales. Any orders for such Non-Motorola Materials will be fulfilled by the third party.
- 6.8. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Non-Motorola Materials software are governed by a separate license, EULA, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Products. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software. Certain [third party flow-down terms](#) applicable to Motorola Products may apply.
- 6.9. Prohibited Use. Customer will not integrate or use, or permit a third party or an Authorized User to integrate or use, any Non-Motorola Materials with or in connection with a Software System or other Licensed Software provided by Motorola under this Agreement, without the express written permission of Motorola.
- 6.10. API and Client Support. Motorola will use reasonable efforts to maintain its Application Programming Interfaces (APIs) for each Software System, understanding that APIs will evolve. Motorola will support each API version for 6 months after introduction but may discontinue support with reasonable notice or without notice if a security risk is present. For Licensed Software requiring a local client installation, Customer is responsible for installing the current version. Motorola will support each client version for 45 days after its release but may update the client at any time, and does not guarantee support for prior client versions.

## 7. Representations and Warranties.

- 7.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has the right to enter into, and execute, the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.
- 7.2. System Warranty. Subject to the disclaimers and exclusions below, Motorola represents and warrants that, on the date of System Acceptance (for Communications Systems), System Completion Date (for Software Systems), or Delivery, as applicable (a) the Communications System will perform in accordance with the descriptions in the applicable Proposal in all material respects, (b) the Software System will perform in accordance with the descriptions in the applicable Proposals in all material respects, and (c) if Customer has purchased any Licensed Software (but, for clarity, excluding SaaS Products) as part of such Communications System or Software System, the warranty period applicable to such Licensed Software will continue for a period of one (1) year commencing upon System Acceptance, System Completion, or date the Licensed Software is delivered (the "**Warranty Period**").
- 7.3. Communications Systems. During the Warranty Period, in addition to warranty services, Motorola will provide Maintenance and Support Services for the Equipment and support for the Motorola Licensed Software in Communication Systems pursuant to the applicable maintenance and support Proposal. Support for the Licensed Software will be in accordance with Motorola's established [Software Support Policy](#) ("SwSP"). If Customer wishes to purchase (a) additional Maintenance and Support Services during the Warranty Period; or (b) continue or expand maintenance, software support, installation, and/or Motorola's LMS after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document and such terms will be agreed upon in a Proposal. Unless otherwise agreed by the Parties in writing, the terms and conditions of the MSLMA referenced in Section 3.2.2 will govern the provision of such Services.
- 7.4. SaaS. SaaS Products do not qualify for the System Warranty above.
- 7.5. Motorola Warranties - Services. Subject to the disclaimers and exclusions below, Motorola represents and warrants that (a) Services will be provided in a good and workmanlike manner and will conform in all material respects to the descriptions in the applicable Proposal; and (b) for a period of ninety (90) days commencing upon the Service Completion Date for one-time Services, the Services will be free of material defects in materials and workmanship.

Other than as set forth in subsection (a) above, recurring Services are not warranted but rather will be subject to the requirements of the applicable Addendum or Proposal.

- 7.6. Motorola Warranties - Equipment.** Subject to the disclaimers and exclusions set forth below, (a) for a period of one (1) year commencing upon the Delivery of Motorola-manufactured Equipment under **Section 5.7 – Delivery, Title and Risk of Loss**, Motorola represents and warrants that such Motorola-manufactured Equipment, under normal use, will be free from material defects in materials and workmanship; and (b) the warranties applicable to Motorola-manufactured Equipment set forth in herein shall be applicable to all radio Equipment purchased hereunder whether or not such Equipment was manufactured by Motorola.
- 7.7. Warranty Claims; Remedies.** To assert a warranty claim, Customer must notify Motorola in writing of the claim prior to the expiration of any warranty period set forth in this Agreement. Unless a different remedy is otherwise expressly set forth herein, upon receipt of such claim, Motorola will investigate the claim and use commercially reasonable efforts to repair or replace any confirmed materially non-conforming Product or re-perform any non-conforming Service, at its option. Such remedies are Customer's sole and exclusive remedies for Motorola's breach of a warranty. Motorola's warranties are extended by Motorola to Customer only, and are not assignable or transferable.
- 7.8. Pass-Through Warranties.** Notwithstanding any provision of this Agreement to the contrary, Motorola will have no liability for third-party software or hardware provided by Motorola; provided, however, that to the extent offered by third-party providers of software or hardware and to the extent permitted by law, Motorola will pass through express warranties provided by such third parties.
- 7.9. WARRANTY DISCLAIMER.** EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS AGREEMENT, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED "AS IS" AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE PRODUCTS AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER'S PARTICULAR REQUIREMENTS.
- 7.10. ADDITIONAL WARRANTY EXCLUSIONS.** NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) DEFECTS IN OR DAMAGE TO PRODUCTS RESULTING FROM USE OTHER THAN IN THE NORMAL AUTHORIZED MANNER, OR FROM ACCIDENT, LIQUIDS, OR NEGLIGENCE; (B) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN MOTOROLA; (C) CUSTOMER'S OR ANY AUTHORIZED USER'S FAILURE TO COMPLY WITH INDUSTRY AND OSHA OR OTHER LEGAL STANDARDS; (D) DAMAGE TO RADIO ANTENNAS, UNLESS CAUSED BY DEFECTS IN MATERIAL OR WORKMANSHIP; (E) EQUIPMENT WITH NO SERIAL NUMBER; (F) BATTERIES OR CONSUMABLES; (G) FREIGHT COSTS FOR SHIPMENT TO REPAIR DEPOTS; (H) COSMETIC DAMAGE THAT DOES NOT AFFECT OPERATION; (I) NORMAL WEAR AND TEAR; (J) ISSUES OR OBSOLESCENCE OF LICENSED SOFTWARE DUE TO CHANGES IN CUSTOMER OR AUTHORIZED USER REQUIREMENTS, EQUIPMENT, OR SYSTEMS; (K) TRACKING AND LOCATION-BASED SERVICES; OR (L) BETA SERVICES.
- 8. Indemnification.**
- 8.1. General Indemnity.** Motorola will defend, indemnify, and hold Customer harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding ("Claim") for personal injury, death, or direct damage to tangible property to the extent caused by Motorola's negligence, gross negligence or willful misconduct while performing its duties under this Agreement, except to the extent the claim arises from Customer's negligence or willful misconduct. Motorola's duties under this **Section 8.1 – General Indemnity** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise to the extent allowed by applicable law; and (c) Customer



cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Claim.

**8.2. Intellectual Property Infringement.** Motorola will defend Customer against any third-party claim alleging that a Motorola-developed or manufactured Product (the "Infringing Product") directly infringes a United States patent or copyright ("Infringement Claim"), and Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Motorola in settlement of an Infringement Claim. Motorola's duties under this **Section 8.2 – Intellectual Property Infringement** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Infringement Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Infringement Claim.

**8.2.1.** If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer (i) a prorated refund of any amounts pre-paid for the Infringing Product (if the Infringing Product is Licensed Software) or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation (if the Infringing Product is Equipment, including Equipment with embedded Licensed Software).

**8.2.2.** In addition to the other damages disclaimed under this Agreement, Motorola will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-Motorola Materials, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Product with any products or materials not provided by Motorola; (c) a Product designed, modified, or manufactured in accordance with Customer's designs, specifications, guidelines or instructions; (d) a modification of the Product by a party other than Motorola; (e) use of the Product in a manner for which the Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Product that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the Infringing Product.

**8.2.3.** This **Section 8.2 – Intellectual Property Infringement** provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim.

**8.3. Customer Indemnity.** To the extent allowed by applicable law, Customer will defend, indemnify, and hold Motorola and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-Motorola Materials, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Products) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement; (b) Customer-Provided Equipment's failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to Motorola by Customer in connection with the Products; (c) Customer's (or its service providers, agents, employees, or Authorized User's) negligence or willful misconduct; and (d) Customer's or its Authorized User's breach of this Agreement. This indemnity will not apply to the extent any such claim is caused by Motorola's use of Customer-Provided Equipment, Customer Data, or Non-Motorola Materials in violation of the Agreement. Motorola will give Customer prompt, written notice of any claim subject to the foregoing indemnity. Motorola will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

## **9. Limitation of Liability.**

**9.1.** EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE "MOTOROLA PARTIES"), WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE FEES, OR PORTION OF FEES, RELATED TO

THE PRODUCT UNDER WHICH THE CLAIM AROSE. WITH RESPECT TO ANY RECURRING SERVICES, THE MOTOROLA PARTIES' TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS RELATED TO SUCH RECURRING SERVICES WILL NOT EXCEED THE TOTAL FEES PAID FOR THE APPLICABLE PRODUCT DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE. EXCEPT FOR PERSONAL INJURY OR DEATH, THE MOTOROLA PARTIES WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER MOTOROLA'S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

- 9.2. EXCLUSIONS FROM LIABILITY. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE PRODUCTS; (B) CUSTOMER-PROVIDED EQUIPMENT OR SITES; NON-MOTOROLA MATERIALS; THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR CONTENT; OR UNKNOWN OR UNAUTHORIZED COMBINATION OF PRODUCTS AND SERVICES; (C) LOSS OF DATA, HACKING, RANSOMWARE, THIRD-PARTY ATTACKS OR DEMANDS; (D) MODIFICATION OF PRODUCTS NOT AUTHORIZED BY MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE PRODUCTS PROVIDED UNDER THIS AGREEMENT; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; OR (G) CUSTOMER'S OR ANY AUTHORIZED USER'S BREACH OF THIS AGREEMENT OR MISUSE OF THE PRODUCTS.

IN ADDITION TO THE FOREGOING EXCLUSIONS FROM DAMAGES, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (B) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (C) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH SOFTWARE-AS-A-SERVICE, OR INTERPRETATION, USE, OR MISUSE THEREOF; (D) TRACKING AND LOCATION-BASED SERVICES; OR (E) BETA SERVICES.

- 9.3. Statute of Limitations. Customer may not bring any claims against a Motorola Party in connection with this Agreement or the Products and Services more than one (1) year after the date of accrual of the cause of action.

## 10. Confidentiality.

- 10.1. Confidential Information. Customer and Motorola agree that, subject to any applicable freedom of information or public records legislation, Motorola's [Confidentiality Terms](#) apply to information shared between the Parties.

## 11. Proprietary Rights; Data; Feedback.

- 11.1. Motorola Materials. Customer acknowledges that Motorola may use or provide Customer with access to "Motorola Materials". Except when Motorola has expressly transferred title or other interest to Customer in writing, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights).

This Agreement does not grant to Customer any shared development rights in or to any Motorola Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by Motorola to effectuate the foregoing. Motorola and its licensors reserve all rights not expressly granted to Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Products and Services or other Motorola Materials, or permit any third party to do so.

- 11.2. Ownership of Customer Data.** Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process (as defined in the DPA) and use the Customer Data as set forth in the DPA.
- 11.3. Feedback.** Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for Motorola, even if designated as confidential by Customer. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.
- 11.4. Improvements; Products and Services.** The Parties agree that, notwithstanding any provision of this Agreement to the contrary, all fixes, modifications and improvements to the Services or Products conceived of or made by or on behalf of Motorola that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements will vest solely in Motorola. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to Motorola.

## **12. Acceptance**

- 12.1. Communications System Acceptance.** Unless further defined in the applicable Proposal or Statement of Work, System Acceptance for a Communications System occurs upon successful completion of Acceptance Tests as detailed in the Acceptance Test Plan. Motorola will provide ten days' notice before testing begins, and upon successful completion, both parties will sign an acceptance certificate. If the plan includes tests for subsystems or phases, acceptance occurs upon successful completion of those tests and separate certificates will be issued. If Customer believes the system has failed, they must provide a detailed written notice within thirty days; otherwise, System Acceptance is deemed to have occurred. Minor, non-material issues will not delay acceptance but will be addressed per a mutually agreed schedule. Customer use of the system before System Acceptance requires Motorola's written authorization and transfers responsibility for system operation to the Customer. Software System Completion is defined by Customer's Beneficial Use of each Product within the system, with "Beneficial Use" defined to occur thirty days after functional demonstration if not otherwise defined in the Proposal.

## **13. Force Majeure; Delays Caused by Customer.**

- 13.1. Force Majeure.** Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.
- 13.2. Delays Caused by Customer.** Motorola's performance of the Products will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure of any assumptions set forth in this Agreement (including in any Addendum or Proposal). In the event of a delay under this **Section 13.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate Motorola for its out-of-pocket costs incurred due to the delay (including those incurred by Motorola's affiliates, vendors, and subcontractors).

## **14. Disputes.** The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "Dispute"):

- 14.1. Governing Law.** All matters relating to or arising out of the Agreement are governed by the laws of the State of Illinois, unless Customer is the United States Government (or an agency thereof) or a state government or state agency or local municipality within the United States, in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Products and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.



- 14.2. Negotiation; Mediation.** The Parties will attempt to timely resolve the Dispute promptly through good faith negotiations. Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Unless otherwise agreed in writing, all in person meetings under this **Section 14.2 – Negotiation; Mediation** will take place in Chicago, Illinois, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to Motorola's intellectual property rights must be decided by a court of competent jurisdiction, in accordance with **Section 14.3 – Litigation, Venue, Jurisdiction** below.
- 14.3. Litigation, Venue, Jurisdiction.** If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute exclusively to a court in Cook County, Illinois, or in the case the Customer is the United States, a state agency, or local municipality, then the appropriate court in the State in which the Products and Services are provided. Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.
- 15. General.**
- 15.1. Compliance with Laws.** Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Products complies with law (including privacy laws), and Customer will obtain any FCC, FAA, and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use of the Products. Motorola may, at its discretion, cease providing or otherwise modify Products (or any terms related thereto in an Addendum or Proposal), in order to comply with any changes in applicable law.
- 15.2. Audit; Monitoring.** Motorola will have the right to monitor and audit use of the Products, including an audit of total user licenses credentialed by Customer for any Licensed Software or SaaS Products, which may also include access by Motorola to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with Motorola in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to any licenses granted under this Agreement to verify compliance with this Agreement. Motorola or a third party ("Auditor") may inspect Customer's and, as applicable, Authorized Users' premises, books, and records. Motorola will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs. In the event Motorola determines that Customer's usage of the Licensed Software or SaaS Product exceeded the number of licenses purchased by Customer at a given time, Motorola may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in the Agreement.
- 15.3. Assignment and Subcontracting.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Motorola may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.
- 15.4. Waiver.** A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.
- 15.5. Severability.** If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original

intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

- 15.6. Independent Contractors.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.
- 15.7. Third-Party Beneficiaries.** The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the software Products will be a direct and intended third-party beneficiary of this Agreement.
- 15.8. Interpretation.** The section headings in this Agreement are included only for convenience. The words "including" and "include" will be deemed to be followed by the phrase "without limitation". This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.
- 15.9. Notices.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.
- 15.10. Cumulative Remedies.** Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.
- 15.11. Survival.** The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 – Customer Obligations; Section 4.6 – Effect of Termination or Expiration; Section 5 – Payment and Invoicing; Section 7.9 – Warranty Disclaimer; Section 7.10 – Additional Warranty Exclusions; Section 8.3 – Customer Indemnity; Section 9 – Limitation of Liability; Section 10 – Confidentiality; Section 11 – Proprietary Rights; Data; Feedback; Section 13 – Force Majeure; Delays Caused by Customer; Section 14 – Disputes; and Section 15 – General.
- 15.12. Entire Agreement.** This Agreement, including all Addenda, and Proposals, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

The Parties hereby enter into this MCA as of the Effective Date.

**Motorola Solutions, Inc.**

**Customer:** \_\_\_\_\_

By: Michael DeBenedetti

By: \_\_\_\_\_

Name: Mike DeBenedetti

Name: \_\_\_\_\_

Title: MSSSI Vice President

Title: \_\_\_\_\_

Date: 10/6/25

Date: \_\_\_\_\_

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO.**

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**1) DETERMINING THAT COMPLIANCE WITH STANDARD PROCUREMENT PROCESSES IS NOT IN THE BEST INTERESTS OF THE CITY PURSUANT TO TRACY MUNICIPAL CODE 2.20.180 (B)(4) AND DISPENSING SUCH REQUIREMENT FOR THE ACTIONS HEREIN, AND;**

**2) APPROVING A GENERAL SERVICES AGREEMENT WITH MOTOROLA, INC. FOR THE PURCHASE OF THE POLICE DEPARTMENT'S SPECIFIED EQUIPMENT, SMART CONNECT AND SMART PROGRAMMING, AND ESSENTIAL WITH ACCIDENTAL DAMAGE WARRANTIES FOR A TERM OF FIVE YEARS AND A TOTAL NOT-TO-EXCEED \$2,700,000.**

**WHEREAS**, the Tracy Police Department (TPD) uses Motorola equipment for all police communication needs which includes all portable police radios, vehicle radios, radio tower equipment, 9-1-1 Communication Center equipment, and all accessories including antennas, receivers, and voters; and

**WHEREAS**, TPD's APX6000 portable radio are at end of life. Motorola, Inc. no longer supports this equipment and no longer manufactures replacement parts; and

**WHEREAS**, TPD has determined the APXNEXT radio to be the best radio to support expanding communication needs. APXNEXT not only supports the everyday need for dynamic and reliable communication but is compatible with progressing radio technologies and TPD's future goals for radio interoperability and transition to a P25 trunked radio system; and

**WHEREAS**, Upgrading TPD's 189 portable radios requires upgrading radio infrastructure to the SmartConnect Astro K Core and purchasing compatible radio chargers and ample spare batteries. Each radio will include seven (7) years of SmartConnect and Smart Programming services and a seven (7) years of Essential with Accidental Damage warranty; and

**WHEREAS**, because Consultant is concurrently the exclusive provider for Motorola equipment, a transition to another brand of equipment would be extremely costly as the entire inventory would need to be replaced to include equipment, hardware, software, installation costs, programming costs, and other similar expenses; and

**WHEREAS**, Tracy Municipal Code Section 2.20.180(b)(4) authorizes the City Council to approve an exception to the contracting procedure for general services agreements where the Council finds compliance is not in the best interest of the City for the subject services; and

**WHEREAS**, City Council has determined that compliance with the City's competitive bidding procedures is not in the best interest of the City, in part, because Consultant is currently



the exclusive provider for Motorola equipment and a transition to another brand of equipment would be extremely costly; and

**WHEREAS**, the City seeks to enter into a five-year agreement with Consultant for a cost not to exceed \$2,700,000 to be funded through the Police Department's operating budget; and

**NOW, THEREFORE**, be it resolved as follows:

**RESOLVED:** That the City Council of the City of Tracy hereby finds the above recitals to be true and correct; and be it further

**RESOLVED:** That the City Council hereby approves that compliance with standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.180 (b)(4) and dispensing such requirement for the actions herein; and be it further

**RESOLVED:** That the City Council does hereby approve a General Services Agreement with Motorola Solutions, Inc. in the form attached as Exhibit 1 for the purchase of the police department's specified equipment, smart connect and smart programming, and essential with accidental damage warranties for a term of five years and for a total not-to-exceed amount of \$2,700,000.

\* \* \* \* \*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 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: \_\_\_\_\_  
APRIL B.A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California



**MOTOROLA SOLUTIONS**

**Proposal**

**Tracy Police Department**

# **ASTRO 25 SmartConnect K- Core**

**September 24, 2025**

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Motorola Solutions, Inc.  
500 W. Monroe Street Suite 4400  
Chicago, IL 60661

Beth Lyons-McCarthy  
Tracy Police Department  
1000 Civic Center Drive  
Tracy, California 95376

Subject: APXNext Subscribers and SmartConnect

Dear Ms. Beth Lyons-McCarthy,

Motorola Solutions, Inc. (Motorola) is pleased to have the opportunity to provide the City of Tracy Police Department with quality communications equipment and services. The Motorola project team has taken great care to propose a solution that will meet your needs and provide unsurpassed value.

To meet the functional and operational specifications of this solicitation our solution includes a combination of hardware, software, and services. Specifically this solution provides:

- SmartConnect for Astro K-Core solution
- APXNext Subscribers (Contra Costa County contract pricing)
- Implementation of the SmartConnect solution
- Programming of the APXNext subscribers

This proposal consists of this cover letter, description of offering, and the attached Motorola Solutions Customer Agreement ("MCA"). This proposal shall remain valid for 60 days from the date of this cover letter. You may accept the proposal by delivering to Motorola the signed MCA and Purchase Order. Any questions may be directed to your Motorola Account Executive, Mike Marraccini, Senior Account Manager, at 916-201-5670.

We thank you for the opportunity to furnish the Tracy Police Department with "best in class" solutions, and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,



Michael De Benedetti  
Territory Vice-President  
Motorola Solutions, Inc



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## Section 1

# Technical Description

After carefully reviewing Tracy PD's requirements for improved radio communications, Motorola Solutions, Inc. (Motorola Solutions) has prepared this proposal to provide Tracy PD with a scalable and dynamic radio platform through SmartConnect.

The ASTRO® 25 K-Core is a robust and cost-effective communication system designed for conventional radio networks. It supports everything from basic, single-site analog and P25 digital voice communication to extensive region-wide voice and data networks.

While the standard ASTRO K-Core system doesn't natively extend communications over broadband, the **SmartConnect for ASTRO K-Core** Service unlocks this capability without needing to invest in a complete ASTRO NEXT Core System.

## Unlocking Next-Generation Radio Capabilities

By integrating the Cloud based SmartConnect Service with an ASTRO K-Core, Motorola APX NEXT and N-Series platform radios can take full advantage of their advanced capabilities. These advanced radios come equipped with broadband (LTE), Wi-Fi, Bluetooth 5.0, and GPS, enabling a power suite of optional SmartApplications:

- **SmartConnect:** Extends critical voice communications over broadband when radios are outside the traditional Land Mobile Radio (LMR) network.
- **SmartLocate:** Pinpoints radio locations for enhanced situational awareness.
- **Smartmapping:** Visualizes radio locations on maps.
- **SmartMessaging:** Enables text-based communication.
- **SmartProgramming:** Streamlines radio programming and updates.
- **VIQI Virtual Partner:** Provides intelligent voice assistance.

The SmartConnect for K-Core Service seamlessly bridges the gap, enabling your ASTRO K-Core system to provide critical voice communication over broadband (LTE) when a radio moves outside the LMR coverage area

## Solution Design Highlights

- CirrusCentral Core access
- (2) APX 8500 Consolettes to provide the required interface to the existing ASTRO K-Core system via the existing Conventional Channel Gateway (CCGW)



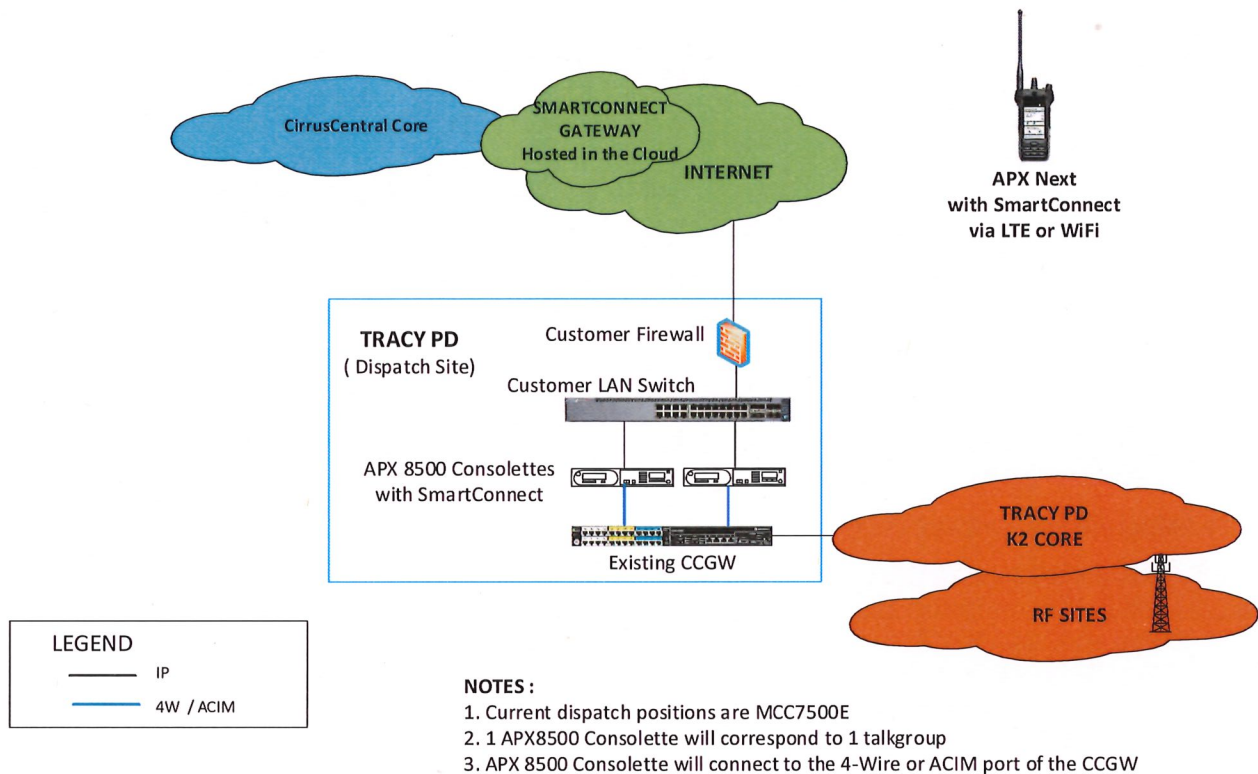


Figure 1-1: Tracy PD System Diagram

## 1.1 Solution Components

### 1.1.1 SmartConnect for ASTRO K-Core Solution

The SmartConnect for ASTRO K-Core solution is built on CirrusCentral Core and SmartConnect deployed in Motorola Solutions' secure cloud infrastructure hosted in the Microsoft Azure USGov Cloud. This multi-tenant architecture ensures secure data segregation and continuous service monitoring by Motorola Solutions.

- **SmartConnect Gateway:** Extends critical voice communications over broadband to your APX NEXT and N70 radios when they're outside LMR coverage.
- **CirrusCentral Core:** Manages call processing, seamlessly integrating broadband SmartConnect with your ASTRO K-Core system.

The SmartConnect Subscription for your APX 8500 Consolettes includes CirrusCentral Core Call Processing to enable SmartConnect for ASTRO K-Core. To integrate broadband channels with your ASTRO K-Core, a SmartConnect-enabled APX 8500 Consolette connects to the ASTRO K-Core audio service via a Conventional Channel Gateway (CCGW). This setup, along with your customer-furnished internet connection, allows the Consolette to access the SmartConnect Cloud Service.

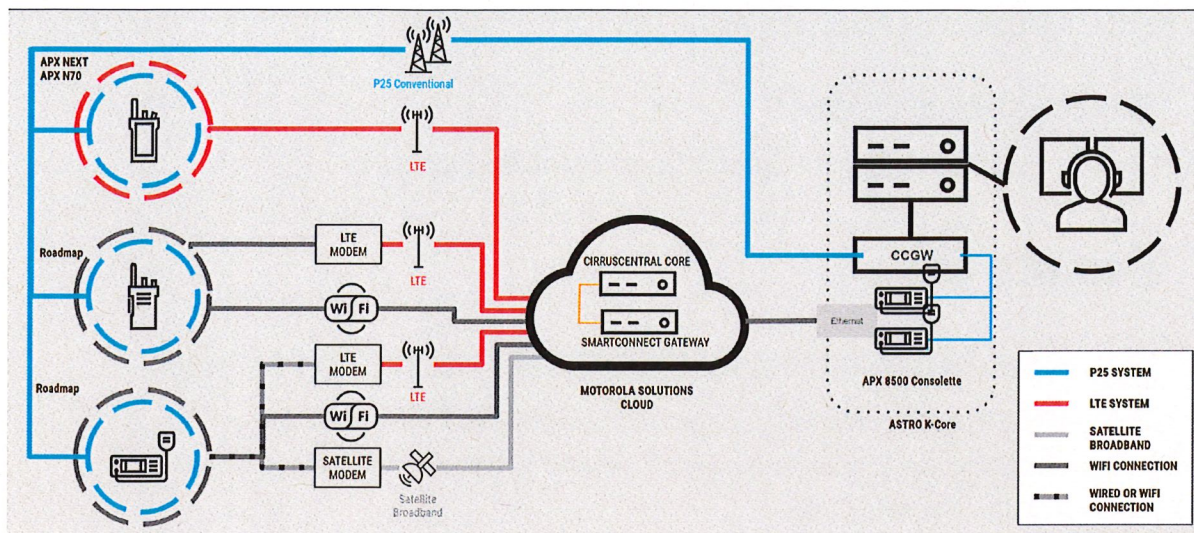


Figure 1-2: SmartConnect for ASTRO K-Core Solution

### 1.1.2 Key On-Premises components for ASTRO K-Core

- Conventional Site Controller (CSC): conventional voice call controller
- Core LAN switches: One to three core LAN switches are part of the K1 core.
- Core Hub Router: Interfaces to the LAN and WAN with multiple Ethernet connections and routing
- Core Backhaul Switch: A single optional core backhaul switch is part of the K1 core. Used to interface with IP equipment remote from the core.
- Conventional Channel Gateway (CCGW): provides an interface between the ASTRO® 25 K-Core Network and conventional radio frequency (RF) equipment like base stations and comparators
  - One 4 Wire and ACIM Interface for each SmartConnect enabled APX 8500 Console
- **MCC 7500E or MCC 7500 Consoles:** Supported in the ASTRO® 25 K1/K2 configurations. They connect directly to the IP network at the core or at a Hub site.
  - Radio Resource required for each Broadband Channel
- **Configuration Manager:** Included in the K1 core. The ASTRO® 25 Express Trunking Configuration Manager can reside on a system manager's laptop or a standalone computer.
- **System Key:** A system key is required to program SmartConnect enabled Radios and Consolettes.
- **Broadband SmartConnect Channel:** SmartConnect enabled APX 8500 Console Control Station
  - On-Premises component to enable Broadband Channel for ASTRO K-Core.

### 1.1.3 Cloud Components for SmartConnect for K-Core

- SmartConnect Gateway (Service that provides Broadband Voice Connectivity to the ASTRO K-Core)



- CirrusCentral Core (Call Processing for ASTRO K-Core Service)

### 1.1.4 Mission Critical Radios

- APX NEXT, N70 Radios, and /or SmartConnect capable APX Radios.

## 1.2 Feature Set

### 1.2.1 Supported SmartConnect for K-Core Call Processing Features

- P25 Conventional Voice (Clear) over broadband to affiliated Console Resource
- P25 Conventional Voice (Encrypted) over broadband to affiliated Console Resource
- Emergency (to the Console Only)
- PTT ID (to the Console)
- Status Update (to the Console)
- Call Alert (to the Console)
- Console Patch
  - To P25 Conventional Channel
  - To Analog Channel <sup>Note 1</sup>

Note 1: Audio Quality is degraded when patching a Broadband Channel, clear or encrypted with a LMR Analog Channel due to tandem coding, there is no impact when patching to a P25 Conventional.

## 1.3 Radio User Experience

The radio user experience for switching between LMR Coverage and Broadband Coverage is simple and straightforward:

- Out of LMR Range: When a radio user determines they are out of LMR coverage range, they simply press a pre-programmed button to select a Broadband Talkgroup.
  - Optionally, the radio can be preprogrammed for out-of-range alert (bonk) on PTT which provides a notification to the user that they are not in coverage and should select the Broadband Channel.
- Extended Communication: The radio's voice communications will be received by consoles monitoring the broadband channel and, if patched, by radios on the mapped LMR Radio Channel.
- Return to LMR: To return to LMR, the radio simply presses the same pre-programmed button to select their working LMR Conventional Channel. LMR is always preferred when in coverage for its full feature set and deterministic coverage.



## 1.4 Flexible System Design for Your Needs

The design of your SmartConnect for ASTRO K-Core system is tailored to the number of broadband channels required to support your specific needs to extend critical voice communications to the Dispatch Console and LMR Radio channel:

- **Console Extension:** Each unique group of radios that needs voice continuity with the console when outside LMR coverage requires a broadband channel. For example, separate channels for Police and Public Works ensure distinct communication lines.
  - **How it works:** Users manually select a SmartConnect channel when out of LMR range.
  - **Result:** Their voice communication extends over broadband and connects them to the dispatch console(s) monitoring that channel.
- **LMR Radio Channel Extension:** A dedicated broadband channel is needed for each unique ASTRO K-Core LMR Radio Channel requiring voice continuity between radio users on LMR and broadband. For example, three broadband channels are needed to support Site 1, Channel 1 and Channel 2, and Site 3 Channel 3.
  - **How it works:** The broadband SmartConnect Channel is permanently patched by the console to its associated LMR Radio Channel. Users simply press the preprogrammed button when out of LMR range.
  - **Result:** The Broadband channel effectively extends voice communications from the broadband-connected radio user back into the LMR Channel and Console Radio Resource, ensuring everyone stays connected

## 1.5 Supported Devices

SmartConnect for ASTRO K-Core supports all SmartConnect enabled mobile and portable APX devices. To integrate each SmartConnect Channel with an ASTRO K-Core an APX6500 (Must be Enhanced "BN" for Wi-Fi), APX 8500 or APX 8500 Consolette with an internet connection is required. All SmartConnect enabled devices require an operational Trunking License to enable the SmartConnect Subscription.

## 1.6 APX All-Band Consolette

The APX All-Band Consolette provides a low-cost, mid-power wireless dispatch solution as an ideal complement to a modern P25 dispatch center. Equipped with leading edge P25 Phase 2 TDMA technology and multi-band interoperability, the APX All-Band Consolette can also be used as an emergency backup station when infrastructure is offline, or for wireless access to different system types for increased interoperability between agencies.

The APX All-Band Consolette's P25 operation and compatibility with legacy systems ensures that communications are clear, continuous, and coordinated across multiple users, agencies, and systems. The durable robust metal housing provides durability and allows for easy



Figure 1-3: APX All-Band Consolette



servicing, while the integrated front panel numeric keypad allows fast access to radio controls. In addition, optional features and benefits of the APX All-Band Consolette include:

- **Optional Multi-Band Operation in One Radio** – The APX All-Band Consolette delivers the convenience of three radios in one while maintaining APCO TIA receiver specifications. With the APX All-Band, personnel can use one consolette to communicate and provide dispatch operations across multiple digital and analog networks that operate in any three of the following frequency bands: 700 MHz, 800 MHz, VHF, and UHF (R1/R2).
- **Meets Radio Users' Needs** – The APX All-Band Consolette is compatible with the following optional advanced features and data applications: Programming over Project 25 (POP25), Text Messaging, Over the Air Rekeying (OTAR), and Enhanced Encryption Software Options. It is also capable of Extended Dispatch Operation including: Emergency Alarm ACK Encode, Radio Inhibit/ Uninhibit Encode, Radio Monitor Encode, Radio Check Encode, Status Query Encode, Status Query Response Decode, Status Update Decode, and Message Update Decode.

Two (2) APX Consolettes at Tracy PD Dispatch are included in this proposal. It will be used to connect to the CirrusCentral Core via SmartConnect. Connection to the internet will be via the Tracy PD's Ethernet network.

## 1.7 APX Next Portable Radio

### 1.7.1 Overview

The APX NEXT is Motorola's next-generation P25 platform, purpose-built for first responders to access and act on information while maintaining their focus in critical situations. With natural and accessible touch interface, audio optimized for high-noise environments, and extended coverage through broadband connectivity, APX NEXT delivers actionable intelligence to the point of engagement for personnel to stay connected and in control wherever the mission takes them.



Figure 1-4: APX All-Band Consolette

Equipped with broadband, LTE, Wi-Fi, Bluetooth 5.0 and GPS capabilities, APX NEXT brings future-ready applications, services, and connectivity to the field and control room. The APX NEXT platform's cloud-based provisioning system will allow your agency to procure, provision, and update the APX NEXT fleet, reducing the downtime needed to get devices into the field and saving your support staff valuable time.

Key benefits and advanced capabilities of the APX NEXT device include the following:

- **SmartTouch Experience** – Easier operation with a redefined touch UI, centered around a new 3.6" impact resistant touch display and shallow menu hierarchy that offer more information at a glance and quicker engagement with critical applications. This cleaner and more intuitive visual layout increases the usability of the APX NEXT radio and helps your users find the information they need without pause or distraction.
- **Ruggedized, Ergonomic Design** – Increased personnel safety and efficiency with an improved T-Grip ergonomic design, full-color top display, and tactile knobs for efficient use in emergency



situations. Patented touch technology enables reliable gloved use, while also making the screen immune to false actuations from water, snow, ice, or debris. The APX Next device meets the same MIL standards for ruggedization achieved by our APX platform radios.

- **Interoperability** – Supports all public safety frequency bands (7/800 MHz, VHF, UHF) for full interoperability across radio systems with minimal intervention by the radio user.
- **Simplified Fleet Management** – Simplified radio provisioning, remote updates, and streamlined management for support staff, delivering greater awareness of your APX NEXT fleet. Using Motorola's cloud-based RadioCentral (RC) programming, APX NEXT supports faster provisioning and deployment to get devices in the hands of responders and out into the field.

Across all aspects of the radio experience — deployment, operation, maintenance, and evolution — APX NEXT brings critical advancements to usability and performance. This platform brings streamlined interfaces, accelerated workflows, and mission-critical reliability to your agency's operation, and protects the focus that responders, dispatchers, and technicians need to stay safe and effective.

## 1.7.2 Device Management Services – Essential

Device Management Services - Essential ("DMS") is an additional option that provides remote technical support and hardware repair to maximize the effectiveness of the APX NEXT solution, while reducing maintenance risk, workload, and total cost of ownership. The offering consists of:

## 1.7.3 Technical Support

Our experienced technicians are available to help isolate and resolve any issues you may have with your APX NEXT radios. With an extensive knowledge base and trained and certified technical engineers, this team can troubleshoot and provide prompt resolution to your technical device issues. We apply leading industry standards to record, monitor, escalate and report technical service calls from our customers.

## 1.7.4 Hardware Repair

Your APX NEXT radio fleet components are protected in the event of an unexpected failure and are back in operation as soon as possible. All device components are returned to you with original factory specifications and updated with the latest firmware. Service centers are certified to comply with ISO 9001, ensuring the highest quality repairs.

## 1.7.5 Managing and Provisioning Devices

APX NEXT provides users greater awareness and faster radio management through Customer Programming Software ("CPS"), Radio Management ("RM"), or RadioCentral programming. These tools transform accurate data into smarter action by enabling dispatchers and network managers to keep radios in the field, make informed operational decisions, and, above all, protect first responders' focus and safety.

## 1.7.6 Customer Programming Software

CPS is a proprietary, Windows-based application used to configure APX subscriber radios in offline situations. The CPS application offers drag-and-drop, clone-wizard, and basic import/export functions that allow for the addition of new software and feature enhancements. APX NEXT radios can be programmed one at a time on a local PC, via secure USB port connection, with TLS-PSK based



encryption. Once loaded, subscriber radios are read and edited, and codeplugs and templates can be saved and duplicated to program other fleet radios.

### 1.7.7 Evolving with Application Services

A host of optional application services enhance the APX NEXT device's capabilities. Included in this proposal is SmartConnect

#### 1.7.7.1 SmartConnect

SmartConnect keeps first responders connected and maintains critical LMR features through a broadband connection. By seamlessly switching between P25 LMR and LTE cellular networks, SmartConnect extends reliable Push-to-talk ("PTT") communications as users roam onto supported broadband networks. Authentication, status, talkgroups, and encryption are all preserved automatically, without interruptions or resets providing continued access to the critical features needed in dangerous situations.

### 1.7.8 Securing Communications

APX NEXT uses Motorola's hardened end-to-end security to protect communications and allow only authorized units in the system to listen to transmissions. End-to-end security provides seamless protection from the device and data in transit to the cloud and the LMR system.

This solution ensures each component in the system is designed and validated against ongoing threat assessments to ensure vulnerabilities are detected and remedied, while potential new vulnerabilities will be addressed with seamless security updates. This offers transparent, real-time protection and keeps critical information and infrastructure safe.

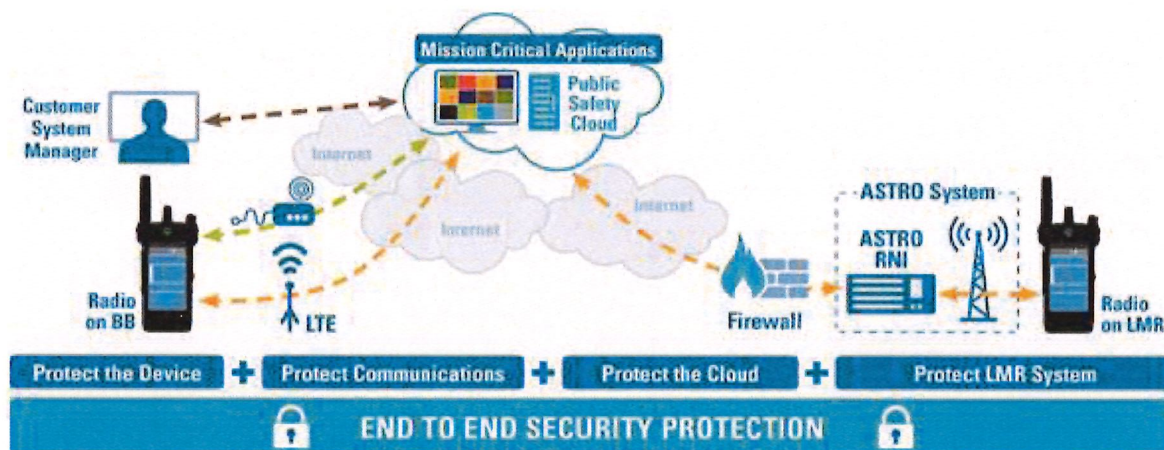


Figure 1-5: Motorola's End-to-End Security Solution

## 1.8 Ports Requirement

The following ports must be enabled for APX subscribers with SmartConnect.

Application	Port	Protocol	Security
<b>SmartConnect PTT TLS</b> production.smartconnect-usgov.motorolasolutions.com	49665	TLS/TCP	TLS-Mutual
<b>SmartConnect PTT Media</b> media-blue.usgov.msibptt.com media-green.usgov.msibptt.com	49600- 49699	SRTP/UDP	SRTP
<b>SmartConnect PTT Discovery</b> media-blue.usgov.msibptt.com media-green.usgov.msibptt.com	3000- 3999	UDP	STUN Authentication
If DNS is external then whatever IP is assigned as part of the DHCP grant to the subscriber needs to be allowed through the firewall.			

Figure 1-6: Port Requirement

## 1.9 Proposed Subscription Package

A standard SmartConnect Subscription is required for each Control Station. CirrusCentral Core call processing is included with the standard SmartConnect Subscription.

Five (5) years SmartConnect subscriptions for the two (2) APX Consolettes are included in this proposal. Subsequent annual subscription must be renewed after the 5<sup>th</sup> year.



## Section 2

# Equipment List

## 2.1 Infrastructure

SUB SYS	BLOCK	LIM	O	QTY	NOMENCLATURE	DESCRIPTION
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	-	2	L37TSS9PW1AN	MOBILE RADIO ALL BAND CONSOLETTTE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	a	2	GA09001AC	ADD: WI-FI CAPABILITY CONSOLETTTE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	b	2	GA00318AB	ADD: 5Y ESSENTIAL SERVICE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	c	2	GA09007AA	ADD: OUT OF THE BOX WIFI PROVISIONING
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	d	2	QA07940AA	ADD: AES, NO ADP
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	e	2	GA01787AB	ADD: APX8500 CONSOLETTTE ETHERNET
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	f	2	CA01598AB	ADD: AC LINE CORD US
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	g	2	G51AT	SOFTWARE LICENSE ENH:SMARTZONE
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	h	2	L999AG	ADD: FULL FP W/E5/KEYPAD/CLOCK/VU
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	i	2	G806BL	SOFTWARE LICENSE ENH: ASTRO DIGITAL CAI OP APX
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	j	2	QA09113AB	ADD: BASELINE RELEASE SW
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	k	2	GA01630AA	ADD: SMARTCONNECT
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	l	2	GA09011AA	ADD: THIRD PARTY DATA MODEM TETHERING
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	m	2	G361AH	SOFTWARE LICENSE ENH: P25 TRUNKING SOFTWARE APX
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	n	2	GA00250AA	ADD: GNSS/BT-WIFI THRU MNT ANT, 17FT LOW LOSS PFP-100A/240, QMA
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	o	2	W969BG	SOFTWARE LICENSE ENH: MULTIKEY OPERATION
TRACY PD - SMARTCONNECT	APX CONSOLETES	1	p	2	W22BA	ADD: STD PALM MICROPHONE APX



TRACY PD - SMARTCONNECT	APX CONSOLETTES	2	-	2	HKN6233C	MOBILE RADIO APX CONSOLETT RACK MOUNT KIT
TRACY PD - SMARTCONNECT	APX CONSOLETTES	3	-	2	SSV01S01663A	APX SMART CONNECT
TRACY PD - SMARTCONNECT	APX CONSOLETTES	4	-	1	DVN4046B	MASTER SYSTEM KEY STARTER KIT

### Section 3

# Implementation Statement of Work

## 3.1 System Integration

### 3.1.1 Professional Integration Services

Motorola Solutions internal methodologies, processes, and personnel are aligned to support our core business — the design, installation, and maintenance of wireless communications solutions.

We leverage our technical expertise and program management resources so Tracy PD can avoid the common issues that impact implementation timelines, budget, and system performance. We are offering a focused set of our implementation services to deploy the proposed system on time and on budget.

Motorola Solutions' will provide a Project Team to perform the proposed Professional Services. The project team will include the following roles:

- Project Manager (PM) — serves as the single point of contact for all system activities and issues, and will be responsible for coordinating team resources. The PM will make sure resulting contract obligations are addressed efficiently, professionally, and in a timely manner, with minimal impact on current system operations.
- System Engineer (SE) — responsible for the technical design of the proposed solution. The SE will gather and validate the requirements to finalize the design of the system to ensure it meets Tracy PD's requirements. The SE provides system design documentation, resolution of technical issues, and system support during system implementation and testing.
- System Installation Technicians — perform the physical installation, cabling, and grounding of the equipment.
- System Technologist — finalizes the system implementation, including in-field programming, system configuration, integration, and acceptance testing.

## 3.2 Motorola Solutions Responsibilities

Motorola Solutions will assume responsibility for the installation and performance of the proposed system described in the Technical Description section of this document. The services and deliverables we will provide to implement the proposed system are described in the System Integration section.

- Provide authorized administrator access to provision devices in the cloud gateway via a third-party identity management system.
- Maintain, update, and monitor the SmartConnect cloud platform.

- Provide technical support, security control and service improvements related to SmartConnect. Customer Data may be accessed by Motorola Solution employees residing outside of the Customer's country for the sole purpose of providing such support.
- Provide device access to the SmartConnect cloud-hosted gateway via the supported broadband network.
- Display SmartConnect subscription status per device (including start and end dates) on Customer Hub.
- Provide device software updates for SmartConnect per Device Managed Services (DMS) Software Maintenance
- Install the APX 8500 Consolettes in the existing rack. Provide the necessary cabling needed to connect the equipment to the available 4-Wire / ACIM ports of the existing Conventional Channel Gateway (CCGW).
- Provide the cables required and label all fabricated cables.
- Wire all new equipment to the Customer provided cabinet and power strips / PDUs.
- Configure the APX 8500 Consolettes so that it can connect using SmartConnect to the CirrusCentral Core. Connectivity will be via the Customer's ethernet network.
- Configure the CCGW for the 2 APX 8500 Consolettes so that it can connect to the existing ASTRO K-Core and Dispatch System.
- Install the GNSS / WiFi antenna of the APX Consolettes.
- Configure the MCC7500E consoles by creating a patch between the APX Consolettes and the customer's talkgroups.
- Permanently install, cable and ground all new and existing Motorola-provided hardware in accordance with Motorola-supplied design review drawings. (Final drawings will be submitted when available).
- Provide necessary miscellaneous hardware and grounding cable for installation of Motorola provided equipment.
- Ensure all installation work meets or exceeds specifications set forth in Motorola's latest revision of R56 "Standards and Guidelines for Communication Sites."
- All pertinent national and local codes shall be rigidly adhered to.
- All work shall be performed in a neat and professional, workmanlike manner.
- Provide onsite assistance during customer cutover activities.

### 3.3 Tracy PD Responsibilities

- Responsible for making room for new equipment.
- Electrical work is a customer responsibility.
- Equipment moves or decommissioning to make room for new equipment will be a customer responsibility
- All civil/site upgrade is a customer responsibility.
- Power backup power is a customer responsibility.
- HVAC is customer responsibility.



- Network connectivity is a customer responsibility.
- Internet connectivity of the APX 8500 Consolette using Customer's ethernet network is a customer responsibility.
- Network security through the firewall to the internet is a customer responsibility.
- Provide test units to use for FATP.
- Witness and signoff of Acceptance Testing.

## 3.4 Assumptions and Responsibilities

Motorola Solutions has identified the following assumptions and responsibilities during the development of the system's technical and service design for this proposal. These are based upon our understanding of Tracy PD's system requirements and the services to be provided.

Motorola Solutions has documented these assumptions and responsibilities to avoid ambiguities, and ensure that we share a common understanding of all conditions and responsibilities. As part of the process leading to a final system design and implementation plan, we welcome Tracy PD's comments and suggested changes to the identified assumptions and responsibilities.

### Solutions Design Assumptions and Clarifications

Motorola Solutions has made the following design and implementation assumptions in the development of this proposal:

- Unless specifically stated otherwise herein, this proposal does not address modifications, upgrades, or repairs to any existing equipment; site civil work; tower construction; or other building installations or renovations that may be required to prepare the sites for equipment installation.
- Any required system interconnections not specifically outlined here will be provided by Tracy PD. These may include dedicated phone circuits, microwave links or other types of connectivity.
- Emergency backup power (generator and UPS) is available or will be provided by Tracy PD.
- All proposed equipment is AC powered. No DC battery plants are included in this proposal.
- Adequate cooling is available from the HVAC system to support the proposed equipment.
- Any site/location upgrades or modifications are the responsibility of Tracy PD.
- All existing sites or equipment locations will have sufficient space available for the system described as required/specified by R56.
- R56 compliance for all sites is required. If any site changes or additions are needed, it will result in a Change Order.
- All existing sites or equipment locations will have adequate electrical power in the proper phase and voltage and site grounding to support the requirements of the system described.
  - Demarcation is the Motorola Solutions proposed hardware itself.
- All recurring and non-recurring utility costs including, but not limited to, generator fuel, electrical, Telco) will be borne by Tracy PD.
- All utility installations performed by the utility company shall be paid for by Tracy PD and located at jointly agreed to location within or around the existing communications shelter or equipment room.

- Approved local, State or Federal, FCC/FAA and any other permits as may be required for the installation and operation of the proposed equipment are the responsibility of Tracy PD.
- Any necessary demarcation points are defined as the Motorola Solutions-provided equipment. This includes demarcation for the following services:
  - 120VAC/ -48DC Power & Circuits
  - Backup Power
  - Grounding
  - Communication Circuits and backhaul links between sites
- Any issues that arise with connecting existing infrastructure with components included in this project will need to be addressed by a design change via the change order process.
- Any third-party interfaces including fire station alerting, logging recorder, paging, CAD, 911 and telephony (if applicable) are not included in this proposal.
- Existing MCC7500E dispatch consoles will be used. No upgrade of the consoles is included in this proposal.
- The existing Conventional Channel Gateway (CCGW) has available 2 x 4-Wire or ACIM ports that will be used for this project.
- Radio user(s) manually selects the SmartConnect channel when they are outside of LMR range to extend voice services over broadband.
- All call features supported are based on Section 1.2.
- Logging recorder solution is not included in this proposal. Tracy PD will use their existing logging recorder.
- Motorola is not responsible for interference caused or received by the Motorola-provided equipment except for interference that is directly caused by the Motorola-provided transmitter(s) to the Motorola-provided receiver(s). Should Tracy PD's system experience interference, Motorola can be contracted to investigate the source and recommend solutions to mitigate the issue.
- Hazardous materials are not present at the work location. Testing and removal of hazardous materials found during site investigations, construction or equipment installation will be the responsibility of the Tracy PD.
- If extremely harsh or difficult weather conditions delay the site work for more than a week, Motorola will seek excusable delays rather than risk job site safety.
- AM detuning or electromagnetic emission studies will not be required.
- The APX Consolette to be installed at Tracy PD Dispatch Center must have a stable connection to the ethernet network at the dispatch center.
- Dedicated Internet Connection. A reliable, dedicated internet connection with a minimum symmetrical bandwidth of 10 Mbps.

Customer-Provided Firewall. A customer provided and managed firewall is required to protect the network. Refer to Section 1.5,

- Ports Requirement for IP ports that must be enabled.
- Network Switch. A customer provided and managed network switch with available ports for the two (2) APX 8500 Consolettes and Firewall.
- The customer is responsible for providing and installing all necessary CAT6 ethernet cables.
- Network security through the firewall to the internet is a customer responsibility.
- Any third-party data modem for tethering is not included in this proposal.
- Two (2) SmartConnect applications with five (5) years subscriptions for the APX Consolettes are included in this proposal. Subsequent annual subscription must be renewed after the 5<sup>th</sup> year.
- Subscribers are not included in this proposal.
- No flash upgrade of existing subscribers is included in this proposal.
- Codeplug development is included in this proposal.
- Tracy PD will provide the test units needed for the FATP.
- Training is not included in the scope of this proposal.
- Performance bond is not required.
- Prevailing wages are required.
- Union labor is not required.
- Work is performed on non-holidays during normal business hours, Monday - Friday, 7:30am – 5:00pm



## Section 4

# Acceptance Test Procedure

## 4.1 SmartConnect

### 4.1.1 SmartConnect - Subscriber Mobility - Manual Switchover to Broadband

#### DESCRIPTION

Upon losing LMR RF coverage and no other LMR sites are available, a user may choose to manually switch to a SmartConnect site by selecting a personality configured as "Broadband Only".

The broadband access type used is dependent on the capabilities/configuration of the radio and the following preferred order: WiFi, LTE and Satellite.

The following test demonstrates manual switchover between LMR and SmartConnect via WiFi.

#### SET UP

RADIO-1 – TALKGROUP 1", "LMR Only" (personality 1)

RADIO-1 – TALKGROUP 1", "Broadband Only"  
(personality 2)

RADIO-2 - TALKGROUP 1, "LMR Only"  
CONSOLE-1 - TALKGROUP 1

Notes:

- Both radios are configured for WiFi.

#### TEST PROCEDURE

**Step 1** With RADIO-1 and RADIO-2 on LMR Site 1, initiate a Wide Area Call from RADIO-1 on TALKGROUP 1.

**Step 2** Observe that RADIO-2 and CONSOLE-1 will be able to receive and respond to the call. Dekey RADIO-1.

**Step 3** Change RADIO-1 to a "Broadband Only" personality for TALKGROUP 1.

**Step 4** Observe that RADIO-1 moves to the broadband SITE 2 and displays the SmartConnect banner. The radio may briefly display "Out of Range" during this transition.

**Step 5** Initiate a Wide Area Call from RADIO-1 on TALKGROUP 1.

**Step 6** Observe that RADIO-2 and CONSOLE-1 are able to receive and respond to the call.

**Step 7** Dekey RADIO-1 and select the "LMR Only" personality.

**Step 8** Observe that RADIO-1 moves back to LMR SITE 1 and no longer displays the SmartConnect banner.

**Step 9** Observe that RADIO-2 and CONSOLE-1 are still able to receive and respond to calls from RADIO-1.

Comments:	Test Passed: Yes / No	
	Tested By:	Witnessed By:
	Title:	Title:
	Date:	Date:

## 4.2 Sign-off

The Site Acceptance Tests are completed in accordance with the SAT Procedure Document and the requirements of the contract.

Contact:	Name:	Date:	Signature:
Witness1:			
Witness2:			
Witness3:			
Motorola Solutions Project Manager:			
Motorola Solutions System Engineer:			
Motorola Solutions Field Technical Representative:			
<b>Tested by:</b>			
Test Engineer:			



## Section 5

# Project Schedule

The estimated time for completion of the project is 4 months from Project Kickoff through Final Project Acceptance. The dates for the installation and activation are highly dependent on the contract award date. A final performance schedule will be developed based upon mutual agreement between Motorola Solutions and the City of Tracy PD at the Contract Design Review.

## Section 6

# Pricing Summary

## 6.1 Main Offering

Motorola's pricing is based on the equipment list and services for the system designed for City of Tracy PD. The Statement of Work (SOW) describes the work to be performed for the installation, optimization, and testing of the system and the equipment list provides the equipment necessary for this project.

Description	Price (USD)
System Hardware & Equipment	\$36,625
Implementation & Installation/Warranty Services	\$258,305
<b>System Total:</b>	<b>\$294,930</b>
<i>HGAC Discount</i>	<i>(\$9,333)</i>
<b>Total System Excluding Tax</b>	<b>\$285,597</b>

## 6.2 Subscribers & Accessories Annual Unit Pricing

Each year has a 4% annual escalator

Annual Product Cost	2025	2026	2027	2028
APXNext w/ SmartConnect	\$10,897.14	\$11,333.03	\$11,786.35	\$12,257.80
APXNext w/o SmartConnect	\$9,296.94	\$9,668.82	\$10,055.57	\$10,457.79
Single Unit Charger	\$136.07	\$141.51	\$147.17	\$153.06
Multi Unit Charger	\$1,139.71	\$1,185.30	\$1,232.71	\$1,282.02
Spare Batteries	\$186.04	\$193.48	\$201.22	\$209.27
Programming	\$76.92	\$80.00	\$83.20	\$86.53

## 6.3 Subscriber & Accessories Annual Units

Annual Quantities Purchased	2025	2026	2027	2028	Total
APXNext w/ SmartConnect	32	54	53	16	155
APXNext w/o SmartConnect				34	34
Single Unit Charger	42	23	2		67
Multi Unit Charger	6	4	3	10	23
Spare Batteries		50		50	100



Programming	32	54	53	50	189
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## 6.4 Total Annual Pricing

Annual Cost	2025	2026	2027	2028	Total
SmartConnect FNE	\$285,597.00				\$285,597.00
APXNext w/ SmartConnect	\$348,708.48	\$611,983.38	\$624,676.37	\$196,124.81	\$1,781,493.04
APXNext w/o SmartConnect	\$0.00	\$0.00	\$0.00	\$355,564.97	\$355,564.97
Single Unit Charger	\$5,714.94	\$3,254.79	\$294.35	\$0.00	\$9,264.08
Multi Unit Charger	\$6,838.26	\$4,741.19	\$3,698.13	\$12,820.19	\$28,097.77
Spare Batteries	\$0.00	\$9,674.08	\$0.00	\$10,463.48	\$20,137.56
Programming	\$2,461.54	\$4,320.00	\$4,409.60	\$4,326.40	\$15,517.54
Sub Total	\$649,320.22	\$633,973.45	\$633,078.45	\$579,299.85	\$2,495,671.96
Estimated Tax	\$25,533.43	\$40,953.83	\$41,090.16	\$41,772.48	\$158,879.20
Grand Total	\$674,853.65	\$674,927.28	\$674,168.61	\$621,072.33	\$2,654,551.16

## 6.5 Main Offering Payment Terms

Except for a payment that is due on the Effective Date, City of Tracy PD will make payments to Motorola within thirty (30) days after the date of each invoice. City of Tracy PD will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following milestones.

### System Purchase

1. 50% of the Contract Price due upon Contract Execution (due upon effective date); and
2. 50% of the Contract Price due upon Final Acceptance.

**If Subscribers are purchased, 100% of the Subscriber/Professional Services Contract Price will be invoiced upon shipment (as shipped).**

Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.



## Section 7

# Contractual Documentation

### Motorola Solutions Customer Agreement

This Motorola Solutions Customer Agreement (the "**MCA**") is entered into between Motorola Solutions, Inc., and affiliated companies, with offices at 500 W. Monroe Street, Suite 4400, Chicago, IL 60661 ("**Motorola**") and the entity purchasing Products (as defined below) from Motorola ("**Customer**"). Motorola and Customer will each be referred to herein as a "**Party**" and collectively as the "**Parties**". This Agreement (as defined below) is effective as of the earlier of (a) the first purchase of a Product from Motorola, and (b) the date of the last signature on the Agreement (the "**Effective Date**").

#### 1. Agreement.

- 1.1. Scope; Agreement Documents. This MCA governs Customer's purchase of Products (as defined below) from Motorola. Additional terms and conditions applicable to specific Products are set forth in one or more agreed upon addenda incorporated within this MCA (each an "**Addendum**", and collectively the "**Addenda**"). This MCA, the applicable Addenda, and Proposal collectively form the Parties' "**Agreement**".
- 1.2. Order of Precedence. In interpreting this Agreement and resolving any ambiguities each Addendum will control with respect to conflicting terms in the Agreement, but only as applicable to the Products described in such Addendum. The Proposal will control with respect to conflicting terms in the MCA or any Addenda, but only as applicable to the Products and Services described in the Proposal.

#### 2. Definitions.

"**Authorized Users**" means Customer's employees and contractors engaged for the purpose of supporting or using the Products and Services on behalf of Customer, and that are not competitors of Motorola, and the entities (if any) specified in a Proposal or otherwise approved by Motorola in writing (email from an authorized Motorola signatory accepted), which may include affiliates or other Customer agencies.

"**Change Order**" means a written amendment to this Agreement after the Effective Date.

"**Communications System**" is a solution that includes at least one radio Product, whether devices, software, or infrastructure, and requires Integration Services to deploy such radio Product at a Customer Site or onto any Customer-Provided Equipment or Equipment provided to Customer.

"**Contract Price**" or "**Fees**" means the charges applicable to the Products, excluding applicable sales or similar taxes and freight charges.

"**Confidential Information**" means any and all non-public information provided by one Party to the other that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable business person would consider non-public and confidential by its nature. With respect to Motorola, Confidential Information will also include Products, and Documentation, as well as any other information relating to the Products.

"**Customer Data**" has the meaning given to it in the DPA.

"**Customer-Provided Equipment**" means components, including equipment and software, not provided by Motorola which may be used with the Products.

**"Data Processing Addendum" or "DPA"** means the Motorola [Data Processing Addendum](#) applicable to processing of data, including Customer Data, as updated, supplemented, or superseded from time to time. The DPA is incorporated into and made a part of this Agreement for all purposes pertaining to the contents of the DPA. Where terms or provisions in the Agreement conflict with terms or provisions of the DPA, the terms or provisions of the DPA will control with respect to the contents of the DPA.

**"Delivery"** means the applicable delivery for a Product as described in Section 5.7 of this Agreement.

**"Documentation"** means the documentation for the Products, or data, that is delivered or made available with the Products that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information.

**"Equipment"** means hardware provided by Motorola.

**"Equipment Lease-Purchase Agreement"** means the agreement by which Customer finances all or a portion of the Contract Price.

**"Feedback"** means comments or information, in oral or written form, given to Motorola by Customer or Authorized Users, including end users, in connection with or relating to the Products.

**"Integration Services"** means the design, deployment, implementation, and integration Services provided by Motorola in order to design, install, set up, configure, and/or integrate the applicable Products as agreed upon by the Parties.

**"Licensed Software"** means software which is made available to Customer by Motorola (for example software preinstalled on Equipment, accessible via a website provided by Motorola, or software installed on or made available for Customer-Provided Equipment) and is licensed to Customer by Motorola.

**"Lifecycle Management Services" or "LMS"** means upgrade services as set out in the applicable Proposal.

**"Maintenance and Support Services"** means the break/fix maintenance, technical support, or other Services described in the applicable Proposal.

**"Motorola Data"** means data owned by Motorola and made available to Customer in connection with the Products;

**"Motorola Materials"** means proprietary equipment, hardware, content, software, tools, data, and other materials, including designs, utilities, models, methodologies, systems, and specifications, which Motorola has developed or licensed from third parties (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, or derivative works of the foregoing, whether made by Motorola or another party). Products, Motorola Data, Third-Party Data (as defined in the DPA), and Documentation, are considered Motorola Materials.

**"Non-Motorola Materials"** means collectively, Customer or third-party equipment, software, services, hardware, content, and data that is not provided by Motorola.

**"Proposal"** means solution descriptions, pricing, equipment lists, statements of work ("**SOW**"), schedules, technical specifications, quotes, order forms, and other documents setting forth the Products to be purchased by Customer and provided by Motorola. The Proposal may also include an Acceptance Test Plan ("**ATP**"); a "Payment" Form (Communications System purchase only); or a "System Acceptance Certificate" (Communications System only), depending on the Products purchased by Customer.

**"Products" or "Product"** is how the Equipment, Licensed Software and Services being purchased by the Customer is collectively referred to in this Agreement (collectively as "Products", or individually as a "Product").



**“Professional Services”** are services provided by Motorola to Customer under this Agreement, including Integration Services, the nature and scope of which are more fully described in the Proposal.

**“Prohibited Jurisdiction”** means any jurisdiction in which the provision of such Products is prohibited under applicable laws or regulations.

**“Services”** means services, including access to services, as described in the Proposal, and includes Integration Services, Subscription Services, Professional Services, Maintenance & Support Services, and Lifecycle Management Services provided by Motorola.

**“Service Completion Date”** means the date of Motorola’s completion of the Services described in a Proposal.

**“Service Use Data”** has the meaning given to it in the DPA.

**“Site”** or **“Sites”** means the location where the Integration Services, Lifecycle Management Services, or Maintenance and Support Services will take place.

**“Software-as-a-Service”** or **“SaaS”** means a solution that includes at least one Subscription Service and associated Licensed Software, which may include, as an example, client software or a web page.

**“Software System”** means a solution that includes at least one Licensed Software Product and requires Integration Services to deploy such Licensed Software Product at a Customer Site or onto any Customer-Provided Equipment or Equipment provided by or made available to Customer by Motorola.

**“Subscription”** means a recurring payment for Products, as set out in the Proposal.

**“Subscription Services”** or **“Recurring Services”** means Services, including access to Services, paid for on a subscription basis. Subscription Services includes services available through SaaS Products.

**“Term”** means the term of this MCA which will commence on the Effective Date and continue until six (6) months after the later of (a) the termination, expiration, or discontinuance of Services under the last Proposal in effect, or (b) the expiration of all applicable warranty periods, unless the MCA is earlier terminated as set forth herein.

### 3. Products and Services.

3.1. **Products.** Motorola will sell (a) Equipment, (b) licenses to Licensed Software, and (c) Services to Customer, to the extent each is set forth in this Agreement. At any time during the Term, Motorola may substitute any Products at no cost to Customer, if the substitute is substantially similar to the Products set forth in this Agreement. All Licensed Software is provided pursuant to the terms of the [Software License Agreement](#).

#### 3.2. Services.

3.2.1. Motorola will provide Services, to the extent set forth in this Agreement.

3.2.2. Integration Services; Maintenance and Support Services. Motorola will provide (a) Integration Services at the applicable Sites, agreed upon by the Parties, or (b) Maintenance and Support Services or Lifecycle Management Services, each as further described in the applicable SOW. Terms applicable to Maintenance, Support and Lifecycle Management can be found in the [Maintenance, Support and Lifecycle Management Addendum](#).

3.2.3. Service Proposals. The Fees for Services will be set forth in Motorola’s Proposal. A Customer point of contact may be set forth in the applicable SOW for the Services.

3.2.4. Service Completion. Services described in a Proposal will be deemed complete upon the Service Completion Date, or as Services expire, or are renewed or terminated.



### 3.2.5. Professional Services

- 3.2.5.1. Additional Service Terms. If Customer is purchasing Professional Services to evaluate or assess networks, systems or operations; network security assessment or network monitoring; software application development Services; or transport connectivity services, [Additional Services Terms](#) apply.

- 3.3. Additional Product Terms. If the Products include one of the following Products or Product types, additional terms apply as found in the below links:

[AI Terms](#)

[Comparison Manager](#)

[Data licensed from Motorola](#)

[Drone related Products](#)

[Mobile Video Products, such as LPR cameras, bodycams, or vehicle cameras, and related software](#)

- 3.4. Non-Preclusion. If, in connection with the Products provided under this Agreement, Motorola performs assessments of its own, or related, products or makes recommendations, including a recommendation to purchase other products, nothing in this Agreement precludes such efforts nor precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products to Customer. Customer represents that this paragraph does not violate its procurement standards or other laws, regulations, or policies.
- 3.5. Customer Obligations. Customer represents that information Customer provides to Motorola in connection with receipt of Products are accurate and complete in all material respects. If any assumptions in the Proposals or information provided by Customer prove to be incorrect, or if Customer fails to perform any of its obligations under this Agreement, Motorola's ability to perform its obligations may be impacted and changes to the Agreement, including the scope, Fees, and performance schedule may be required.
- 3.6. Documentation. Products may be delivered with Documentation. Documentation is and will be owned by Motorola, unless otherwise expressly stated in a Proposal that certain Documentation will be owned by Customer. Motorola hereby grants Customer a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Products.
- 3.7. Motorola Tools and Equipment. As part of delivering the Products, Motorola may provide certain tools, equipment, models, and other materials of its own. Such tools and equipment will remain the sole property of Motorola unless they are to be purchased by Customer as Products and are explicitly listed on the Proposal. The tools and equipment may be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Customer will safeguard all tools and equipment while in its custody or control, and be liable for any loss or damage. Upon the expiration or earlier termination of this Agreement, Customer, at its expense, will return to Motorola all such tools and equipment in its possession or control.
- 3.8. Authorized Users. Customer will ensure its employees and Authorized Users comply with the terms of this Agreement and will be liable for all acts and omissions of its employees and Authorized Users. Customer is responsible for the secure management of Authorized Users' names, passwords and login credentials for access to Products.
- 3.9. Export Control. Customer, its employees, and any other Authorized Users will not access or use the Products in any Prohibited Jurisdiction, and Customer will not provide access to the Products to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Authorized Users are not named on any U.S. government list of persons prohibited from receiving U.S. exports, or transacting with any U.S. person; (b) it and its Authorized Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Authorized Users to access or use the Products or Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Authorized Users will comply with all applicable laws regarding the transmission of technical data exported from the U.S. and the country in which Customer, its employees, and the Authorized Users are located.

- 3.10. Change Orders. Unless a different change control process is agreed upon in writing by the Parties, a Party may request changes to an Addendum or a Proposal by submitting a Change Order to the other Party. If a requested change causes an increase or decrease in the Products, the Parties by means of the Change Order will make appropriate adjustments to the Fees, project schedule, or other matters. Change Orders are effective and binding on the Parties only upon execution of the Change Order by an authorized representative of both Parties.

#### 4. Term and Termination.

- 4.1. Term. The applicable Addendum or Proposal will set forth the Term for the Products governed thereby.

- 4.1.1. Subscription Terms. Unless otherwise specified in the Proposal, if the Products are purchased as a Subscription, the Subscription commences upon Delivery of, or Customer having access to, the first applicable Product ordered under this Agreement and will continue for a twelve (12) month period or such other period identified in a Proposal (the "**Initial Subscription Period**") and, unless otherwise stated in the Proposal, will automatically renew for additional twelve (12) month periods (each, a "**Renewal Subscription Year**"), unless either Party notifies the other of its intent not to renew at least thirty (30) days before the conclusion of the then-current Subscription Term. (The Initial Subscription Period and each Renewal Subscription Year will each be referred to herein as a "**Subscription Term**".) Motorola may increase Fees prior to any Renewal Subscription Year by notifying Customer of the proposed increase no later than thirty (30) days prior to commencement of the Renewal Subscription Year.
- 4.2. Termination. Either Party may terminate the Agreement or the applicable Addendum or Proposal if the other Party breaches a material obligation under the Agreement and does not cure such breach within thirty (30) days after receipt of notice of the breach or fails to produce a cure plan within such period of time. Each Addendum and Proposal may be separately terminable as set forth therein.
- 4.3. Termination for Non-Appropriation. In the event any identified funding is not appropriated or becomes unavailable, the Customer reserves the right to terminate this Agreement for non-appropriation upon thirty (30) days' advance written notice to Motorola. In the event of such termination, Motorola shall be entitled to compensation for all conforming Products delivered or performed prior to the date of termination.
- 4.4. Suspension of Services. Motorola may promptly terminate or suspend any Products under a Proposal if Motorola determines: (a) the related Product license has expired or has terminated for any reason; (b) the applicable Product is being used on a hardware platform, operating system, or version not approved by Motorola; (c) Customer fails to make any payments when due; or (d) Customer fails to comply with any of its other obligations or otherwise delays Motorola's ability to perform.
- 4.5. Wind Down of Subscription. In addition to the termination rights in this Agreement, Motorola may terminate any Subscription Term, in whole or in part, in the event Motorola plans to cease offering the applicable Licensed Software or Subscription Services to customers.
- 4.6. Effect of Termination or Expiration. Upon termination for any reason or expiration of this Agreement, an Addendum, or a Proposal, Customer and the Authorized Users will return or destroy (at Motorola's option) all Motorola Materials and Motorola's Confidential Information in their possession or control and, as applicable, provide proof of such destruction, except that Equipment purchased by Customer should not be returned. If Customer has any outstanding payment obligations under this Agreement, Motorola may accelerate and declare all such obligations of Customer immediately due and payable by Customer. Notwithstanding the reason for termination or expiration, Customer agrees to pay Motorola for Products already delivered or performed. Customer has a duty to mitigate any damages under this Agreement, including in the event of default by Motorola and Customer's termination of this Agreement.
- 4.7. Equipment. In the event that Customer purchases any Product at a price below the published list price for such Product in connection with Customer entering into a fixed- or minimum required-term agreement for Products, and Customer or Motorola terminates the Agreement prior to the expiration of such fixed- or minimum required-term, then Motorola will have the right to invoice Customer for, and Customer will pay, the amount of the discount to the published list price for the Product or such other amount set forth in writing. This Section will not limit any other remedies Motorola may have with respect to an early termination.

## 5. Payment, Invoicing, Delivery and Risk of Loss

- 5.1. The Contract Price of \$2,495,671.96, excluding taxes, is fully committed and identified, including all subsequent years of any contracted Services. The Customer will pay all invoices as received from Motorola subject to the terms of this Agreement and any changes in scope will be subject to the change order process as described in this Agreement.

Motorola acknowledges the Customer may require the issuance(s) of a purchase order or notice to proceed as part of the Customer's procurement process. However, Customer agrees that the issuance or non-issuance of a purchase order or notice to proceed does not preclude the Customer from its contractual obligations as defined in this Agreement.

- 5.2. Fees. Fees and charges applicable to the Products and Services will be as set forth in the applicable Proposal. Changes in the scope of Products described in a Proposal that require an adjustment to the Fees will be set forth in the applicable pricing schedule. The Fees for any Products exclude expenses associated with unusual and costly Site access requirements (e.g., if Site access requires a helicopter or other equipment), tariffs, fluctuations in the costs of energy, raw materials, and fuel. Motorola reserves the right to equitably adjust the Fees for these expenses upon written notice to Customer. Customer will reimburse Motorola for expenses reasonably incurred by Motorola in connection with the Products. The annual Subscription Fee for Products may include certain one-time Fees, such as start-up fees, license fees, or other fees set forth in a Proposal. Motorola may suspend Licensed Software and any Subscription Services if Customer fails to make any payments within thirty (30) days of invoice due date when due.
- 5.3. Taxes. The Fees do not include any excise, sales, lease, use, property, or other taxes, assessments, duties, or regulatory charges or contribution requirements (collectively, "**Taxes**"), all of which will be paid by Customer, except as exempt by law, unless otherwise specified in a Proposal. If Motorola is required to pay any Taxes, Customer will reimburse Motorola for such Taxes (including any interest and penalties) within thirty (30) days after Customer's receipt of an invoice therefore. Customer will be solely responsible for reporting the Products for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income and net worth.
- 5.4. Invoicing. Motorola will invoice Customer as described in this Agreement and Customer will pay all invoices within thirty (30) days of the invoice date or as otherwise specified in writing. In the event Customer finances the purchase of the Motorola Products contemplated herein via Motorola Solutions Credit Corporation ("MSCC"), invoices for such purchase will be paid via the disbursement of the financing proceeds pursuant to the Equipment Lease - Purchase Agreement executed between the parties and the payment schedule enclosed therein shall control payment of the related invoices. Late payments will be subject to interest charges at the maximum rate permitted by law, commencing upon the due date. Motorola may invoice electronically via email, and Customer agrees to receive invoices via email at the email address set forth in Section 5.6. Customer acknowledges and agrees that a purchase order or other notice to proceed is not required for payment for Products.
- 5.5. Payment. Customer will pay invoices for the Products provided under this Agreement in accordance with the invoice payment terms set forth in Section 5.4. Generally, invoices are issued after shipment of Equipment or upon Motorola's Delivery of Licensed Software, Customer access to SaaS, or upon System Completion Date of a Software System, as applicable, but if a specific invoicing or payment schedule is set forth in the Agreement, such schedule will determine the invoicing cadence.
- Motorola will have the right to suspend future Deliveries of Products if Customer fails to make any payments when due.
- 5.6. Due to significant market and tariff volatility, as well as fluctuations in the cost of energy and raw materials including, but not limited to, steel, copper, finished wood, and concrete, Motorola Solutions reserves the right to equitably adjust the contract price, completion schedule, and/or contract requirements. Additionally, Motorola Solutions reserves the right to apply a fuel surcharge to quoted freight rates based on the prevailing diesel cost at the time of shipment.
- 5.7. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:



Name: Tracy Police Department  
Address: 1000 Civic Center, Tracy, CA 95376  
Phone: 209-831-6568

E-INVOICE. To receive invoices via email:

Customer Account Number: \_\_\_\_\_  
Customer Accounts Payable Email: pdaccounting@tracypd.com  
Customer CC (optional) Email: Beth.Lyons-McCarthy@tracypd.com

The address which is the ultimate destination where the Equipment will be delivered to Customer is:

Name: Tracy Police Department - Manager Beth Lyons-McCarthy  
Address: 1000 Civic Center, Tracy, CA 95376

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name: Tracy Police Department - Manager Beth Lyons-McCarthy  
Address: 1000 Civic Center, Tracy, CA 95376  
Phone: 209-831-6594

Customer may change this information by giving written notice to Motorola.

- 5.8. Delivery, Title and Risk of Loss.** Motorola will provide to Customer the Products set forth in a Proposal, in accordance with the terms of the Agreement. Motorola will, using commercially reasonable practices, pack the ordered Equipment and ship such Equipment to the Customer address set forth in **Section 5.6** or otherwise provided by Customer in writing, using a carrier selected by Motorola.

Notwithstanding the foregoing and unless otherwise stated in a Equipment Lease - Purchase Agreement, Delivery of Equipment (and any incorporated Licensed Software) will occur, and title and risk of loss for the Equipment will pass to Customer, upon shipment by Motorola in accordance with ExWorks, Motorola's premises (Incoterms 2020). Customer will pay all shipping costs, taxes, and other charges applicable to the shipment and import or export of the Products and Services, as applicable, and Customer will be responsible for reporting the Products for personal property tax purposes.

Delivery of Licensed Software for installation on Equipment or Customer-Provided Equipment will occur upon the earlier of (a) electronic delivery of the Licensed Software by Motorola, or (b) the date Motorola otherwise makes the Licensed Software available for download or use by Customer. If agreed upon in a Proposal, Motorola will also provide Services related to such Products. Title to Licensed Software will not pass to Customer at any time. Delivery of SaaS Products will occur when the Services are made available to Customer.

- 5.9. Delays.** Any shipping dates set forth in a Proposal are approximate. While Motorola will make reasonable efforts to ship Products by any such estimated shipping date, Motorola will not be liable for any delay or related damages to Customer. Time for Delivery will not be of the essence, and delays will not constitute grounds for cancellation, penalties, termination, or a refund.
- 5.10. Future Regulatory Requirements.** The Parties acknowledge and agree that certain Products (for example, cyber services) are in evolving technological areas and therefore, laws and regulations regarding Products may change. Changes to existing Products required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Products.
- 5.11. Resale of Equipment.** Equipment may contain embedded Licensed Software. If Customer desires to sell its used Equipment to a third party, Customer must first receive prior written authorization from Motorola, which will not be unreasonably denied, and obtain written acceptance of the applicable Licensed Software license terms, including

the obligation to pay relevant license fees, from such third party. Customer will take appropriate security measures when disposing of Equipment, including the deletion of all data stored in the Equipment.

**6. Sites; Customer-Provided Equipment; Non-Motorola Materials.**

- 6.1. Access to Sites.** Customer will be responsible for providing all necessary permits, licenses, and other approvals necessary for the performance, installation and use of the Products at each applicable Site, including for Motorola to perform its obligations hereunder, and for facilitating Motorola's access to the Sites. No waivers of liability will be imposed on Motorola or its subcontractors by Customer or others at Customer facilities or other Sites, but if and to the extent any such waivers are imposed, the Parties agree such waivers are void.
- 6.2. Site Conditions.** Customer will ensure that (a) all Sites are safe and secure, (b) Site conditions meet all applicable industry and legal standards (including standards promulgated by OSHA or other governmental or regulatory bodies), (c) to the extent applicable, Sites have adequate physical space, air conditioning, and other environmental conditions, electrical power outlets, distribution, equipment, connections, and telephone or other communication lines (including modem access and interfacing networking capabilities), and (d) Sites are suitable for the installation, use, and maintenance of the Products. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.
- 6.3. Site Issues.** Upon its request, which will not be unreasonably denied, Motorola will have the right to inspect the Sites and advise Customer of any deficiencies or non-conformities with the requirements of this **Section 6 – Sites; Customer-Provided Equipment; Non-Motorola Materials**. If Motorola or Customer identifies any deficiencies or non-conformities, Customer will promptly remediate such issues or the Parties will select a replacement Site. If a Party determines that a Site identified in a Proposal is not acceptable or desired, the Parties will cooperate to investigate the conditions and select a replacement Site or otherwise adjust the installation plans and specifications as necessary. A change in Site or adjustment to the installation plans and specifications may cause a change in the Fees or performance schedule under the applicable Proposal.
- 6.4. Customer-Provided Equipment.** Customer will be responsible, at its sole cost and expense, for providing and maintaining the Customer-Provided Equipment in good working order. Customer represents and warrants that it has all rights in Customer-Provided Equipment to permit Motorola to access and use the applicable Customer-Provided Equipment to provide the Products under this Agreement, and such access and use will not violate any laws or infringe any third-party rights (including intellectual property rights). Customer (and not Motorola) will be fully liable for Customer-Provided Equipment, and Customer will immediately notify Motorola of any Customer-Provided Equipment damage, loss, change, or theft that may impact Motorola's ability to provide the Products under this Agreement, and Customer acknowledges that any such events may cause a change in the Fees or performance schedule under the applicable Proposal.
- 6.5. Non-Motorola Materials.** In certain instances, Customer may be permitted to access, use, or integrate Non-Motorola Materials with or through the Products. If Customer accesses, uses, or integrates any Non-Motorola Materials with the Products, Customer will first obtain all necessary rights and licenses to permit Customer's and its Authorized Users' use of the Non-Motorola Materials in connection with the Products. Customer will also obtain the necessary rights for Motorola to use such Non-Motorola Materials in connection with providing the Products, including the right for Motorola to access, store, and process such Non-Motorola Materials (e.g., in connection with SaaS Products), and to otherwise enable interoperation with the Products. Customer represents and warrants that it will obtain the foregoing rights and licenses prior to accessing, using, or integrating the applicable Non-Motorola Materials with the Products, and that Customer and its Authorized Users will comply with any terms and conditions applicable to such Non-Motorola Materials. If any Non-Motorola Materials requires access to Customer Data, Customer hereby authorizes Motorola to allow the provider of such Non-Motorola Materials to access Customer Data, in connection with the interoperation of such Non-Motorola Materials with the Products.
- 6.6.** Customer acknowledges and agrees that Motorola is not responsible for, and makes no representations or warranties with respect to, the Non-Motorola Materials (including any disclosure, modification, or deletion of Customer Data resulting from use of Non-Motorola Materials or failure to properly interoperate with the Products). If Customer receives notice that any Non-Motorola Materials must be removed, modified, or disabled within the Products, Customer will promptly do so. Motorola will have the right to disable or remove Non-Motorola Materials if

Motorola believes a violation of law, third-party rights, or Motorola's policies is likely to occur, or if such Non-Motorola Materials poses or may pose a security or other risk or adverse impact to the Products, Motorola, Motorola's systems, or any third party (including other Motorola customers).

- 6.7. Motorola may provide certain Non-Motorola Materials as an authorized sales representative of a third party as set out in a Proposal. As an authorized sales representative, the third party's [terms and conditions](#) will apply to any such sales. Any orders for such Non-Motorola Materials will be fulfilled by the third party.
- 6.8. End User Licenses. Notwithstanding any provision to the contrary in the Agreement, certain Non-Motorola Materials software are governed by a separate license, EULA, or other agreement, including terms governing third-party equipment or software, such as open source software, included in the Products. Customer will comply, and ensure its Authorized Users comply, with any such additional terms applicable to third-party equipment or software. Certain [third party flow-down terms](#) applicable to Motorola Products may apply.
- 6.9. Prohibited Use. Customer will not integrate or use, or permit a third party or an Authorized User to integrate or use, any Non-Motorola Materials with or in connection with a Software System or other Licensed Software provided by Motorola under this Agreement, without the express written permission of Motorola.
- 6.10. API and Client Support. Motorola will use reasonable efforts to maintain its Application Programming Interfaces (APIs) for each Software System, understanding that APIs will evolve. Motorola will support each API version for 6 months after introduction but may discontinue support with reasonable notice or without notice if a security risk is present. For Licensed Software requiring a local client installation, Customer is responsible for installing the current version. Motorola will support each client version for 45 days after its release but may update the client at any time, and does not guarantee support for prior client versions.

## 7. Representations and Warranties.

- 7.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that (a) it has the right to enter into, and execute, the Agreement and perform its obligations hereunder, and (b) the Agreement will be binding on such Party.
- 7.2. System Warranty. Subject to the disclaimers and exclusions below, Motorola represents and warrants that, on the date of System Acceptance (for Communications Systems), System Completion Date (for Software Systems), or Delivery, as applicable (a) the Communications System will perform in accordance with the descriptions in the applicable Proposal in all material respects, (b) the Software System will perform in accordance with the descriptions in the applicable Proposals in all material respects, and (c) if Customer has purchased any Licensed Software (but, for clarity, excluding SaaS Products) as part of such Communications System or Software System, the warranty period applicable to such Licensed Software will continue for a period of one (1) year commencing upon System Acceptance, System Completion, or date the Licensed Software is delivered (the "**Warranty Period**").
- 7.3. Communications Systems. During the Warranty Period, in addition to warranty services, Motorola will provide Maintenance and Support Services for the Equipment and support for the Motorola Licensed Software in Communication Systems pursuant to the applicable maintenance and support Proposal. Support for the Licensed Software will be in accordance with Motorola's established [Software Support Policy](#) ("SwSP"). If Customer wishes to purchase (a) additional Maintenance and Support Services during the Warranty Period; or (b) continue or expand maintenance, software support, installation, and/or Motorola's LMS after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document and such terms will be agreed upon in a Proposal. Unless otherwise agreed by the Parties in writing, the terms and conditions of the MSLMA referenced in Section 3.2.2 will govern the provision of such Services.
- 7.4. SaaS. SaaS Products do not qualify for the System Warranty above.
- 7.5. Motorola Warranties - Services. Subject to the disclaimers and exclusions below, Motorola represents and warrants that (a) Services will be provided in a good and workmanlike manner and will conform in all material respects to the descriptions in the applicable Proposal; and (b) for a period of ninety (90) days commencing upon the Service Completion Date for one-time Services, the Services will be free of material defects in materials and workmanship.



Other than as set forth in subsection (a) above, recurring Services are not warranted but rather will be subject to the requirements of the applicable Addendum or Proposal.

- 7.6. Motorola Warranties - Equipment.** Subject to the disclaimers and exclusions set forth below, (a) for a period of one (1) year commencing upon the Delivery of Motorola-manufactured Equipment under **Section 5.7 – Delivery, Title and Risk of Loss**, Motorola represents and warrants that such Motorola-manufactured Equipment, under normal use, will be free from material defects in materials and workmanship; and (b) the warranties applicable to Motorola-manufactured Equipment set forth in herein shall be applicable to all radio Equipment purchased hereunder whether or not such Equipment was manufactured by Motorola.
- 7.7. Warranty Claims; Remedies.** To assert a warranty claim, Customer must notify Motorola in writing of the claim prior to the expiration of any warranty period set forth in this Agreement. Unless a different remedy is otherwise expressly set forth herein, upon receipt of such claim, Motorola will investigate the claim and use commercially reasonable efforts to repair or replace any confirmed materially non-conforming Product or re-perform any non-conforming Service, at its option. Such remedies are Customer's sole and exclusive remedies for Motorola's breach of a warranty. Motorola's warranties are extended by Motorola to Customer only, and are not assignable or transferable.
- 7.8. Pass-Through Warranties.** Notwithstanding any provision of this Agreement to the contrary, Motorola will have no liability for third-party software or hardware provided by Motorola; provided, however, that to the extent offered by third-party providers of software or hardware and to the extent permitted by law, Motorola will pass through express warranties provided by such third parties.
- 7.9. WARRANTY DISCLAIMER.** EXCEPT FOR THE EXPRESS AND PASS THROUGH WARRANTIES IN THIS AGREEMENT, PRODUCTS AND SERVICES PURCHASED HEREUNDER ARE PROVIDED "AS IS" AND WITH ALL FAULTS. WARRANTIES SET FORTH IN THE AGREEMENT ARE THE COMPLETE WARRANTIES FOR THE PRODUCTS AND SERVICES AND MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND QUALITY. MOTOROLA DOES NOT REPRESENT OR WARRANT THAT USE OF THE PRODUCTS AND SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF SECURITY VULNERABILITIES, OR THAT THEY WILL MEET CUSTOMER'S PARTICULAR REQUIREMENTS.
- 7.10. ADDITIONAL WARRANTY EXCLUSIONS.** NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) DEFECTS IN OR DAMAGE TO PRODUCTS RESULTING FROM USE OTHER THAN IN THE NORMAL AUTHORIZED MANNER, OR FROM ACCIDENT, LIQUIDS, OR NEGLIGENCE; (B) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN MOTOROLA; (C) CUSTOMER'S OR ANY AUTHORIZED USER'S FAILURE TO COMPLY WITH INDUSTRY AND OSHA OR OTHER LEGAL STANDARDS; (D) DAMAGE TO RADIO ANTENNAS, UNLESS CAUSED BY DEFECTS IN MATERIAL OR WORKMANSHIP; (E) EQUIPMENT WITH NO SERIAL NUMBER; (F) BATTERIES OR CONSUMABLES; (G) FREIGHT COSTS FOR SHIPMENT TO REPAIR DEPOTS; (H) COSMETIC DAMAGE THAT DOES NOT AFFECT OPERATION; (I) NORMAL WEAR AND TEAR; (J) ISSUES OR OBSOLESCENCE OF LICENSED SOFTWARE DUE TO CHANGES IN CUSTOMER OR AUTHORIZED USER REQUIREMENTS, EQUIPMENT, OR SYSTEMS; (K) TRACKING AND LOCATION-BASED SERVICES; OR (L) BETA SERVICES.
- 8. Indemnification.**
- 8.1. General Indemnity.** Motorola will defend, indemnify, and hold Customer harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding ("Claim") for personal injury, death, or direct damage to tangible property to the extent caused by Motorola's negligence, gross negligence or willful misconduct while performing its duties under this Agreement, except to the extent the claim arises from Customer's negligence or willful misconduct. Motorola's duties under this **Section 8.1 – General Indemnity** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise to the extent allowed by applicable law; and (c) Customer

cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Claim.

**8.2. Intellectual Property Infringement.** Motorola will defend Customer against any third-party claim alleging that a Motorola-developed or manufactured Product (the "Infringing Product") directly infringes a United States patent or copyright ("Infringement Claim"), and Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Motorola in settlement of an Infringement Claim. Motorola's duties under this **Section 8.2 – Intellectual Property Infringement** are conditioned upon: (a) Customer promptly notifying Motorola in writing of the Infringement Claim; (b) Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with Motorola and, if requested by Motorola, providing reasonable assistance in the defense of the Infringement Claim.

**8.2.1.** If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer (i) a prorated refund of any amounts pre-paid for the Infringing Product (if the Infringing Product is Licensed Software) or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation (if the Infringing Product is Equipment, including Equipment with embedded Licensed Software).

**8.2.2.** In addition to the other damages disclaimed under this Agreement, Motorola will have no duty to defend or indemnify Customer for any Infringement Claim that arises from or is based upon: (a) Customer Data, Customer-Provided Equipment, Non-Motorola Materials, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Product with any products or materials not provided by Motorola; (c) a Product designed, modified, or manufactured in accordance with Customer's designs, specifications, guidelines or instructions; (d) a modification of the Product by a party other than Motorola; (e) use of the Product in a manner for which the Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to use or install an update to the Product that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the Infringing Product.

**8.2.3.** This **Section 8.2 – Intellectual Property Infringement** provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim.

**8.3. Customer Indemnity.** To the extent allowed by applicable law, Customer will defend, indemnify, and hold Motorola and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer-Provided Equipment, Customer Data, or Non-Motorola Materials, including any claim, demand, action, or proceeding alleging that any such equipment, data, or materials (or the integration or use thereof with the Products) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the Agreement; (b) Customer-Provided Equipment's failure to meet the minimum requirements set forth in the applicable Documentation or match the applicable specifications provided to Motorola by Customer in connection with the Products; (c) Customer's (or its service providers, agents, employees, or Authorized User's) negligence or willful misconduct; and (d) Customer's or its Authorized User's breach of this Agreement. This indemnity will not apply to the extent any such claim is caused by Motorola's use of Customer-Provided Equipment, Customer Data, or Non-Motorola Materials in violation of the Agreement. Motorola will give Customer prompt, written notice of any claim subject to the foregoing indemnity. Motorola will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

## **9. Limitation of Liability.**

**9.1.** EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF MOTOROLA, ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE "MOTOROLA PARTIES"), WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE FEES, OR PORTION OF FEES, RELATED TO

THE PRODUCT UNDER WHICH THE CLAIM AROSE. WITH RESPECT TO ANY RECURRING SERVICES, THE MOTOROLA PARTIES' TOTAL AGGREGATE LIABILITY FOR ALL CLAIMS RELATED TO SUCH RECURRING SERVICES WILL NOT EXCEED THE TOTAL FEES PAID FOR THE APPLICABLE PRODUCT DURING THE CONSECUTIVE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE. EXCEPT FOR PERSONAL INJURY OR DEATH, THE MOTOROLA PARTIES WILL NOT BE LIABLE IN CONNECTION WITH THIS AGREEMENT (WHETHER UNDER MOTOROLA'S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF MOTOROLA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE.

- 9.2. EXCLUSIONS FROM LIABILITY. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, MOTOROLA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO MOTOROLA, OR ANY OTHER DATA AVAILABLE THROUGH THE PRODUCTS; (B) CUSTOMER-PROVIDED EQUIPMENT OR SITES; NON-MOTOROLA MATERIALS; THIRD-PARTY EQUIPMENT, HARDWARE, SOFTWARE, DATA, OR CONTENT; OR UNKNOWN OR UNAUTHORIZED COMBINATION OF PRODUCTS AND SERVICES; (C) LOSS OF DATA, HACKING, RANSOMWARE, THIRD-PARTY ATTACKS OR DEMANDS; (D) MODIFICATION OF PRODUCTS NOT AUTHORIZED BY MOTOROLA; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH THE PRODUCTS PROVIDED UNDER THIS AGREEMENT; (F) DATA RECOVERY SERVICES OR DATABASE MODIFICATIONS; OR (G) CUSTOMER'S OR ANY AUTHORIZED USER'S BREACH OF THIS AGREEMENT OR MISUSE OF THE PRODUCTS.

IN ADDITION TO THE FOREGOING EXCLUSIONS FROM DAMAGES, AND NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, MOTOROLA WILL HAVE NO LIABILITY FOR (A) INTERRUPTION OR FAILURE OF CONNECTIVITY, VULNERABILITIES, OR SECURITY EVENTS; (B) DISRUPTION OF OR DAMAGE TO CUSTOMER'S OR THIRD PARTIES' SYSTEMS, EQUIPMENT, OR DATA, INCLUDING DENIAL OF ACCESS TO USERS, OR SHUTDOWN OF SYSTEMS CAUSED BY INTRUSION DETECTION SOFTWARE OR HARDWARE; (C) AVAILABILITY OR ACCURACY OF ANY DATA AVAILABLE THROUGH SOFTWARE-AS-A-SERVICE, OR INTERPRETATION, USE, OR MISUSE THEREOF; (D) TRACKING AND LOCATION-BASED SERVICES; OR (E) BETA SERVICES.

- 9.3. Statute of Limitations. Customer may not bring any claims against a Motorola Party in connection with this Agreement or the Products and Services more than one (1) year after the date of accrual of the cause of action.

## 10. Confidentiality.

- 10.1. Confidential Information. Customer and Motorola agree that, subject to any applicable freedom of information or public records legislation, Motorola's [Confidentiality Terms](#) apply to information shared between the Parties.

## 11. Proprietary Rights; Data; Feedback.

- 11.1. Motorola Materials. Customer acknowledges that Motorola may use or provide Customer with access to "Motorola Materials". Except when Motorola has expressly transferred title or other interest to Customer in writing, the Motorola Materials are the property of Motorola or its licensors, and Motorola or its licensors retain all right, title and interest in and to the Motorola Materials (including, all rights in patents, copyrights, trademarks, trade names, trade secrets, know-how, other intellectual property and proprietary rights, and all associated goodwill and moral rights).

This Agreement does not grant to Customer any shared development rights in or to any Motorola Materials or other intellectual property, and Customer agrees to execute any documents and take any other actions reasonably requested by Motorola to effectuate the foregoing. Motorola and its licensors reserve all rights not expressly granted to Customer, and no rights, other than those expressly granted herein, are granted to Customer by implication, estoppel or otherwise. Customer will not modify, disassemble, reverse engineer, derive source code or create derivative works from, merge with other software, distribute, sublicense, sell, or export the Products and Services or other Motorola Materials, or permit any third party to do so.



- 11.2. Ownership of Customer Data.** Customer retains all right, title and interest, including intellectual property rights, if any, in and to Customer Data. Motorola acquires no rights to Customer Data except those rights granted under this Agreement including the right to Process (as defined in the DPA) and use the Customer Data as set forth in the DPA.
- 11.3. Feedback.** Any Feedback provided by Customer is entirely voluntary, and will not create any confidentiality obligation for Motorola, even if designated as confidential by Customer. Motorola may use, reproduce, license, and otherwise distribute and exploit the Feedback without any obligation or payment to Customer or Authorized Users and Customer represents and warrants that it has obtained all necessary rights and consents to grant Motorola the foregoing rights.
- 11.4. Improvements; Products and Services.** The Parties agree that, notwithstanding any provision of this Agreement to the contrary, all fixes, modifications and improvements to the Services or Products conceived of or made by or on behalf of Motorola that are based either in whole or in part on the Feedback, Customer Data, or Service Use Data (or otherwise) are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements will vest solely in Motorola. Customer agrees to execute any written documents necessary to assign any intellectual property or other rights it may have in such fixes, modifications or improvements to Motorola.

## **12. Acceptance**

- 12.1. Communications System Acceptance.** Unless further defined in the applicable Proposal or Statement of Work, System Acceptance for a Communications System occurs upon successful completion of Acceptance Tests as detailed in the Acceptance Test Plan. Motorola will provide ten days' notice before testing begins, and upon successful completion, both parties will sign an acceptance certificate. If the plan includes tests for subsystems or phases, acceptance occurs upon successful completion of those tests and separate certificates will be issued. If Customer believes the system has failed, they must provide a detailed written notice within thirty days; otherwise, System Acceptance is deemed to have occurred. Minor, non-material issues will not delay acceptance but will be addressed per a mutually agreed schedule. Customer use of the system before System Acceptance requires Motorola's written authorization and transfers responsibility for system operation to the Customer. Software System Completion is defined by Customer's Beneficial Use of each Product within the system, with "Beneficial Use" defined to occur thirty days after functional demonstration if not otherwise defined in the Proposal.

## **13. Force Majeure; Delays Caused by Customer.**

- 13.1. Force Majeure.** Except for Customer's payment obligations hereunder, neither Party will be responsible for nonperformance or delayed performance due to events outside of its reasonable control. If performance will be significantly delayed, the affected Party will provide notice to the other Party, and the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule.
- 13.2. Delays Caused by Customer.** Motorola's performance of the Products will be excused for delays caused by Customer or its Authorized Users or subcontractors, or by failure of any assumptions set forth in this Agreement (including in any Addendum or Proposal). In the event of a delay under this **Section 13.2 – Delays Caused by Customer**, (a) Customer will continue to pay the Fees as required hereunder, (b) the Parties will agree (in writing) upon a reasonable extension to any applicable performance schedule, and (c) Customer will compensate Motorola for its out-of-pocket costs incurred due to the delay (including those incurred by Motorola's affiliates, vendors, and subcontractors).
- 14. Disputes.** The Parties will use the following procedure to resolve any disputes relating to or arising out of this Agreement (each, a "Dispute"):
- 14.1. Governing Law.** All matters relating to or arising out of the Agreement are governed by the laws of the State of Illinois, unless Customer is the United States Government (or an agency thereof) or a state government or state agency or local municipality within the United States, in which case all matters relating to or arising out of the Agreement will be governed by the laws of the State in which the Products and Services are provided. The terms of the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.

- 14.2. Negotiation; Mediation.** The Parties will attempt to timely resolve the Dispute promptly through good faith negotiations. Either Party may initiate dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute") to the other Party. The Parties will choose an independent mediator within thirty (30) days of such Notice of Mediation. Neither Party may unreasonably withhold consent to the selection of a mediator, but if the Parties are unable to agree upon a mediator, either Party may request that the American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Unless otherwise agreed in writing, all in person meetings under this **Section 14.2 – Negotiation; Mediation** will take place in Chicago, Illinois, and all communication relating to the Dispute resolution will be maintained in strict confidence by the Parties. Notwithstanding the foregoing, any Dispute arising from or relating to Motorola's intellectual property rights must be decided by a court of competent jurisdiction, in accordance with **Section 14.3 – Litigation, Venue, Jurisdiction** below.
- 14.3. Litigation, Venue, Jurisdiction.** If the Dispute has not been resolved by mediation within sixty (60) days from the Notice of Mediation, either Party may submit the Dispute exclusively to a court in Cook County, Illinois, or in the case the Customer is the United States, a state agency, or local municipality, then the appropriate court in the State in which the Products and Services are provided. Each Party expressly consents to the exclusive jurisdiction of such courts for resolution of any Dispute and to enforce the outcome of any mediation.
- 15. General.**
- 15.1. Compliance with Laws.** Each Party will comply with applicable laws in connection with the performance of its obligations under this Agreement, including that Customer will ensure its and its Authorized Users' use of the Products complies with law (including privacy laws), and Customer will obtain any FCC, FAA, and other licenses or authorizations (including licenses or authorizations required by foreign regulatory bodies) required for its and its Authorized Users' use of the Products. Motorola may, at its discretion, cease providing or otherwise modify Products (or any terms related thereto in an Addendum or Proposal), in order to comply with any changes in applicable law.
- 15.2. Audit; Monitoring.** Motorola will have the right to monitor and audit use of the Products, including an audit of total user licenses credentialed by Customer for any Licensed Software or SaaS Products, which may also include access by Motorola to Customer Data and Service Use Data. Customer will provide notice of such monitoring to its Authorized Users and obtain any required consents, including individual end users, and will cooperate with Motorola in any monitoring or audit. Customer will maintain during the Term, and for two (2) years thereafter, accurate records relating to any licenses granted under this Agreement to verify compliance with this Agreement. Motorola or a third party ("Auditor") may inspect Customer's and, as applicable, Authorized Users' premises, books, and records. Motorola will pay expenses and costs of the Auditor, unless Customer is found to be in violation of the terms of the Agreement, in which case Customer will be responsible for such expenses and costs. In the event Motorola determines that Customer's usage of the Licensed Software or SaaS Product exceeded the number of licenses purchased by Customer at a given time, Motorola may invoice Customer for the additional licenses used by Customer, pro-rated for each additional license from the date such license was activated, and Customer will pay such invoice in accordance with the payment terms in the Agreement.
- 15.3. Assignment and Subcontracting.** Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Motorola may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, (c) as part of a corporate reorganization, or (d) to a subsidiary corporation. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.
- 15.4. Waiver.** A delay or omission by either Party to exercise any right under this Agreement will not be construed to be a waiver of such right. A waiver by either Party of any of the obligations to be performed by the other, or any breach thereof, will not be construed to be a waiver of any succeeding breach or of any other obligation. All waivers must be in writing and signed by the Party waiving its rights.
- 15.5. Severability.** If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision will be deemed to be modified to reflect as nearly as possible the original

intentions of the Parties in accordance with applicable law. The remaining provisions of this Agreement will not be affected, and each such provision will be valid and enforceable to the full extent permitted by applicable law.

- 15.6. Independent Contractors.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership, or formal business organization of any kind.
- 15.7. Third-Party Beneficiaries.** The Agreement is entered into solely between, and may be enforced only by, the Parties. Each Party intends that the Agreement will not benefit, or create any right or cause of action in or on behalf of, any entity other than the Parties. Notwithstanding the foregoing, a licensor or supplier of third-party software included in the software Products will be a direct and intended third-party beneficiary of this Agreement.
- 15.8. Interpretation.** The section headings in this Agreement are included only for convenience. The words "including" and "include" will be deemed to be followed by the phrase "without limitation". This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.
- 15.9. Notices.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as FedEx, UPS, or DHL), and will be effective upon receipt.
- 15.10. Cumulative Remedies.** Except as specifically stated in this Agreement, all remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available to either Party at law, in equity, by contract, or otherwise. Except as specifically stated in this Agreement, the election by a Party of any remedy provided for in this Agreement or otherwise available to such Party will not preclude such Party from pursuing any other remedies available to such Party at law, in equity, by contract, or otherwise.
- 15.11. Survival.** The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 – Customer Obligations; Section 4.6 – Effect of Termination or Expiration; Section 5 – Payment and Invoicing; Section 7.9 – Warranty Disclaimer; Section 7.10 – Additional Warranty Exclusions; Section 8.3 – Customer Indemnity; Section 9 – Limitation of Liability; Section 10 – Confidentiality; Section 11 – Proprietary Rights; Data; Feedback; Section 13 – Force Majeure; Delays Caused by Customer; Section 14 – Disputes; and Section 15 – General.
- 15.12. Entire Agreement.** This Agreement, including all Addenda, and Proposals, constitutes the entire agreement of the Parties regarding the subject matter hereto, and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and will have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing or by electronic signature. An electronic signature, facsimile copy, or computer image of a signature, will be treated, and will have the same effect as an original signature, and will have the same effect, as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase order, acknowledgment, or other form will not be considered an amendment or modification or part of this Agreement, even if a representative of each Party signs such document.

The Parties hereby enter into this MCA as of the Effective Date.

**Motorola Solutions, Inc.**

**Customer:** \_\_\_\_\_

By: Michael DeBenedetti

By: \_\_\_\_\_

Name: Mike DeBenedetti

Name: \_\_\_\_\_

Title: MSSSI Vice President

Title: \_\_\_\_\_

Date: 10/6/25

Date: \_\_\_\_\_



Agenda Item 1.F

RECOMMENDATION

**Staff recommends that the City Council adopt a resolution authorizing the award of a construction contract to Studebaker Electric, Inc. in the not-to-exceed amount of \$184,214.**

EXECUTIVE SUMMARY

The State of California Division of Aeronautics (Caltrans) conducts a State permit compliance inspection annually. This is to ensure the airport is operating safely and is in compliance with all FAA guidelines. Once inspection is completed, an inspection report is submitted to the airport sponsor showing the results. If there are any compliance issues or recommendations, the sponsor is to coordinate with the Caltrans inspector to make any necessary corrections.

During the October 17, 2023 and the December 3, 2024 inspections, the inspector stated that many taxiway and taxiway directional sign faces along Runway 12/30, and Taxiway B were faded and needed replacing. They recommended replacing these sign faces as part of the regular maintenance program for the airport.

Staff submitted a grant application to the Federal Aviation Administration (FAA) for the upgrade of the Airfield guidance signs and taxiway markings along with LED retrofit kits. A grant was awarded in September 2025 from the FAA to complete the project. The FAA will pay for 95% (\$307,148) of grant eligible project costs through the Airport Improvement Project Program (AIP). The remaining cost of \$16,165 will be paid through a State matching grant of \$15,357 and \$808 from the Airport Enterprise Fund to fulfill the grant obligation.

BACKGROUND AND LEGISLATIVE HISTORY

The recommendations in the State inspection report illustrated the need for the replacement of old and faded taxiway and taxiway directional signs. To rectify this, a budget augmentation was submitted in March 2024 to the City and approved for FY 24/25 in the amount of \$47,000. However, prior to work beginning, the FAA stated that they had changed its nomenclature policy for taxiways and runways and because of this, would provide funding for the replacement of all airfield guidance signs and upgrades to LED lighting. This will provide safety of operations and increase energy efficiency. The upgrading of the taxiway designations and installation of new hold short signs at the runway / runway intersection will bring the airport up to current FAA standards. As such, instead of paying the original amount of \$47,000 for some of the sign replacements and LED conversion kits, the City will pay \$808 for all sign replacements and LED conversion kits.

Engineering staff worked with Brandley Engineering, Inc. to prepare the plans and specifications for the Upgrade Airfield Guidance Signs and Taxiway Designations project. The project was advertised for competitive bids with bids received and publicly opened on April 28, 2023, at 2:00 pm with the following results:

Contractor:

Studebakers Electric Inc.

St. Francis Electric Inc.

Royal Electric

Bid Amounts:

Total Bid: \$184,214

Total Bid: \$255,287.50

Total Bid: \$280,000

If the City does not receive the FAA grant monies, then the City anticipates using General Fund monies to advance this necessary CIP.

ANALYSIS

Awarding this construction contract will allow the City to complete CIP 77603- Upgrade Airfield Guidance Signs and Taxiway Designations Project. The project will allow for the replacement of all markings and the upgrading of all lighting to a more efficient lighting system.

The total estimated cost of this project, if awarded to the lowest bidder, is as follows:

Construction:	\$184,214
Engineering:	
Environmental Studies	\$1,000
Project Formulation	\$12,100
Engineering Design	30,000
Engineering Support during bidding and contract award	\$7,000
Engineering Support During Construction and Final Closeout	\$25,000
Resident Engineering, Testing, and Inspection	\$58,000
Administration:	\$6,000
Total Project Cost	323,314
Participation Breakdown	
FAA Participation- Entitlement/Discretionary	\$307,148
State Matching Grant	\$15,357
Sponsor Local Match- City of Tracy	\$809

FISCAL IMPACT

CIP 77603 - Upgrade Airfield Guidance Signs and Taxiway Designations Project has a budget of \$323,314 with 95% of the project funded by an FAA Airport Improvement Project Grant in the amount of \$307,148. The remaining cost of \$16,165 will be paid through a State matching grant of \$15,357 and \$809 from the Airport Enterprise Fund. If the City does not receive the FAA grant monies, then the City anticipates appropriating General Fund monies to advance this necessary CIP.

CEQA/NEPA DETERMINATION

The Federal Aviation Administration (FAA) has reviewed the environmental information submitted for the Proposed Upgrade Airfield Guidance Signs and Taxiway Designations at Tracy Municipal Airport (TCY), Tracy, California. The FAA has determined the proposed project

is Categorically Excluded pursuant to FAA Order 1050.1F as it relates to the National Environmental Policy Act of 1969, as amended (NEPA). Therefore, no further federal environmental disclosure documentation for the proposed project is necessary for NEPA purposes.

As this is an airport project with federal funding, the proposed project Categorical Exclusion had to be reviewed and approved by the FAA. On December 19, 2024, the FAA had determined the proposed project was Categorically Excluded pursuant to FAA Order 1050.1F as it relates to the National Environmental Policy Act of 1969, as amended (NEPA). No further federal environmental disclosure documentation for the project is necessary for NEPA purposes.

The Project is categorically exempt per CEQA Guidelines Section §15301 Existing Facilities, Class I category, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, item (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities.

#### 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 authorizing the award of a construction contract to Studebaker Electric, Inc. in the not-to-exceed amount of \$184,214.

Prepared by: Paula Jessup, Airport Manager

Reviewed by: David Murphy, Assistant Director of Operations  
Anush Nejad, Public Works Director  
Sara Castro, Finance Director  
David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachments: A – Public Improvement Agreement with Studebaker Electric, Inc.



**AGREEMENT FOR PUBLIC IMPROVEMENTS  
TRACY MUNICIPAL AIRPORT  
UPGRADE AIRFIELD GUIDANCE SIGNS AND TAXIWAY  
DESIGNATIONS AIP NO. 3-06-0259-028-2025  
CIP 77603**

This AGREEMENT ("Agreement") is entered into between the CITY OF TRACY, a municipal corporation ("City"), and Studebaker Electric Inc.. ("Contractor").

**RECITALS**

- A. In accordance with State law, including the Public Contract Code, and local law, including the Tracy Municipal Code, the City issued an invitation for competitive bids for this Project.
- B. In response to the invitation for bids, the Contractor submitted the Bid Forms, which are incorporated here by reference, and these were found by the City to be responsive to the invitation for bids.
- C. After reviewing all bids submitted in response to the invitation for bids, the City found the Contractor to be the Lowest Responsible Bidder, and the City Council awarded this Agreement to the Contractor pursuant to Resolution No. 2025-XXX.
- D. The project is more specifically defined in the plans and specifications but generally consists of the Upgrade to the Airfield Guidance Signs and Taxiway Designations at the Tracy Municipal Airport, located within the City of Tracy, as described in these special provisions and shown on the plans entitled "Tracy Municipal Airport,—Replace & Upgrade Airfield Signs, AIP No. 3-06-0259-028-2025; In general, work will consist of the replacement of the airfield guidance signs and upgrading them to LED and upgrading taxiway designations and installation of new hold short signs at the runway / runway intersection at the Tracy Municipal Airport along with other items of work that are required by the Plans and Specifications.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **SCOPE OF WORK.** The Contractor shall perform, or cause to be performed, the Work described in the Contract Documents ("Work"), to the satisfaction of the City Engineer. Contractor shall perform additional work arising from changes ordered by the City in accordance with Section 2.3, "Modifications" of this Agreement.
- 2. **CONTRACT DOCUMENTS.**
  - 2.1 **List of Contract Documents and Precedence.** The Contract Documents consist of the documents listed below, beginning with the highest and ending with the lowest order of precedence. If there is a conflict between component parts of the Contract Documents, the document highest in precedence controls. See also City General Provisions, Section 4.05, "Precedence of Contract Documents".
    - a) Change Order or Supplemental Agreement
    - b) Project Directives
    - c) Addendum to the Plans and Specifications

- d) Technical Provisions
- e) Special Conditions
- f) Construction Plans
- g) FM General Contract Provisions
- h) FM General Construction Items
- i) City General Provisions
- j) Remaining Specifications including Proposal, Agreement, and Agreement Forms
- k) FAA Specifications and Advisory Circulars
- l) City Standard Plans and Specifications
- m. State of California Department of Transportation Plans and Specifications

**2.2 Modifications.** The Contract Documents may not be modified orally or in any manner other than in writing in accordance with procedures prescribed in the Contract Documents. See City General Provisions Sections 2.07, "Examination of Plans, Specifications, and Work Site", Section 2.08, "Requests for Clarification", Section 5, "Changes in Work", Section 8.15, "Time of Completion and Days Charged", and Section 10.06, "Claims". All such written modifications shall become part of the Contract Documents.

**2.3 Entire Agreement.** The Contract Documents comprise the entire integrated understanding between the City and Contractor concerning the Work to be performed for this Project. All prior negotiations or stipulations regarding this matter, which preceded or accompanied the executing of these Contract Documents are conclusively deemed to be superseded by these Contract Documents. The Contract Documents are complementary; what is called for in one is binding as if called for by all. To the extent that portions of the Contract Documents are not attached to this Agreement, they shall be deemed incorporated here by reference.

3. **CONTRACT AMOUNT.** The Contract Amount is One Hundred Eighty-Four Thousand Two Hundred Fourteen Dollars (\$184,214). City shall pay to Contractor, for the performance of the Work, the Contract Amount pursuant to the City General Provisions, Section 10, "Measurement and Payment", subject to adjustment for unit price items, and as modified by the terms of the Contract Documents. The Contractor's compensation shall include all costs incurred by the Contractor in the performance of the Work, including: furnishing all labor {including supervision}, materials, equipment, tools, transportation, and services necessary {including the costs of any and all applicable taxes, patent rights, royalties, licenses, permits, and traffic control; including flagmen} to complete the Work {including costs to protect the Work, and all damages to the Work prior to acceptance of the Work by the City, unless otherwise specifically provided in the Contract Documents}.
4. **CONTRACT TIME.** After the Contractor has provided all documents required by the Notice of Award, as identified in the Notice to Bidders, and following execution of the Agreement by the City, the City shall issue a Notice to Proceed to the Contractor. Contract time shall commence upon receipt date of the Notice to Proceed. Contractor shall commence work within ten calendar days of the receipt date specified in the Notice to Proceed. Contractor is allotted 20 working days to complete the work. See City General Provisions Sections 8.01, "Notice to Proceed", 8.02, "Commencement of Work", 8.15, "Time of Completion and Days Charged", and 8.17, "Delays and Extension of Time".

**5 LIQUIDATED DAMAGES.** If Contractor fails to complete the Work within the Contract

Time, Contractor shall pay to the City, as liquidated damages and not as a penalty, the sum specified in the Notice to Bidders for each calendar day after the expiration of the Contract Time that the Work remains incomplete. See Notice to Bidders and City General Provisions Section 8.16, "Liquidated Damages".

- 6 **CONTRACTOR REPRESENTATIVE.** At all times during the progress of the Work, Contractor shall have a competent foreman or superintendent {"Contractor Representative") on site with authority to act on behalf of the Contractor. The Contractor shall, at all times, keep the City Engineer informed in writing of {a) the name and telephone number of the Contractor Representative, and {b) the names and telephone numbers of all subcontractors performing the Work.
- 7 **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Contractor, and before the commencement of any Work, the Contractor shall furnish a Faithful Performance Bond, Labor and Material Bond, Warranty Bond, or other guarantees, in the required amounts as improvement securities, in a form substantially the same as that set forth in the Contract Forms or in an alternate form authorized by state law and approved by the City. See Division C, "Agreement and Agreement Forms" of the Project Specifications and City General Provisions Section 3.07, "Contract Bonds ".
- 8 **INSURANCE.** Concurrently with the execution of this Agreement by the Contractor, and prior to the commencement of any Work, the Contractor shall furnish evidence to the City that all of the insurance requirements required by City General Provisions Section 3.08, "Insurance Requirements" have been satisfied.
- 9 **PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Contractor shall obtain and maintain all necessary permits and licenses for the performance of the Work, as provided in City General Provisions Section 9.06, "Permits and Fees".
- 10 **DEFAULT.** The default provisions set forth in City General Provisions Section 8.12, "Default by Contractor and Termination of Control", shall apply.
- 11 **FINAL ACCEPTANCE OF WORK.** Prior to final acceptance of the Work by the City Council, the Contractor shall be solely responsible for maintaining the quality of the Work and maintaining safety at the Project site. The Contractor's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations under the Agreement have been satisfied, all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete. See City General Provisions Sections 8.20, "Final Acceptance" and 8.21, "Risk of Loss".
- 12 **WARRANTY.** The Contractor shall warrant the quality of the Work for a period of one year after acceptance of the Work by the City Council and shall provide a Guarantee and Warranty Bond in the required amount, in accordance with the terms of the Contract Documents. In the event that during the one-year warranty period any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Contractor under this Agreement, the Contractor shall be in default. See City General Provisions Section 11, "Guarantee".

### 13 **LABOR REQUIREMENTS.**

13.1 **Prevailing Wage.** The U.S. Secretary of Labor prevailing wage rates and the



California general prevailing wage rates determined by the Director of Industrial Relations are made a part of this Agreement. Nothing in the Contract Documents shall be interpreted in a manner conflicting with these rates. See City General Provisions Section 9.05 (d), "Prevailing Wage". The higher of the two rates shall be paid.

- 13.2 Apprentices. The Davis Bacon requirements and California Labor Code Sections 1777.5, 1777.6 and 1777.7 govern the employment of apprentices by Contractor or any Subcontractor. Contractor and any of his Subcontractors shall comply with these Labor Code requirements. Contractor shall have full responsibility for compliance regardless of any other contractual or employment relations alleged to exist. See City General Provisions Section 9.05 (f), "Apprentice Program".
- 13.3 Wage Information. A copy of the general prevailing rates of per diem wages for each craft, classification or type of worker needed to perform the Agreement, as determined by the U.S. Secretary of Labor and the Director of the California State Department of Industrial Relations, are available at the office of the City's Director of Development and Engineering Services, located at Tracy City Hall, 333 Civic Center Plaza. These will be made available to any interested party upon request. The U.S. Department of Labor Wage Scales are included as the Federal Provisions, Division E, Part C.
- 13.4 Hours of Labor. The Contractor shall forfeit, as a penalty, to the City \$25 for each worker employed in the execution of the Agreement by him or by any Subcontractor for each calendar day during which any worker is required or permitted to labor more than 8 hours, in violation of Labor Code sections 1810-1815. See City General Provisions Section 9.05 (c), "Hours of Labor".
- 13.5 Nondiscrimination. Contractor shall afford equal employment opportunities for all persons without discrimination because of race, color, religion, sex, sexual orientation, political affiliation, national origin, ancestry, age, marital status, or physical or mental disability. See City General Provisions Section 9.05 (a), "Non- Discrimination".
- 14 **INDEPENDENT CONTRACTOR STATUS.** Contractor is an independent contractor. All persons working for or under the direction of the Contractor are the Contractor's employees, agents, or Subcontractors, and they shall not be deemed agents, servants, or employees of the City. See City General Provisions Sections 9.01, "Contractor's Responsibility for the Work" and 9.02, "Contractor's Responsibility for Subcontracted Work".
- 15 **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. In the event that Contractor maintains or acquires such a conflicting interest, any contract (including this Agreement) involving Contractor's conflicting interest may be terminated by the CITY.
- 16 **ATTORNEY'S FEES.** If any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- 17 **INDEMNIFICATION.** Contractor shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses)

resulting from or arising out of the performance of the Work by Contractor (including Contractor's agents, representatives, contractors, subcontractors, and employees), except only for those claims arising from the established willful misconduct or active negligence of the City. Contractor's indemnification shall specifically include, but not be limited to, all claims arising out of: contract claims, property damage, personal injury, and any infringement of patent rights or copyrights incidental to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents. Contractor's indemnification shall include any and all costs, expenses, court costs, attorneys' fees and liability incurred by the City in enforcing the provisions of this section, and in defending against such claims, whether the same proceed to judgment or not. Contractor shall reimburse City for any expenditures City incurs by reason of such matters.

## **18 ASSIGNMENT AND DELEGATION.**

18.1 Assignment of This Agreement. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Contractor's duties be delegated, without the written consent of the City. See City General Provisions Section 3.04, Assignment".

18.2 Assignment Pursuant to Government Code. Pursuant to Government Code Section 4552, the Contractor shall assign to the City, all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Action (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgment by the parties. The Contractor further warrants that all goods, services, and materials provided to the City in accordance with this Contract are free and clear of all liens and encumbrances.

## **19.0 MISCELLANEOUS PROVISIONS.**

19.1 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 respective party as follows:

**To City:**

City of Tracy  
Public Works  
Attn: Even Marcelo  
520 Tracy Blvd.  
Tracy, CA 95376

**To Contractor:**

Studebaker Electric, Inc.  
3237 Rippey Rd, Suite 100  
Loomis, CA 95650

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

19.2 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.

- 19.3 Severability. In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
- 19.4 Public Records. Public records are subject to disclosure under the California Public Records Act, Government Code Section 6250 *et. seq.*
- 19.5 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.
- 19.6 Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Contractor and the City. This Agreement shall Inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

## **20.0 FEDERAL CONTRACT PROVISIONS**

- 20.1 Procurement and Contracting Under AIP - The work to be done under this agreement is being financed in whole or in part by means of a grant made by the United States acting through the Federal Aviation Administration of the Department of Transportation. The Contractor must adhere to the Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects, included in Division E, Part B of the Specifications.
- 20.2 Prevailing Wages - All mechanics and laborers on the project shall be paid no less than the minimum wage rate established by the U.S. Secretary of Labor. A copy of the Department of Labor Wage Rate Determination applicable to this contract is included in Division E, Part C of the specifications.



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

**CONTRACTOR:**

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Contractor's Address

\_\_\_\_\_  
Federal Employer ID No.      Contractor's License No.      Class of License & Exp. Date

If Contractor is a Corporation, the agreement must be signed by one corporate officer from each of the following two groups:

Group A - President, Vice President, Chief Executive Officer

Group B – Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer

If Contractor is a partnership, the agreement must be signed by the partner or partners authorized to sign contracts on behalf of the partnership. If Contractor is an individual, the agreement must be signed by the individual. If the signature is by an agent other than an officer of a corporation, or a member of a partnership, a power of attorney must be submitted with the Agreement.

\_\_\_\_\_  
Authorized Signature of Contractor

\_\_\_\_\_  
Authorized Signature of Contractor

\_\_\_\_\_  
Name of Signatory (written out)

\_\_\_\_\_  
Name of Signatory (written out)

\_\_\_\_\_  
Title of Signatory

\_\_\_\_\_  
Title of Signatory

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**CITY OF TRACY:**

\_\_\_\_\_  
By: Dan Arriola  
Title: MAYOR

Date: \_\_\_\_\_  
(Approval Effective)

ATTEST:

\_\_\_\_\_  
By: April B. A. Quintanilla  
Title: CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
By: L. David Nefouse  
Title: CITY ATTORNEY

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

---

**STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A RESOLUTION AUTHORIZING THE AWARD OF A CONSTRUCTION CONTRACT TO STUDEBAKER ELECTRIC INC. IN THE NOT-TO-EXCEED AMOUNT OF \$184,214.**

**WHEREAS**, the State of California Division of Aeronautics (Caltrans) conducts a State permit compliance inspection annually; and

**WHEREAS**, during the October 17, 2023 and the December 3, 2024 inspections, the inspector stated that many taxiway and taxiway directional sign faces along Runway 12/30, and Taxiway B were faded and needed replacing; and

**WHEREAS**, the following construction project, Upgrade Airfield Guidance Signs and Taxiway Designations, at the Tracy Municipal Airport is approved FAA project; and

**WHEREAS**, the City Council accepted a grant from the FAA to complete a project at the Tracy Municipal Airport. On September 18, 2025, an FAA grant for Capital Improvement Project (GIP) 77603 - Upgrade Airfield Guidance Signs and Taxiway Designations, was accepted through the FAA's Airport Improvement Program (AIP); and

**WHEREAS**, the City Council is also set to approve a State of California Department of Transportation Division of Aeronautics (Division of Aeronautics) matching grant at the November 4, 2025, City Council meeting to offset the City's grant matching requirements; and

**WHEREAS**, the City has proceeded with General Fund dollars until these grant monies have been received; and

**WHEREAS**, the project was advertised for competitive bids with bids received and publicly opened on April 28, 2025; and

**WHEREAS**, Studebaker Electric Inc. was the apparent lowest bidder with a not-to-exceed budget of \$184,214; and



**NOW, THEREFORE,** be it resolved as follows:

**RESOLVED:** That the above recitals are true and correct; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy hereby awards a construction contract to Studebaker Electric Inc. with the Not-to-Exceed budget of \$184,214 for the Upgrade Airfield Guidance Signs and Taxiway Designations project.

\* \* \* \* \*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 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: \_\_\_\_\_  
APRIL B.A. QUINTANILLA  
City Clerk and Clerk of the Council of  
the City of Tracy, California

Agenda Item 1.G

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution amending the City's Operating and Capital Budget for the Fiscal Year (FY) ending June 30, 2026, to reflect actual expenses and revenues and requested augmentations to fund various departmental needs.**

EXECUTIVE SUMMARY

On June 17, 2025, Council adopted the Fiscal Year (FY) 2025-26 Operating and Capital Budget (FY 2025-26 Budget). This report provides an update of the City's current financial performance, for First Quarter (Q1), through September 30, 2025. In addition, the report serves as a financial summary identifying Q1 General Fund revenue and expenditure actuals with minor amendments to the FY 2025-26 Budget. Funds that had been encumbered and were planned in the FY 2024-25 budget but will be completed in FY 2025-26 are being requested to be re-appropriated to the FY2025-26 budget. The items were approved as part of GASB 54 that was included in the FY2025-26 budget adoption.

BACKGROUND

Quarterly, staff prepares a report to the City Council on the year-to-date revenues and expenditures as compared to the amended budget. This report provides an update and summary of the City's current financial performance, for FY 2025-26 First Quarter (Q1) through September 30, 2025, and requests that the City Council amend revenue and expenditures for the FY 2025-26 Budget to reflect Q1 actuals.

At the beginning of each new fiscal year items that were either underway, postponed or otherwise delayed from the prior fiscal year are re-appropriated into the current year's operating budget. Funds that had been encumbered and were planned in the FY 2024-25 budget but will be completed in FY 2025-26 are being requested to be re-appropriated to the FY2025-26 budget.

ANALYSIS

As of September 30, 2025, the General Fund expenditures are approximately 24% of the approved operating budget. General Fund revenues collected in Q1 (as of September 30, 2025), reflect approximately 10% of estimated revenues. City revenues tend to lag a quarter behind, and many revenues will appear low or zero as a result. For example, General Fund revenues in Property Tax, as well as VLF/Property Tax, are distributed in December and April and will appear in the second and fourth quarter reports. The City's Sales Tax are one-quarter in arrears and will appear after the second quarter, and first quarter collections represent advances from the State based on prior year collections, not necessarily actual collection by the State.

The chart below reviews year-to-date revenues and expenditures as compared to the amended budget as of September 30, 2025 (First Quarter-Q1). For comparison, FY 2024-25 Q1 actuals are also provided.

**FY 2024-25 General Fund Budget to Actuals**

<b><u>REVENUES</u></b>	<b><u>FY 24/25</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>% of</u></b>
(in thousands)	<b><u>Actual Q1</u></b>	<b><u>Adopted</u></b>	<b><u>Actual Q1</u></b>	<b><u>Amended</u></b>	<b><u>Budget</u></b>
Property Tax	\$ 52	\$ 35,879	\$ -	\$ 35,879	0%
Sales Tax	21,428	82,525	7,300	82,525	9%
Sales Tax Measure V	2,898	11,908	930	11,908	8%
Other Taxes	797	6,937	3,795	6,937	55%
Other Revenues	7,075	23,789	4,869	23,789	20%
<b>Total Revenues</b>	<b>\$ 32,250</b>	<b>\$ 161,038</b>	<b>\$ 16,894</b>	<b>\$ 161,038</b>	<b>10%</b>

<b><u>EXPENDITURES</u></b>					
(in thousands)					
Personnel	\$ 15,386	\$ 71,718	\$ 19,287	\$ 71,718	27%
Contracted Services	7,568	34,438	9,289	34,535	27%
Supplies & Equipment	383	3,019	405	2,887	14%
Utilities	762	3,299	910	3,279	28%
Internal Service Charges	3,724	17,164	4,163	17,164	24%
Capital	129	134	90	189	48%
Other Payments	51	669	57	669	9%
Net Transfers In/(Out)	4,151	15,280	392	15,280	3%
<b>Total Expenditures</b>	<b>\$ 32,154</b>	<b>\$ 145,721</b>	<b>\$ 34,593</b>	<b>\$ 145,721</b>	<b>24%</b>

The Other Taxes revenue category includes Cannabis, Business License and Transient Occupancy Taxes (TOT). The chart below reviews year-to-date revenues as compared to the amended budget as of September 30, 2025 (First Quarter-Q1). For comparison, FY 2024-25 Q1 actuals are also provided.

<b><u>REVENUES</u></b>	<b><u>FY 24/25</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>% of</u></b>
(in thousands)	<b><u>Actual Q1</u></b>	<b><u>Adopted</u></b>	<b><u>Actual Q1</u></b>	<b><u>Amended</u></b>	<b><u>Budget</u></b>
Business License Tax	\$ 522	\$ 3,800	\$ 3,553	\$ 3,800	94%
Cannabis Tax	275	1,137	243	1,137	21%
Transient Lodging Tax	-	2,000	-	2,000	0%
	<b>\$ 797</b>	<b>\$ 6,937</b>	<b>\$ 3,796</b>	<b>\$ 6,937</b>	<b>55%</b>

The Other Revenues category includes:

- Charges for Services - Recreation & Arts Program Fees, Right of Way Maintenance Fees (Water/Wastewater) and Central Administration Services
- Contributions
- Fines and Forfeitures – Citations, Fines & Penalties
- Licenses and Permits - PD & Animal Services and Franchise Fees
- Other Revenues
- Revenues from Other Agencies – State/County Grants (PD)
- Special Assessments
- Use of Money – Interest Earnings (Quarterly Allocation across funds)



The chart below reviews year-to-date revenues as compared to the amended budget as of September 30, 2024 (First Quarter-Q1). For comparison, FY 2024-25 Q1 actuals are also provided.

<b>REVENUES</b> (in thousands)	<b>FY 23/24</b> <b>Actual Q3</b>	<b>FY 24/25</b> <b>Adopted</b>	<b>FY 24/25</b> <b>Actual Q3</b>	<b>FY 24/25</b> <b>Amended</b>	<b>% of</b> <b>Budget</b>
Charges for Services	\$ 3,394	\$ 12,128	\$ 3,055	\$ 12,128	25%
Contributions	149	-	114	-	0%
Fines and Forfeitures	18	169	32	169	19%
Licenses and Permits	690	5,195	763	5,195	15%
Other Revenues	91	295	110	295	37%
Revenues From Other Agencies	75	2,002	267	2,002	13%
Use of Money	2,658	4,000	528	4,000	13%
	<b>\$ 7,075</b>	<b>\$ 23,789</b>	<b>\$ 4,869</b>	<b>\$ 23,789</b>	<b>20%</b>

### **FY 2024-25 Enterprise Fund Budget to Actuals**

The following tables provide a mid-year look at the Water, Wastewater and Storm Drain Enterprise Operating Fund Budgets.

<b>Water Enterprise Operating Fund</b>					
<b>REVENUES</b> (in thousands)	<b>FY 24/25</b> <b>Actual Q1</b>	<b>FY 25/26</b> <b>Adopted</b>	<b>FY 25/26</b> <b>Actual Q1</b>	<b>FY 25/26</b> <b>Amended</b>	<b>% of</b> <b>Budget</b>
Charges for Services	\$ 5,964	\$ 23,258	\$ 5,196	\$ 23,258	22%
Other Revenues	660	1,500	401	1,500	27%
<b>Total Revenues</b>	<b>\$ 6,624</b>	<b>\$ 24,758</b>	<b>\$ 5,597</b>	<b>\$ 24,758</b>	<b>23%</b>
<b>EXPENSES</b>					
Personnel	\$ 1,118	\$ 7,435	\$ 1,919	\$ 7,435	26%
Contracted Services	1,410	7,549	1,472	7,741	19%
Supplies & Equipment	324	2,448	352	2,037	17%
Internal Service Charges	424	2,232	522	2,232	23%
Indirect Costs	370	949	237	949	25%
Utilities	660	3,084	626	3,092	20%
Capital	110	106	60	317	19%
Debt	-	1,258	-	1,258	0%
Other Payments	400	1,646	410	1,646	25%
<b>Total Expenses</b>	<b>\$ 4,816</b>	<b>\$ 26,707</b>	<b>\$ 5,598</b>	<b>\$ 26,707</b>	<b>21%</b>

**Wastewater Enterprise Operating Fund**

<b><u>REVENUES</u></b>	<b><u>FY 24/25</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>% of</u></b>
(in thousands)	<b><u>Actual Q1</u></b>	<b><u>Adopted</u></b>	<b><u>Actual Q1</u></b>	<b><u>Amended</u></b>	<b><u>Budget</u></b>
Charges for Services	\$ 5,601	\$ 27,838	\$ 5,428	\$ 27,838	19%
Other Revenues	511	700	233	700	33%
<b>Total Revenues</b>	<b>\$ 6,112</b>	<b>\$ 28,538</b>	<b>\$ 5,661</b>	<b>\$ 28,538</b>	<b>20%</b>
<b><u>EXPENSES</u></b>					
Personnel	\$ 1,255	\$ 7,864	\$ 1,887	\$ 7,864	24%
Contracted Services	163	1,824	286	1,818	16%
Supplies & Equipment	429	3,598	508	3,490	15%
Internal Service Charges	217	1,106	245	1,106	22%
Indirect Costs	262	824	206	824	25%
Utilities	579	2,797	574	2,804	20%
Capital	-	127	60	234	26%
Other Payments	324	3,320	336	3,320	10%
<b>Total Expenses</b>	<b>\$ 3,229</b>	<b>\$ 21,460</b>	<b>\$ 4,102</b>	<b>\$ 21,460</b>	<b>19%</b>

**Storm Drain Enterprise Operating Fund**

<b><u>REVENUES</u></b>	<b><u>FY 24/25</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>FY 25/26</u></b>	<b><u>% of</u></b>
(in thousands)	<b><u>Actual Q1</u></b>	<b><u>Adopted</u></b>	<b><u>Actual Q1</u></b>	<b><u>Amended</u></b>	<b><u>Budget</u></b>
Charges for Services	\$ 184	\$ 849	\$ 157	\$ 849	18%
Other Revenues	15	10	5	10	50%
<b>Total Revenues</b>	<b>\$ 199</b>	<b>\$ 859</b>	<b>\$ 162</b>	<b>\$ 859</b>	<b>19%</b>
<b><u>EXPENSES</u></b>					
Personnel	\$ 38	\$ 281	\$ 58	\$ 281	21%
Contracted Services	22	279	30	279	11%
Supplies & Equipment	-	14	3	14	21%
Internal Service Charges	8	43	11	43	26%
Indirect Costs	8	28	7	28	25%
Utilities	4	45	8	45	18%
Capital	-	-	-	-	0%
Other Payments	-	16	1	16	17%
<b>Total Expenses</b>	<b>\$ 80</b>	<b>\$ 706</b>	<b>\$ 118</b>	<b>\$ 706</b>	

### FY 2024-25 First Quarter (Q1) Operating Budget Augmentations

The following table is a summary of all recommended Q1 budget augmentations for FY 2025-26. They are listed by department, with General and Non-General fund totals separated, and categorized as one time or on-going expenses. A detailed list has been provided as attachment (A) to the staff report.

Department	Description	General Fund	Other Fund	On Going	One Time
Community & Economic Development	Supplies & Equipment		10,000	10,000	
Innovation & Technology	Supplies & Equipment	92,547			92,547
Non-Departmental	Contract Services	(253,125)			(253,125)
Police Department	Contract Services	50,640	250,000	50,640	250,000
Public Works	Contract Services, Supplies & Equipment & Capital	800,000	480,850	37,500	1,243,350
<b>Total:</b>		<b>690,062</b>	<b>740,850</b>	<b>98,140</b>	<b>1,332,772</b>

The FY2025-26 Adopted Budget incorporated the proposed budget for the South San Joaquin County Fire Authority. The Authority adopted its final budget on August 14, 2025, with the city's share coming in lower than initially projected. The table below reflects this reduction.

Department	Description	Funding Source	On Going	One Time
Non-Departmental	Contract Services	General Fund		(253,125)
<b>Total:</b>			<b>-</b>	<b>(253,125)</b>

### Department Augmentation Requests

- Community & Economic Development
  - The Land Development Division is requesting an on-going increase to supplies.

Division	Description	Funding Source	On Going	One Time
Land Development	Supplies	Engineering Fees	10,000	
<b>Total:</b>			<b>10,000</b>	<b>-</b>



- Innovation & Technology
  - The department is requesting one time funding to replace (3) Surface Hubs that have reached end of life.

Division	Description	Funding Source	On Going	One Time
Innovation & Technology	Supplies & Equipment	General Fund		92,547

<b>Total:</b>	<b>-</b>	<b>92,547</b>
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- Police Department
  - The Operations division is requesting on-going funding as per Council June 17, 2025, for the Foster Incentive Program and the reduction of dog adoption fees.
  - The Chief's office is requesting to one-time funding towards upgrading the Emergency Operations Center (EOC), that will function as a versatile command center supporting opioid-related emergency response, real-time data sharing, multi-agency coordination, police training, and community education on opioid dangers.

Division	Description	Funding Source	On Going	One Time
Operations	Contract Services	General Fund	50,640	
Chief's Office	Contract Services	Opioid Fund		250,000

<b>Total:</b>	<b>50,640</b>	<b>250,000</b>
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- Public Works
  - The Utility Line Maintenance Division is requesting on-going increase towards contract services towards maintaining a lift station.
  - The Streets & Right of Way Maintenance division is requesting a one-time increase for contract services for tree trimming. This is driven by insurance companies canceling homeowner policies when trees are too close to structures. To address this proactively, additional trimming beyond the standard scope has been performed during annual maintenance, increasing costs.
  - The Internal Maintenance Division is requesting:
    - One-time capital funding for the installation of electric vehicle charging infrastructure at City-owned facilities, supporting Tracy's sustainability goals and green fleet transition. Based on the Fleet Electrification Assessment by an EBCE consultant team, the funds will cover Level 2 and DC Fast Chargers at prioritized sites including the Boyd Service Center, City Hall, and the Police Department. The investment will reduce CO2 emissions, lower fuel costs, and strengthen the City's eligibility for state EV infrastructure grants.
    - One-time funding for contract services for fleet maintenance and supplies, as unexpected repairs and increased costs have occurred.
  - The Engineering Division realigned positions in FY2025, their request is for (3) Vehicles and the associated supplies needed to support those positions.
    - CIP 73202 East Schulte Safety and Multimodal Community Corridor

– MacArthur Phase Project, received an additional allocation the request to appropriate those funds to the current Capital Project.

Division	Description	Funding Source	On Going	One Time
Utility Maintenance	Contract Services	Citywide CFD	20,000	
Streets & Right of Way Maintenance	Contract Services	General Fund		300,000
Internal Maintenance	Capital	General Fund		500,000
Internal Maintenance	Contract Services	Central Garage		166,500
Engineering	Contract Services, Supplies & Equipment, Capital	Engineering Fees	17,500	223,850
Engineering	Capital	ATP Grant		53,000
<b>Total:</b>			<b>37,500</b>	<b>1,243,350</b>

#### FISCAL IMPACT

Quarterly, staff prepares a report to the City Council on the year-to-date revenues and expenditures as compared to the amended budget as of September 30, 2025 (First Quarter Q1). Staff is recommending amendments to the City Operating and Capital Budget for FY 2025-26. The FY 2025-26 proposed budget appropriations of \$690k General Fund and \$741k from other funds. In addition, the FY 2025-25 budget has been amended by \$73.7 million for carryover projects that were either underway, postponed, or otherwise delayed into FY 2025-26.

#### **SUMMARY OF NEW BUDGET AUGMENTATIONS** **FOR (Q1) FY 2025-26**

Department	Description	General Fund	Other Fund	On Going	One Time
Community & Economic Development	Supplies & Equipment		10,000	10,000	
Innovation & Technology	Supplies & Equipment	92,547			92,547
Non-Departmental	Contract Services	(253,125)			(253,125)
Police Department	Contract Services	50,640	250,000	50,640	250,000
Public Works	Contract Services, Supplies & Equipment & Capital	800,000	480,850	37,500	1,243,350
<b>Total:</b>		<b>690,062</b>	<b>740,850</b>	<b>98,140</b>	<b>1,332,772</b>

Summary of Prior Carryovers	
Fund Name	Amount
General Fund	206,615
Building Fees	5,750
Engineering Fees	170,460
Special Revenue	8,031,905
General Fund Capital	42,163,272
Capital	10,863,197
Water	2,126,076
Wastewater	4,751,013
Solid Waste	3,945
Airport	117,386
Transit	4,900,776
Internal Service	365,660
<b>Grand Total</b>	<b>73,706,053</b>

### STRATEGIC PLAN

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

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution amending the City's Operating and Capital Budget for the Fiscal Year (FY) ending June 30, 2026 to reflect actual expenses and revenues and requested augmentations to fund various departmental needs.

Prepared by: Felicia Galindo, Budget Officer

Reviewed by: Sara Castro, Director of Finance

L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

### ATTACHMENTS:

Attachment A: FY2025-26 Quarter 1 Budget Augmentations



Department	Augmentation Title	Type	Fund	Total Cost	On-Going	One Time
CED	Increase to Supplies	Supplies & Equipment	Engineering Fees	\$ 10,000	\$ 10,000	
Innovation & Technology	Replacement of (3) Surface Hubs	Supplies & Equipment	General Fund	\$ 92,547		\$ 92,547
Non-Departmental	SSJCFA FY26 Budget	Contract Services	General Fund	\$ (253,125)		\$ (253,125)
Police Department	Foster Incentive Program	Contract Services	General Fund	\$ 6,000	\$ 6,000	
Police Department	Reduced Dog Adoption Fee	Contract Services	General Fund	\$ 44,640	\$ 44,640	
Police Department	EOC Upgrade	Contract Services	Opiod Fund	\$ 250,000		\$ 250,000
Public Works	Hillview CFD Lift Station	Contract Services	Citywide CFD	\$ 10,000	\$ 10,000	
Public Works	Hillview CFD Lift Station	Supplies & Equipment	Citywide CFD	\$ 9,500	\$ 9,500	
Public Works	Hillview CFD Lift Station	Supplies & Equipment	Citywide CFD	\$ 500	\$ 500	
Public Works	Tree Trimming - Increased Service Calls (Insurance)	Contract Services	General Fund	\$ 300,000		\$ 300,000
Public Works	EV Charging Stations Procurement & Installation	Capital	General Fund	\$ 500,000		\$ 500,000
Public Works	Vehicle Repair Parts	Supplies & Equipment	Central Garage	\$ 37,000		\$ 37,000
Public Works	Vehicle Services	Contract Services	Central Garage	\$ 100,000		\$ 100,000
Public Works	New Roof Relocation of Shop waste containers	Contract Services	Central Garage	\$ 14,500		\$ 14,500
Public Works	Tooling for shop for EV's	Supplies & Equipment	Central Garage	\$ 10,000		\$ 10,000
Public Works	Training for techs on EV's	Contract Services	Central Garage	\$ 5,000		\$ 5,000
Public Works	(1) Vehicle - Supervising Construction Inspector	Capital	Engineering Fees	\$ 66,850		\$ 66,850
Public Works	(2) Vehicle(s) - Senior Construction Inspectors	Capital	Engineering Fees	\$ 133,700		\$ 133,700
Public Works	Software - Increased licences for positions	Contract Services	Engineering Fees	\$ 9,500	\$ 9,500	
Public Works	Software - Increased licences for positions	Contract Services	Engineering Fees	\$ 13,800		\$ 13,800
Public Works	Equipment (lpads/computers)	Supplies & Equipment	Engineering Fees	\$ 9,500		\$ 9,500
Public Works	Uniforms/Safety Supplies	Supplies & Equipment	Engineering Fees	\$ 2,000	\$ 2,000	
Public Works	Travel/Training	Contract Services	Engineering Fees	\$ 4,500	\$ 4,500	
Public Works	Supplies	Supplies & Equipment	Engineering Fees	\$ 1,500	\$ 1,500	
Public Works	Additional Grant Funds - CIP 73202	Capital	ATP Grant	\$ 53,000		\$ 53,000

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**AMENDING THE CITY'S OPERATING AND CAPITAL BUDGET FOR FISCAL YEAR (FY) ENDING JUNE 30, 2026 TO REFLECT ACTUAL EXPENSES AND REVENUES AND REQUESTED AUGMENTATIONS TO FUND VARIOUS DEPARTMENTAL NEEDS.**

**WHEREAS**, the City Council, on June 17, 2025, adopted the Fiscal Year (FY) 2025-26 Operating and Capital Budget (FY 2025-26 Budget) for the City of Tracy (City); and

**WHEREAS**, based upon a review of revenues and expenditures for the first quarter of the fiscal year, staff has prepared and proposed additional amendments to the FY 2025-26 Budget, which are reflected in the Amended FY 2025-26 Budget (Exhibit A); and

**WHEREAS**, the Community & Economic Development Department Land Development Division will be getting increases to supplies to support operations, and

**WHEREAS**, the Innovation & Technology Department getting one-time funding operational supplies and equipment to replace end of life equipment, and

**WHEREAS**, a Non-Departmental decrease for SSJCFA contract services to align with their adopted budget, and

**WHEREAS**, the Police Department will be getting on-going increases to support programs in operations and one-time funding for their Emergency Operations Center, and

**WHEREAS**, the Parks, Recreations & Community Services Parks Maintenance Division will be getting a one-time funding for contract services and supplies for plant replacement and tree trimming, and

**WHEREAS**, the Public Works Department will be getting increases for contract services to support Lift Station maintenance and the Engineering division, and one time funding for contract services for tree trimming and vehicle maintenance, and capital for the purchase of (3) vehicles and funding for Electric Vehicle infrastructure,

**WHEREAS**, the City Council has considered information related to these matters, as presented at a public meeting of the City Council, including any supporting documents and reports by City staff, and any information provided during that public meeting, and

**WHEREAS**, the City Council has reviewed the level of budgeting control needed by the City Manager to ensure efficiency in managing the operations of the City, including the authorization of budget transfers between funds; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy hereby adopts the Amended Operating and Capital Budget for Fiscal Year 2025-26 as evidenced by the FY2025-26 Revised General Fund Budget reflected in Exhibit A and including the above requested augmentations.

\* \* \* \* \*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November, 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: \_\_\_\_\_  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Exhibits:

Exhibit 1 - Amended Budget



Department	Description	General Fund	Other Fund	On Going	One Time
Community & Economic Development	Supplies & Equipment		10,000	10,000	
Innovation & Technology	Supplies & Equipment	92,547			92,547
Non-Departmental	Contract Services	(253,125)			(253,125)
Police Department	Contract Services	50,640	250,000	50,640	250,000
Public Works	Contract Services, Supplies & Equipment & Capital	800,000	480,850	37,500	1,243,350
<b>Total:</b>		<b>690,062</b>	<b>740,850</b>	<b>98,140</b>	<b>1,332,772</b>

Summary of Prior Carryovers	
Fund Name	Amount
General Fund	206,615
Building Fees	5,750
Engineering Fees	170,460
Special Revenue	8,031,905
General Fund Capital	42,163,272
Capital	10,863,197
Water	2,126,076
Wastewater	4,751,013
Solid Waste	3,945
Airport	117,386
Transit	4,900,776
Internal Service	365,660
<b>Grand Total</b>	<b>73,706,053</b>

Agenda Item 1.H

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Elite Maintenance & Tree Service, Inc. for landscape maintenance services primarily within the Tracy Consolidated Landscape Maintenance District, Community Facilities Districts, and General Fund Arterials, for a not-to-exceed amount of \$2,500,000 per fiscal year and authorizing the City Manager to grant up to four (4) one-year extensions.**

EXECUTIVE SUMMARY

This item seeks City Council authorization for a Professional Services Agreement (PSA) with Elite Maintenance & Tree Service, Inc. (EMTS) to provide comprehensive landscape maintenance services across more than 250 acres of City-maintained areas. These areas include turf, shrubs, groundcover, and weed abatement, primarily located within the Tracy Consolidated Landscape Maintenance District (LMD), Community Facilities District (CFD) 2016-2 (Ellis Services), CFD 2021-2 (Citywide Services), and the General Fund arterials.

The proposed PSA establishes a not-to-exceed amount of \$2,500,000 (two million five hundred thousand) per fiscal year, with an initial term from January 1, 2026, through June 30, 2027. The agreement also authorizes the City Manager to approve up to four (4) additional one-year extensions, upon recommendation from the Director of Parks, Recreation, and Community Services.

BACKGROUND AND LEGISLATIVE HISTORY

The LMD, which comprises 41 distinct zones, and the CFDs, serving primarily the Tracy Hills and Ellis developments, are funded through special assessments collected on the tax roll. The authority to collect these assessments is established under the Landscape and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code) and the Mello-Roos Community Facilities Act of 1982.

The City employs a hybrid maintenance model for its LMD and CFD areas to ensure both efficiency and quality of care. Under this model, City staff primarily manage irrigation systems and high-value amenities, while a professional contractor is responsible for comprehensive landscape maintenance over 250+ acres. This includes the maintenance of turf, shrubs, groundcovers, medians, parks, channelways, and stormwater basins where landscaping is present.

The current PSA is set to terminate on December 31, 2025. Issuing an RFP was determined to be in the best interest of the City to ensure that the scope of services, expectations, and performance standards align with the City's current operational needs and updated service levels. Over time, existing contract language had become outdated and contained ambiguities that made interpretation and enforcement challenging. By initiating a new competitive solicitation, staff were able to clearly define service requirements, performance metrics, and accountability measures, while also promoting transparency and encouraging competition among qualified contractors. This process ensures that the resulting PSA reflects the City's commitment to efficiency, quality, and fiscal responsibility.

## ANALYSIS

In accordance with Tracy Municipal Code Section 2.20.140, staff issued a Request for Proposals (RFP) on July 15, 2025, for streetscape, park, and channelway landscape maintenance services. The RFP was posted on the City's website, and six (6) proposals were received by the deadline of September 9, 2025.

Proposals were submitted by the following firms: BrightView Landscape Services, Inc.; Davey Tree Expert Company; Elite Maintenance & Tree Service, Inc.; New Image Landscape Company; Odyssey Landscape Inc.; and Terracare Associates. After a comprehensive evaluation process, the top two (2) firms were invited for in-person interviews.

Following these interviews, the review panel concluded that EMTS best met the City's operational needs and demonstrated the expertise, capacity, and professionalism required for successful contract performance. During the evaluation, EMTS distinguished itself through its extensive experience, proven track record with municipal clients, and integration of innovative technology to enhance service delivery.

With more than 35 years of industry experience, EMTS has become a trusted leader in landscape management across California. The company operates from five (5) regional branches and multiple satellite yards spanning Central, Northern, and Southern California, supported by a workforce of over 350 trained professionals. EMTS leverages advanced technology platforms to plan, track, and optimize its maintenance operations. Through real-time route planning, GPS monitoring, and data-driven scheduling, EMTS enhances efficiency, accountability, and environmental sustainability. These tools enable effective resource allocation, improved communication, and consistent service quality across all managed sites.

The company's portfolio includes municipal, private, commercial, and non-profit clients, with managed contracts exceeding \$38 million annually. Their municipal partners include the Cities of Bakersfield, Ceres, Clovis, Merced, Modesto, Roseville, Santa Barbara, Solvang, and Visalia, as well as Kern and Fresno Counties, demonstrating both their scalability and reliability as a municipal service provider.

The proposed PSA intends to provide a consistent and high-quality level of landscape maintenance that ensures an attractive and well-maintained appearance of City-owned landscapes, while responsibly aligning with available funding from the respective financing sources. EMTS will employ its own means and methods to maintain all designated and newly assigned areas in accordance with the standards outlined in Attachment A. The scope of work generally encompasses three (3) defined service levels for basic landscape maintenance activities, including mowing, edging, shrub and groundcover care, and weed abatement. Clearly defining these service levels establishes transparent performance expectations and supports the City's ability to effectively manage maintenance quality in relation to funding limitations and budgetary constraints.

## FISCAL IMPACT

The proposed PSA with EMTS is for a not-to-exceed amount of \$2,500,000 per fiscal year. The recommended term, including potential one-year extensions, allows the City to secure long-term, high-quality landscape maintenance services. Funding for this agreement will come from a combination of budgets, including LMD (Fund 271), CFD 2016-2 (Fund 272), CFD 2021-2 (Fund 273), General Fund (Fund 101), and Storm Drain (Fund 541).



This funding structure ensures that services are supported by the appropriate revenue sources, including special assessments collected through the tax roll for the LMD and CFDs. The not-to-exceed provision provides flexibility to accommodate annual adjustments, growth in landscaping responsibilities, and inflationary costs while maintaining fiscal control.

#### PUBLIC OUTREACH/INTEREST

Staff issued and posted an RFP on the City's website from July 15 through September 9, 2025, to obtain a team to provide professional landscape maintenance services.

#### COORDINATION

Staff coordinated with the Finance Department and the City Attorney's Office for this item.

#### CEQA DETERMINATION

This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines") in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378). Specifically, this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §15378(b)(5)). Further, even if this item were deemed a "project," and therefore subject to CEQA, the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

#### STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Public Safety and Quality of Life strategies.

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving a Professional Services Agreement with Elite Maintenance & Tree Service, Inc. for landscape maintenance services primarily within the Tracy Consolidated Landscape Maintenance District, Community Facilities Districts, and General Fund Arterials, for a not-to-exceed amount of \$2,500,000 per fiscal year and authorizing the City Manager to grant up to four (4) one-year extensions.

Prepared by: Nilo Velazquez, Management Analyst II

Reviewed by: Brian MacDonald, Director of Parks, Recreation & Community Services  
Sara Castro, Director of Finance  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachment A: Professional Services Agreement with EMTS, Inc.

**CITY OF TRACY**  
**PROFESSIONAL SERVICES AGREEMENT WITH**  
EMTS, Inc., California Stock Corporation

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

**Recitals**

- A.** City desires to retain the professional services of Consultant to provide landscape maintenance services as further described herein and in Exhibit A.
- B.** On July 15, 2025, the City issued a Request for Proposals (RFP) for the Scope of Work defined below. On September 9, 2025, Consultant submitted its proposal for the Scope of Work 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 Scope of Work defined below.
- C.** After negotiations between the City and Consultant, the Parties have reached an agreement for Consultant's professional services as set forth in this Agreement.
- D.** This Agreement was approved on November 4, 2025, pursuant to Tracy Municipal Code Section 2.20.140, 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 Work.** Consultant shall perform the professional services, tasks, and scope of work described in Exhibit A attached hereto and incorporated herein by this reference ("Scope of Work"). The Scope of Work shall be performed by, or under the direct supervision of, Consultant's "Authorized Representative": Darin Sherlock, Regional Operations Manager. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without the City's prior written consent. The City may terminate this Agreement if Consultant makes any such change or uses or replaces any such subcontractor or subconsultant. Unless otherwise stated on Exhibit A, Consultant shall furnish, at its own expense, the materials, equipment, supplies, and other resources necessary to perform the Scope of Work. The City reserves the right to contract with other firms and/or consultants during the term of this Agreement to provide the City with the same or similar Scope of Work as described in Exhibit A.

**2. Time of Performance.** Time is of the essence in the performance of the Scope of Work under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. If dates for performance are set out in Exhibit A, Consultant shall begin performance, and shall complete all required Scope of Work no later than the dates set forth in Exhibit A. Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction

communicated to the Consultant. If Exhibit A indicates that Scope of Work shall only be performed upon request, or if the City otherwise communicates the same to Consultant, Consultant shall not perform said Scope of Work until the City requests such performance. Consultant shall submit all requests for time extensions to the City in writing no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City may grant or deny such requests in its sole and absolute discretion.

**2.1 Term.** The term of this Agreement shall commence on January 1, 2026, and expire and terminate automatically on June 30, 2027, or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one (1) year increments, with a maximum of four (4) extensions, 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 for Scope of Work performed under this Agreement at the billing rates set forth in Exhibit B, which is attached hereto and incorporated herein by this reference.

**3.1 Not to Exceed Amount.** Consultant's total compensation under this Agreement shall not exceed \$2,500,000 (two million, five hundred thousand) Dollars. Notwithstanding the foregoing, the payment of any funds under this Agreement shall be subject to the City of Tracy appropriation of funds for the Scope of Work. This Agreement shall automatically terminate in the event that such funds are not appropriated. 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. It is understood and agreed that Consultant may not receive compensation up to the Not-to-Exceed Amount (or any other amount), and Consultant's total compensation under this Agreement will depend on the Scope of Work requested and approved by the City. 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 "Not-to-Exceed Amount" provided in this section without the City's prior written approval.

**3.1.1 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 for this Agreement. 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.

**3.2 Invoices.** Consultant shall submit monthly invoice(s) to the City that describe in detail satisfactory to the City: the services performed, the times and dates of performance, and the names of the person(s) performing the Scope of Work.



**3.2.1** If Consultant is providing the Scope of Work 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 this Section 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 portion of the Scope of Work. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Scope of Work.

**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 and portions of Scope of Work described on the invoice(s) and approved by the City.

**3.4 Final Payment.** The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to Consultant's services or performance of the Scope of Work. Consultant agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants 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 Consultant, its employees, subcontractors, agents and subconsultants.

**3.5 Books and Accounts.** Consultant agrees to maintain books, accounts, payroll records and other information relating to the performance of Consultant's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Consultant in the performance of Consultant'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.** 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, and reimburse the City for, any and all liabilities, obligations, losses, damages, injunctions, suits, actions, fines, penalties, claims, demands, administrative and judicial proceedings and order, judgments, remedial action requirements, costs and expenses of every kind or nature, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees and court costs ("**Claims**") arising directly or indirectly from or out of (including any and all related costs and expenses), relating or pertaining to or resulting from, in whole or in part, this Agreement; any act, omission, or event relating in any way to Consultant's obligations under this Agreement; and/or Consultant's breach of this Agreement, except to the extent such Claim is caused solely by the active negligence or willful misconduct of the City. In this Section 4, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors.

In the event there is a finding and/or determination that Consultant 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), Consultant shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from

and against any and all Claims relating to or in connection with such a finding and/or determination.

The provisions of this section survive the expiration 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 the Scope of Work 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 Pollution Liability** shall be provided for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than \$1,000,000 dollars per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." The policy shall provide coverage for the potential use of fungicides, herbicides or pesticides.

**5.6 Endorsements.** Consultant shall obtain endorsements to the automobile, pollution and commercial general liability insurance policies with the following provisions:

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

**5.6.2** 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 in excess of the Consultant's insurance and shall not contribute with it.

**5.7 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.

**5.8 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.

**5.9 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 and, in any event, within five (5) days of such request.

**5.10 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.

**5.11 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.** The City may terminate this Agreement in its sole and absolute discretion, without cause, by giving ten (10) days' written notice to Consultant. Within five (5) days of such a termination, Consultant shall return and deliver to City all original documents relating to the Scope of Work in Consultant's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Consultant pursuant to this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date the termination notice is given.

**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 Scope of Work, upon termination of this Agreement, or within five (5) days of any 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. Consultant shall be solely responsible for, and shall save the City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and state income tax withholding and all other regulations governing employer-employee relations.

**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 of 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 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; or 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.

**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 the City:

City of Tracy  
Attn: Parks, Recreation, & Community Services  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

EMTS, Inc.  
Attn: Darin Sherlock, Regional Manager  
2972 Larkin Avenue  
Clovis, CA 93612

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**12. General Provisions.**

**12.1 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's performance of the Scope of Work 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. No waiver shall be effective unless it is in writing and signed by the waiving party.

**12.4 Assignment and Delegation.** Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's advance 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.

**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, including, without limitation, those identified below, whether or not such 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 authorized to do business in California, in good standing with the Secretary of State, and in good standing with all agencies having jurisdiction over Consultant (including any licensing agencies). If Consultant is a suspended entity 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 and the matters contemplated herein. This Agreement supersedes all prior negotiations, representations or agreements (in each case, whether oral or in writing). All exhibits attached hereto are incorporated by reference herein.

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

**12.15 Expenses for Enforcement.** Consultant 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.

**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.

*[Signature Page to Follow]*



As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

**City of Tracy, a Municipal Corporation**

By: \_\_\_\_\_  
Dan Arriola  
Title: Mayor  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
April B. A. Quintanilla, City Clerk


Approved as to form:

\_\_\_\_\_  
L. David Nefouse, City Attorney

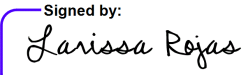
Exhibits:

- A Scope of Work
- B Compensation

**EMTS, Inc., a California Stock Corporation**

DocuSigned by:  
By:  \_\_\_\_\_  
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Derik Jakusz  
Title: Chief Executive Officer  
Date: 10/13/2025 | 1:10 PM EDT

Federal Employer Tax ID No. 26-0860415

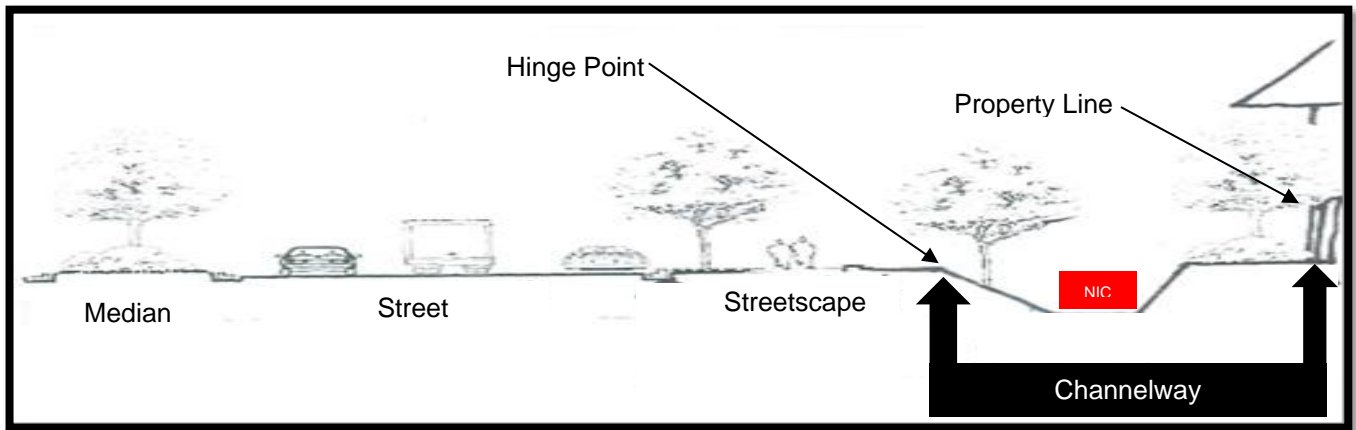
Signed by:  
By:  \_\_\_\_\_  
90E9CEGD62294E4...  
Larissa Rojas  
Title: Chief Financial Officer  
Date: 10/13/2025 | 3:42 PM PDT

## EXHIBIT A - Scope of Work

### SCOPE OF SERVICES

#### SECTION 1: DEFINITIONS

1. Aeration: Core aeration of turf by removing plugs of soil. At the completion of aeration, all attempts shall be taken to break down the cores (i.e. mow the lawn).
2. Basin: The basin is from the top of slope to the basin floor. The basin floor is currently not part of the landscape maintenance scope.
3. Channelway: The channelway is from the top of slope near the pedestrian bike path to the City property line. The channelway flowline is currently not part of the landscape maintenance scope.



4. City: City's authorized representative.
5. Community Facility Districts: specially funded area referred to as "CFD."
6. Extra Services: Requested services beyond the current Scope of Services contained within the Agreement (separate from "New Area"). Cost to be determined based upon contracted labor rate plus materials.
7. Erosion Control: The practice of incorporating measures that prevent erosion.
8. General Cleanup: Removal of debris, litter, refuse, shrub trimmings, grass clippings from walkways, branches, tools and equipment, or any obstruction not part of the designed landscape plan.
9. Hardscape: Non-living landscape in the public right-of-way that provides aesthetic and functional benefits to the public such as sports courts, pedestrian/bike paths, stamped concrete, pavers, decomposed granite, and cobble.
10. IPM: Integrated Pest Management techniques for weed and pest control. Includes the use of cultural techniques, biological controls and pesticides to manage/prevent infestations and reduce pesticide usage.
11. Landscape Maintenance District: Specially funded area referred to as "LMD."
12. Median: The dividing area, either hardscaped (such as cobble or concrete) or landscaped, between opposing lanes of traffic and include turning lanes.
13. New Area: Existing area not included in RFP, either by error or new development resulting in additional landscaping and improvements added to the agreement (not renovations of existing area).
14. NIC: Not in Contract.
15. PSA: Professional Services Agreement.

16. Public Right-of-Way Area (ROW): Not considered private property which the City owns and is accessible to the public for travel either by walking, bicycling, or driving.
17. Streetscape: Any combination of turf, tree planters, shrubs, and groundcover, along or within, a public right-of-way street.
18. Safety Cleanup: Trimming of shrubs, groundcovers, or trees that are obstructing path of travel; vehicular/pedestrian lines of vision to safety traffic signs and control signals; removal of hazards such as glass or other harmful debris within children's play areas and parks; keeping sidewalks free from slime/algae.
19. Service Level "A": The goal of this service level is to provide landscaping that is aesthetically appealing that is neat, clean, and green.
20. Service Level "B": The goal of this service level is to provide landscaping where there is some visible level of litter and weed accumulation, and plants may appear less tidy.
21. Service Level "C": The goal of this service level is to provide landscaping where there is visible level of litter, weed, and web accumulation, and plants removed.
22. Shrubs/Groundcover: Area consisting of shrubs and/or other living groundcover, other than lawn or trees.
23. Turf or Lawn: Irregular or regular shaped grass area.
24. Zone: Geographic area within the LMD.

## **SECTION 2: SUMMARY DESCRIPTION OF WORK**

1. General Scope Summary: All labor, equipment, materials, supervision, and appropriate disposal of debris to perform consistent landscape maintenance throughout the city shall be the responsibility of the contractor.
2. Maintenance Standard Summary: The intent of this Scope of Services is to establish a level of maintenance that will present an attractive and desirable landscape appearance at all times, as outlined in the Service Level section. This will be accomplished by keeping plants, lawn, and other vegetation in a healthy, well-kept, and safe state at all times. The landscaping maintenance work required consists of ROW, streetscapes, medians, channelways, and parks. To accomplish the City's objective, services will include, but are not limited to, the following:
  - a. Fertilizing and aerating; and
  - b. Trimming/pruning and training of shrubs; and
  - c. Pest and disease control; and
  - d. Mowing, edging, aerating; and
  - e. Weed control, including herbicide applications; and
  - f. Debris and litter removal, including removal of hazardous items, debris, and waste in the entirety of the park; and
  - g. Leaf pick-up; and
  - h. Climbing vine and groundcover maintenance; and
  - i. Ensure proper pedestrian and vehicle clearance; and
  - j. Keeping all gutters, curbs, turn lane noses, parking lots, and pedestrian/bike paths adjacent to Agreement areas free of weeds, trash, leaves, and other debris; and
  - k. Removing fallen tree limbs, widowmaker, hazardous vegetation, dead plant material, and any other debris from landscaped areas; for hazardous trees identify and report trees that are dead, dying, diseases, have structural deficiencies, or any other issue; and
  - l. Restroom re-stocking and cleaning; and



- m. Providing updates on City's internal service request system within two (2) business days of notification on work orders assigned by City; and
- n. Providing weekly written report from the Contractor's Landscape Supervisor describing the deficiencies of work not performed; and
- o. Erosion control, including but not limited to, improving soil health (roughening soil and decompaction), providing long term soil cover (mulching, composting, netting, and seeding), and sediment control (fiber rolls and compost socks).

### **SECTION 3: PERMITS AND LICENSES**

The Contractor(s) shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental for the performance of the work, and shall obtain such permits, licenses, and other authorizations in sufficient time to prevent delays of the work. In the event that the City has obtained permits, licenses, or other authorizations applicable to the work, the Contractor(s) shall comply with the provisions of said permits, licenses and other authorizations.

- 1. City Business License: Prior to beginning any service that shall be furnished under this specification, the Contractor shall secure the appropriate Business License from the City of Tracy. Business License information may be obtained at <https://tracy.hdlgov.com/> or by calling (209) 826-1827.
- 2. Contractor's License: If the Contractor is furnishing any labor or service, including installation or maintenance, the Contractor shall possess the appropriate California Contractor's license(s) at the time the proposal is submitted. A contract shall not be awarded to a Contractor that does not possess the appropriate Contractor's License. The appropriate Contractor's License is that specified in this request, or if not specified, that which is otherwise required by law, and qualifies the Contractor(s) to do business in the State of California.
- 3. C-27 – Landscaping License: A landscape contractor constructs, maintains, repairs, installs, or subcontracts the development of landscape systems and facilities for public and private gardens and other areas which are designed to aesthetically, architecturally, horticulturally, or functionally improve the grounds within or surrounding a structure or a tract or plot of land. In connection therewith, a landscape contractor prepares and grades plots and areas of land for the installation of any architectural, horticultural, and decorative treatment or arrangement.
- 4. Qualified Applicators License: Person [business] who has qualified by examination in one or more pest control categories to supervise the pesticide applications made by a pest control business licensed pursuant to sections 11701 to 11709, inclusive of the Food and Agricultural Code, and who is responsible for safe and legal operations under such license.

### **SECTION 4: GENERAL PREVAILING RATE OF PER DIEM WAGES**

The work contemplated by this contract is a public work subject to prevailing wages under California Labor Code Section 1770 et. seq. The successful Contractor(s) will be required to pay not less than the prevailing rate of per diem wages as determined by the California Department of Industrial Relations in effect on the date the work is performed.

### **SECTION 5: PRE-WORK CONFERENCE**

Subsequent to the execution of the project, the City shall designate a date and time for pre-work conference. The Contractor(s) will, at the pre-work conference, present:

- 1. A project schedule; and

2. Contacts for managerial staff including a 24-hour contract assigned to the project; and
3. A list of material suppliers; and
4. Traffic control plan required in accordance with CMUTCD, Title 13, SB 198 and CAL/OSHA.

## **SECTION 6: BOND OR DEPOSIT**

Contractor performance of the Agreement shall be secured by way of Contractor(s) issuing a bond or a cash deposit equal to six months of service. City shall be entitled to use the bond or deposit amount to cause the uncompleted work to be performed by its own forces and/or by a third party. Within 30 days after termination of the Agreement, if no uncured default exists, Contractor(s) will be refunded any unused balance of the deposited amount without interest.

## **SECTION 7: QUANTITIES**

The estimate of work to be performed, Attachment D, is approximate and subject to change. The City does not expressly or by implication agree that the actual amount of work will correspond therewith but reserves the right to increase or decrease the amount of any portion of the work or to omit portions of the work that may be deemed reasonably necessary by the City to conform with the standards contained in the Agreement or within fiscal constraints.

Where area of vegetation has been modified, quantities may be adjusted, and compensation modified accordingly.

## **SECTION 8: WORK HOURS**

Every effort should be made to complete work Monday through Friday. Working hours must comply with applicable laws, codes, and/or ordinances. Weekend and holiday work is acceptable; advance notice is required, and the appropriate City representative (i.e. Operations Park Superintendent) must authorize all weekend and holiday work.

## **SECTION 9: SOLICITATION OF WORK / OUTSIDE WORK**

Contractor(s) is prohibited from using any of its crew, including direct or line level supervisory staff, assigned to perform work under the Agreement, to solicit or perform work for private parties outside of the City Agreement during the hours, including lunch and break times, that they are scheduled to be executing any part of the City Agreement. Contractor's equipment and/or vehicles assigned to executing any part of the City Agreement may not be used for any residential or commercial work outside of the City Agreement at any time within City limits during the hours of work scheduled under the City Agreement, including lunch and other breaks.

## **SECTION 10: PRESERVATION OF PROPERTY AND UTILITIES**

1. General: Due care shall be exercised to avoid damage to existing roadway improvements or facilities, utility facility, adjacent property, and roadside trees and shrubbery.
2. Provider Responsible to Replace Plant Material: The Contractor(s) shall replace at the same size and shape, at Contractor's own expense, any lawn, groundcover, trees, shrubs, or other plant materials requiring replacement through negligent acts resulting from Contractor's failure to provide maintenance in accordance with the provision herein. All plant materials replaced or provided by the Contractor(s) shall be warranted by the

Contractor(s) to be of good quality, healthy, and disease-free for one year from the date of planting. Plant materials not replaced by established date given by the City may be replaced by the City and the cost of labor and materials deducted from Contractor's monthly payment. All existing pipes, conduits, sewer drains, curbs, surveying monuments, valve boxes, irrigation parts, pedestrian/bike paths, and other structures and amenities shall be carefully protected from damage by the Contractor(s), and in case of damage, the damage shall be immediately reported to the City who shall oversee the restoration at the Contractor's expense.

3. Utilities: The Contractor(s) is required to take due precautionary measures to protect the existing improvements and any other utilities, irrigation system components, structures, or amenities found at the site. Contractor(s) shall be responsible to protect existing storm drain systems free from any landscaping material and shall not deposit any landscaping material into existing storm drain system. If Contractor(s) deposits landscaping material into existing storm drain system, the material will need to be removed by the Contractor(s) immediately. Should the Contractor(s) fail to remove the materials, the City will perform the removal at the Contractor's expense.

## **SECTION 11: DUST AND NOISE CONTROL**

At all times, the Contractor(s) shall comply with the City's Dust Control and Noise Ordinances. (Sections 7.24.010 and 4.12.810 respectively in the Tracy Municipal Codes)

The Contractor(s) shall be responsible for furnishing all labor, materials, tools, equipment, and incidentals for doing all work involved in controlling and preventing the formation of an airborne dust nuisance by watering as required by the City, to treat the site of the work in such a manner that it will confine dust particles to the immediate surface of the work.

The Contractor(s) shall make every reasonable effort to control noise generated as a result of this landscape maintenance to the satisfaction of the City. The Contractor must adhere and comply with all applicable ordinances.

## **SECTION 12: DISPOSAL OF MATERIAL**

Unless otherwise specified, all materials shall become property of the Contractor(s) and disposed of by the Contractor(s) at the Contractor's expense. Contractor(s) shall be responsible for disposing all excess materials in a safe and legal manner. No material shall be placed on private property or public property without prior approval from the City and the property owner. The Contractor(s) shall not allow any refuse to be disposed upon paved streets or into the City's storm drain system.

Contractor(s) shall take all clippings and refuse to the Tracy Material Recovery Facility (MRF) and Solid Waste Transfer Station at 30703 South MacArthur Drive and/or use the refuse disposal services of Tracy Disposal to be included in the composting of yard waste per City Franchise Agreement. The Service Provider shall be charged prevailing dumping fees at the Tracy MRF.

## **SECTION 13: WORK ORDER SYSTEM**

The Contractor(s) shall be required to access, respond to, and update customer requests on the City's internal service request system. Contractor shall submit images through the service



request system of completed work. Each request will be closed by the City's representative following the review and approval of the service performed.

If the requested work is outside of the scope of normal services herein identified, the Contractor(s) must provide the City a written proposal and get City approval for the extra work prior to initiating the task. If the requested work is within the scope of normal services, the Contractor(s) will remedy the item as prioritized by the City.

## **SECTION 14: PROGRESS MEETINGS AND REPORTS**

### **1. Work Program**

- a. Each month, the Contractor(s) shall provide a schedule with the days of the week and work to be performed at all locations.
- b. The Contractor(s) shall perform the work in accordance with the schedule and will immediately notify the City of the scheduled work that cannot be performed. The notification will include a new date of completion (no more than seven business days) for the task and no additional cost will be assessed to the City.
- c. The Contractor(s) will attend weekly progress meetings and other meetings that will be scheduled by the City. City reserves the right to make changes to frequency and location of meetings. The Contractor(s) shall be responsible for developing a formal agenda for such progress meetings and send meeting minutes within 48-hours.

### **2. Form Submittals: The Contractor(s) will submit the following forms to the City as specified below:**

- a. Work Schedule: A monthly work schedule calendar will be submitted to the City by the Contractor's Supervisor.
- b. Pesticide Application Record: All legally required local and State pesticide related reporting remains the responsibility of the Contractor(s). A copy of all legally required forms shall be submitted to the County and a copy to the City's authorized representative on a monthly basis. Additionally, notification to the City's representative is required 72 hours prior to any pesticide application.
- c. Notification of Problem or Repair: Notification shall be submitted to the City's authorized representative immediately of the discovery of a problem or needed repair via email and City work order system.
- d. Certified Payroll Records: Contractor(s) must submit certified payroll records electronically directly to the Department of Industrial Relations (DIR) and furnish the City with certified payroll records, as requested. The City will not forward records on the Consultant's(s) behalf to the DIR.

## **SECTION 15: PROVISIONS FOR EXTRAS**

No extra work of any kind will be considered unless a separate estimate is given in writing for said work and the estimate is approved in writing by the City's authorized representative or designee before the work is commenced. Verbal authorizations will not be permitted.

## **SECTION 16: INSPECTION AND CORRECTIVE WORK**

The Contractor(s) shall perform the work described herein to the satisfaction of the City. The City may make inspections of the work at any time and request the Contractor(s) make corrections to any work that does not meet the standards outlined in this Scope of Services and Work Service Levels.

If corrective work is required, the City shall provide the Contractor(s) with a written list of items that need correcting, and the Contractor(s) shall make the necessary corrections within the time frame(s) established by City. If the corrections are not made, billing adjustments for incomplete or uncorrected work shall be permanent retention of 100% of the estimated monthly cost for the work not corrected or completed.

Repeated failures to provide services at the standards stated in these specifications, or failure to respond to requests for corrective work, may result in the termination of the Agreement.

## **SECTION 17: ACCEPTABILITY OF WORK PERFORMED**

All work must be reasonably acceptable to the City, or Contractor(s) shall re-perform the work until it is acceptable, at no further cost to the City. There shall be a weekly meeting at a designated site provided by the City with Contractor(s) and a City representative, to certify the accomplishment of work. Any specific problem area which does not meet the conditions of the specifications set forth herein will be called to the attention of the Contractor(s) along with action required to satisfy the specifications.

The Contractor shall provide a weekly agenda for these meetings and allow the City a minimum of 48-hours to add agenda items for the weekly meeting. A standing agenda item shall be the Contractor providing a weekly checklist of completed work along with photo documentation of all areas worked, minimum of two (2) photos per area worked representative of the entire area and from opposite ends of the area worked. The Contractor's supervisor shall review and sign off on the work. At the completion of the meeting, the checklist and images shall be turned over to the City for authenticity.

## **SECTION 18: WORKFORCE, SAFETY, WORKMANSHIP, SUPERVISION, AND DAMAGES**

Contractor(s) shall provide sufficient labor at all times to carry out the Project properly and shall ensure that fully experienced competent licensed workers (if applicable) who are skilled in the type of work required are employed. Contractor(s) shall ensure that supervision is provided at all times while any work under this contract is being performed. If, in the judgment of the City, any person is incompetent or disorderly, Contractor(s) shall promptly remove such person from the work for the duration of the contract.

The Contractor(s) shall take all necessary precautions for the safety of employees on the workforce to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed. The Contractor(s) shall provide and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of workers and the public and shall post appropriate signs warning against hazards created by such features of landscape maintenance. All work to be done in accordance with CMUTCD, Title 13, SB 198 and CAL/OSHA.

Where landscaping maintenance may create potential or known hazards on streets or roads and to persons traveling them, Contractor(s) shall obtain at its own expense, and place whatever signs, lights, barricades, or other safety devices as necessary to prevent accidents, injuries, or damages, consistent with the City, County, and CMUTCD (Traffic Control Handbook). An annual traffic control plan for encroachment in the right-of-way, including an obstruction to pedestrian and bicycle traffic, for review and approval by the City. All operations will be conducted so as to provide maximum safety for the public, City staff, and Contractor(s).

The Contractor's Supervisor will have control of all work crews assigned to perform work under this Scope of Service. The Contractor's Supervisor or Foreman is to be assigned to this project only and is to be available to the City during working hours.

If Contractor(s) damages any property belonging to the City, including landscaping, irrigation, equipment, trees, etc., the City may either retain from the money due to Contractor(s) an amount sufficient to repair the damage or require Contractor(s) to repair the damage to the satisfaction of the City at Contractor's cost.

Replacement of all plant materials, shrubs, ground cover, mulch, pebble, bark, and/or other materials or amenities due to Contractor's negligence shall be the responsibility of the Contractor(s) and should be replaced within ten (10) days of damage, unless plant material is unavailable. Damage to irrigation system components shall be immediately repaired with City approval of repairs.

Any damage to plant material by rodents that have been neglected to be controlled by Contractor(s) shall be replaced by Contractor, at same size and shape, at no additional cost to the City.

If Contractor(s) is unable to complete repair, work shall be performed by City forces and deducted from monthly payment for services.

Plants that are destroyed by vandalism or due to no fault of the Contractor(s), shall be the responsibility of the City. Contractor(s) must notify City via work order system or email immediately.

## **SECTION 19: STORAGE OF MATERIALS**

A location for staging and storing of equipment and trucks shall be located within 50 miles of Tracy city limits. Contractor(s) will notify the City of location and/or changes to location.

## **SECTION 20: PERSONNEL QUALIFICATIONS AND CONDITIONS**

1. Contractor's Employees: The Contractor(s) shall employ sufficient, properly trained personnel, to perform all of the work outlined in this Scope of Services. This shall include pesticide applications by an individual possessing a Qualified Applicator License with the appropriate categories. The Contractor's employees assigned to this contract shall be well groomed and dressed in a uniform that clearly identifies the employee's name and company. The Contractor(s) shall provide sufficient supervisory personnel that can represent the Contractor(s) at all times. The Contractor's equipment shall also be easily identified as such and in good working manner.
2. Staffing Requirements: Contractor(s) shall provide, at all times, adequate and expert managerial and administrative supervision for its employees in the service area (see table below). Contractor(s) agrees that all persons working for or on behalf of Contractor(s) whose duties bring them upon the premises shall obey the rules and regulations that are established by the City and shall comply with the reasonable directions of its officers. Contractor(s) shall have a minimum of one supervisor/foreman assigned to the City of Tracy with a designated back up. The City must be notified within 24 hours of any change in supervision. Notification must include who the new



supervisor/foreman is and provide contact information, even if on temporary basis (i.e. vacation or sick days).

<b>Meeting Frequently &amp; Attendance</b>		
Weekly (in-person)	Monthly	Quarterly
-Salvador Mendoza, Account Supervisor	-Luis Villarruel, Division Operations Manager -Benjamin Canterbury, Branch Manager -Salvador Mendoza, Account Supervisor	-Darin Sherlock, Regional Operations Manager -Luis Villarruel, Division Operations Manager -Benjamin Canterbury, Branch Manager -Alejandro Castañeda, Production Manager -Salvador Mendoza, Account Supervisor

3. **Key Personnel:** Certain experienced professional and/or technical personnel are essential for successful accomplishment of the work to be performed under this contract. Such personnel are defined as "Key Personnel" and are those persons whose resumes were submitted for evaluation as part of the proposal. Do not remove or replace such personnel without compliance with the following:
- If one or more of the key personnel, for any reason, becomes or is expected to become unavailable for work under this contract for a continuous period exceeding 30 workdays, or is expected to devote substantially less effort to their work than indicated in the proposal or initially anticipated, promptly replace personnel with personnel of equal ability and qualifications, subject to the concurrence of the City.
  - Provide in writing a detailed explanation of the circumstances necessitating the proposed substitutions for requests for approval of substitutions. Provide a resume for the proposed substitute, and any other information requested by the City. The City will promptly notify the Contractor of approval or disapproval in writing.
  - The Contract Manager, Supervisor, and Maintenance Crew Leader must be fluent in the English language.

<b>Key Personnel</b>	<b>Qualifications / Experience</b>	<b>Responsibility</b>
Management Contact	5 years minimum experience managing contracts with public agencies in maintaining public parks, streetscapes, gardens, and other public outdoor spaces.	Responsible for the administration of the contract, ensuring requirements are performed as per contract. On all contract matters relating to daily operations of this contract, the Contract Manager is authorized to act for the Contractor.
Project Manager / Supervisor and Contract Quality Control (CQC) Manager	3 years minimum experience managing park, streetscape, garden, and other public outdoor space maintenance contracts, providing schedules, providing inspections ensuring that contract requirements are complied with, and ensuring that the work (to include that of subcontractors and suppliers) complies with the requirements of the contract.	Supervisor responsible for oversight in carrying out the contract requirements. The Supervisor and Quality Control Manager must ensure that quality control of all contract requirements and reporting are executed in a timely manner. A person responsible for overall Contractor Quality Control (CQC) management and has the authority to act in all CQC matters for the contractor and ensure compliance with contract requirements. The CQC must have a minimum of 3 years of experience in related work. The

		CQC Manager may not be the Management Contact but may serve other duties.
Maintenance Crew Leader	3 years minimum experience performing similar type of work.	Responsible for leading field crews and carrying out their supervisor's orders and ensuring crews adhere to all best management practices in place to protect themselves, the public, and the environment.

## SECTION 21: CLEANING

1. The Contractor(s) shall perform general and safety cleanup at all times.
2. Upon completion of any work, and before leaving site for remainder of the day, the Contractor(s) shall remove remaining excess materials, waste, rubbish, debris, and any construction and installation equipment from the premises.
3. Any dirt or stains caused by the work shall be properly removed.
4. No debris shall be forced to the street or catch basins/drainage inlets by blowing equipment or by any other means.
5. Contractor(s) will clean pedestrian/bike paths, roadways, and any other areas littered or soiled by its maintenance operations and/or equipment.
6. All equipment should be cleaned on a regular basis.

## SECTION 22: QUALITY CONTROL AND WORKMANSHIP

Contractor(s) is required to furnish all equipment, supplies, and materials to accomplish required maintenance to meet City objectives. The City may determine that additional maintenance is required to meet the standards set forth in this Scope of Services and will issue directives for additional action. Work shall be performed by a skilled landscape worker and supervised by a competent supervisor with experience and technically trained in landscape maintenance work in accordance to industry standards.

1. The Contractor will develop and maintain an effective Quality Control (QC) program to ensure services meet contract requirements. The contractor will develop and implement procedures to identify, prevent, and ensure non-recurrence of defective services covering all work. The QC plan is a deliverable due to the City within thirty (30) days after contract award. A comprehensive QC Plan must be submitted to the City within five (5) working days when changes are made thereafter. After the acceptance of the QC plan, the contractor must receive the City's acceptance in writing of any proposed changes. Each submittal must be reviewed by an individual with a minimum of 3 years of experience of similar scope. Contractor must have a Quality Control Manager as a member of their Key Personnel to ensure safety and contract compliance. The Quality Control Manager must be available during hours of operation and will ensure that all certifications are current, appropriate for the work being performed, and will not lapse during any period of the contract that the work is being performed.
  - a. QC Certifications: Contain the following statement within the Contractor Quality Control (CQC) Report "On behalf of the contractor, I certify that this report is complete and correct, and equipment and material used and work performed during this reporting period is in compliance with the contract to the best of my knowledge, except as noted in this report." Upon completion of work under this contract, the QC manager must furnish a certificate to the City attesting that "the work has been completed, inspected, tested, and is in compliance with the contract."





- a California Pest Control Adviser (PCA) prior to any application. A copy of all recommendations as well as all pesticide use reports will be supplied to the City and the County on a monthly basis.
  - d. Any property damage, injuries or illnesses resulting from the use of such pesticides will be the responsibility of the Contractor(s) and will be replaced within fourteen (14) days or post soil remediation.
  - e. When required by law, label or regulation, areas to be treated shall be posted by the Contractor(s). The postings shall be removed per product label, State, and County requirements.
3. Irrigation.
- a. The City is responsible for controller and irrigation scheduling, programming and repairs. The City will provide a schedule of irrigation that is conducive to the maintenance schedule proposed.
  - b. The Contractor(s) shall immediately report, in writing, via email and work order system, over watering, lack of watering, or irrigation system concerns to the City. In addition, Contractor shall mark/flag concerned areas.
  - c. City will notify Contractor(s) of any changes to irrigation schedule.
4. City to be notified through work order system of any broken stakes or tree tries. Repairs to be made by City staff.
5. Any maintenance vehicles regularly used by the Contractor(s), or those persons representing the Contractor's company, shall be in proper working order and in a good state of repair. Vehicles shall clearly present the Contractor's company sign on both front doors which include the company name and telephone number of the local office. Vehicles will also be equipped with traffic warning beacon lights per Title 13, Article 21 and CMUTCD. Vehicles shall be kept reasonably clean and professional in appearance.

### **SECTION 23: EXTRA WORK**

Extra work will not be performed without prior approval by the City unless a condition exists wherein it appears there is an immediate safety concern, danger or injury to Contractor(s), City staff, public, or damage to property.

### **SECTION 24: SEASONALITY DISCLAIMER**

The frequency of maintenance tasks in Section 25: Service Levels Minimums, reflects average expectations based on seasonal growth patterns typical for this region. The Contractor is expected to adjust service levels accordingly throughout the year to maintain all areas in a consistently clean, healthy, and well-groomed condition. For example, mowing is typically performed weekly from March through November and reduced in frequency during cooler months. All pricing should reflect an annual average costs accounting for these seasonal variations in service needs.

## SECTION 25: SERVICE LEVELS MINIMUMS

TASK	DESCRIPTION	LEVEL A	LEVEL B	LEVEL C
<b>TURF</b>				
Litter	Litter/debris removed prior to commencing any maintenance work.	Weekly	Bi-Weekly	Bi-Weekly
Mowing	3" cut; altered mowing patten; no scalping, ruts, or compaction tracks.	Weekly	Bi-Weekly	Bi-Weekly
Hard Edging	Site completely groomed: curbs, sidewalks, planter beds, building, etc.	Bi-Weekly	Bi-Weekly	Monthly
Soft Edging	Site completely groomed: tree wells, sprinklers, valve boxes, meter boxes, etc.	Bi-Weekly	Monthly	Monthly
Vertebrates	Signs of stress, damage, or bother to public shall be corrected.	Weekly	Bi-Weekly	Monthly
Leaf Removal	Remove all leaves and twigs during leaf season.	Weekly	Bi-Weekly	Bi-Weekly
Weed Control	Free of weeds. Broadleaf spray.	2x per year	1x per year	Extra Service, Per City Request
Fertilizing	February – October; Annual soil test prior to application; Comply with test results; Micro-nutrients may be required; No additives/materials causing staining.	Park: 2x per year ROW: 1x per year	Park: 1x per year ROW: Extra Service, Per City Request	Park & ROW: Extra Service, Per City Request
Aeration	Core aerating turf and breaking down dried cores (i.e. mowing).	Park: 2x per year	Park: 1x per year	Park: Extra Service, Per City Request
Soil Test	Pull cores and send to certify lab; provide City with results.	1x per year	Extra Service, Per City Request	Extra Service, Per City Request
Re-seeding/Sod Replacement	Update on overall health.	Extra Service, Per City Request	Extra Service, Per City Request	Extra Service, Per City Request
<b>PLANTER BEDS, SHRUBS, GROUND COVER, VINES</b>				
Litter	Litter/debris removed prior to commencing any maintenance work.	Weekly	Bi-Weekly	Bi-Weekly
Weed Control	Free of weeds. Broadleaf spray.	Weekly	Bi-Weekly	Monthly
Vertebrates	Signs of stress, damage, or bother to public shall be corrected.	Weekly	Bi-Weekly	Monthly
Removal	Notify City of removals.	Weekly	Bi-Weekly	Monthly
Leaf Removal	Remove all leaves and twigs during leaf season.	Weekly	Bi-Weekly	Bi-Weekly
Trimming Ground Cover	Meet intent of design; plant growth shall not extend beyond curbs, sidewalks, buildings, or turf areas.	Weekly	Bi-Weekly	Monthly
Trimming Planter Beds/Shrubs	Meet intent of design; plant growth shall not extend beyond curbs, sidewalks, buildings, or turf areas.	3x per year	2x per year	1x per year
Trimming Vines	Meet intent of design (i.e. 3ft from top of wall); vines growth shall not exceed top of wall.	2x per year	1x per year	Extra Service, Per City Request
Fertilizing	February – October; Balanced fertilizer approved by City; Micro-nutrients may be required; No additives/materials causing staining.	2x per year	1x per year	Extra Service, Per City Request
Maintain Mulch	Keep mulch contained to planted areas, evenly distributed, in a neat and orderly appearance.	Weekly	Bi-Weekly	Monthly
Stabilize Soil	Stabilize and restore all disturbed soil areas, rills, ruts, gullies, and other observed erosion in planting beds with erosion control treatments that blend into their environment and fit their context.	Extra Service, Per City Request	Extra Service, Per City Request	Extra Service, Per City Request

TASK	DESCRIPTION	LEVEL A	LEVEL B	LEVEL C
<b>HARDSCAPES</b>				
Paved/Unpaved Surfaces	Sports courts; pathways; sidewalks; parking lots; areas topped with asphalt, pavers, sand, decomposed granite, concrete or rubberized surfacing free of weeds, litter/debris, pests, and leaves, etc.	Weekly	Bi-Weekly	Bi-Weekly
<b>TREES</b>				
Weed Control	Plant material kept minimum 2 ft away from trunk base.	Quarterly	Semi-Annually	Annually
Trimming	All traffic control devices & signs clearly visible; keep all traffic lanes, bike paths, & walkways cleared; pedestrian paths 8 ft; bike paths 12 ft; roadways/vehicle lanes 14 ft.	3x per year	Semi-Annually	Annually
Reporting	Notify City through work order system of broken stakes or tree ties. For hazardous trees identify and report trees that are dead, dying, diseased, have structural deficiencies, or any other issues.	When servicing area	When servicing area	When servicing area
Maintain Mulch	Keep mulch contained to planted areas, evenly distributed, in a neat and orderly appearance; Maintain 2 feet bark around tree; 2-inch clearance from trunk.	Bi-Weekly	Monthly	Quarterly
<b>RESTROOMS</b>				
Cleaning & Re-Stocking	Remove all debris and trash; sanitize all urinals, toilets, sinks, stalls; wash off floors and walls; deodorize floor drain; re-stock.	4x per week (M, Th, Sa, Su)	3x per week (M, Th, Sa)	2x per week (M, Sa)
<b>CHANNELWAYS / BASIN</b>				
Shrubs & Weed Control	Remove all debris, growth, & potential water flow obstructions; ensure vegetation does not create inhabitable/inviting area.	3x per year	2x per year	1x per year
Stabilize Soil	Stabilize and restore all disturbed soil areas, rills, ruts, gullies, and other observed erosion in channelways & basins with erosion control treatments that blend into their environments and fit their context.	Extra Service, Per City Request	Extra Service, Per City Request	Extra Service, Per City Request
<b>IRRIGATION</b>				
Reporting	Notify City through work order system of broken, damaged, and/or malfunctioning irrigation.	When servicing area	When servicing area	When servicing area



## EXHIBIT B - Compensation

Annually, the City will identify service levels based on available funding per area utilizing the below annual rates. This price sheet shall be utilized for existing, revised, updated, and/or new areas added.

The below price sheet are annual rates:

Category	Unit of Measurement	Cost: Service Level A	Cost: Service Level B	Cost: Service Level C
Turf	Square Feet	\$0.13608	\$0.09588	\$0.06864
Planter Beds, Shrubs, Ground Cover, Vines	Square Feet	\$0.33240	\$0.19716	\$0.14760
Median	Square Feet	\$0.52272	\$0.30372	\$0.22644
Weed Abatement	Square Feet	\$0.01872	\$0.01128	\$0.01128
Channelway / Basin	Square Feet	\$0.03288	\$0.02136	\$0.01284
Restroom	Each Park	\$8,358.00	\$6,564.00	\$5,667.00

Fee Schedule for Additional Services:

Labor	Unit	Unit Cost
Landscape Maintenance Labor	Hourly	\$45.00
Skilled Labor (Irrigation Tech)	Hourly	\$65.00
Enhancement Labor	Hourly	\$47.00
Field Supervisor	Hourly	\$85.00
Emergency/Off Hour Response	Hourly	\$125.00
Directed Extra Work	Unit	Unit Cost
Mowing, Edging, Blowing	Per Acre	\$400.00
Fertilization – Parks	Per Acre	\$365.00
Fertilization – Streetscapes	Per Acre	\$300.00
Chemical Application – Parks	Per Acre	\$600.00
Chemical Application – Streetscapes	Per Acre	\$400.00
Core Aerification & Clean-Up – Parks	Per Acre	\$475.00
Core Aerification & Clean-Up – Streetscapes	Per Acre	\$385.00
Disking	Per Acre	\$320.00
Rough Mowing	Per Acre	\$350.00
Shrub Planting – 5 gal	Each	\$32.50
Shrub Planting – 1 gal	Each	\$17.50
Sod Preparation and Installation	Per SqFt	\$4.50
Overseeding	Per Acre	\$670.00
Mulch Installation – Small Areas (up to 10 CY)	Per Yard	\$100.00
Mulch Installation – Large Areas (over 10 CY)	Per Yard	\$90.00
Post & Cable Replacement	Per Linear Foot	\$190.00
Tree Planting 15 gal w/ stakes	Each	\$230.00
Tree Planting – 24" Box	Each	\$450.00
Tree Planting – 36" Box	Each	\$1,200.00

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH ELITE MAINTENANCE & TREE SERVICE, INC. FOR LANDSCAPE MAINTENANCE SERVICES PRIMARILY WITHIN THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT, COMMUNITY FACILITIES DISTRICTS, AND GENERAL FUND ARTERIALS, FOR A NOT-TO-EXCEED AMOUNT OF \$2,500,000 PER FISCAL YEAR AND AUTHORIZING THE CITY MANAGER TO GRANT UP TO FOUR (4) ONE-YEAR EXTENSIONS.**

**WHEREAS**, the City of Tracy (City) has over 250 acres of landscape areas, including turf, shrubs, groundcovers, medians, parks, channelways, and stormwater basins where landscaping is present; and

**WHEREAS**, these areas are primarily located within the Tracy Consolidated Landscape Maintenance District (LMD), Community Facilities District (CFD) 2016-2 (Ellis Services), CFD 2021-2 (Citywide Services), and the General Fund arterials; and

**WHEREAS**, the City employs a hybrid maintenance model for its LMD and CFD areas to ensure both efficiency and quality of care; and

**WHEREAS**, City staff primarily manage irrigation systems and high-value amenities, while a professional contractor is responsible for comprehensive landscape maintenance over 250+ acres; and

**WHEREAS**, on July 15, 2025, staff issued a Request for Proposals (RFP) for streetscape, park, and channelway landscape maintenance services; and

**WHEREAS**, the RFP was posted on the City's website, and six (6) proposals were received by the deadline of September 9, 2025; and

**WHEREAS**, after a comprehensive evaluation process and subsequent interviews, staff concluded that Elite Maintenance & Tree Service, Inc. (EMTS) best met the City's operational needs and demonstrated the expertise, capacity, and professionalism required for successful contract performance; and

**WHEREAS**, staff recommends entering into a Professional Services Agreement (PSA) with EMTS for a total not-to-exceed amount of \$2,500,000, which allows for future growth and development as the City increases its landscape footprint; and

**WHEREAS**, funding for this PSA is from a combination of budgets, including LMD (Fund 271), CFD 2016-2 (Fund 272), CFD 2021-2 (Fund 273), General Fund (Fund 101), and Storm Drain (Fund 541); and

**WHEREAS**, This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines") in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378). Specifically, this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §15378(b)(5)). Further, even if this item were deemed a "project," and therefore subject to CEQA, the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

**NOW, THEREFORE**, be it resolved as follows:

**RESOLVED:** That the above recitals are true and correct; and be it,

**RESOLVED:** The City Council hereby approves the PSA with EMTS for landscape maintenance services for a not-to-exceed amount of \$2,500,000 per fiscal year and authorizes the City Manager to grant up to four (4) one-year extensions.

**FURTHER RESOLVED:** After review and approval by the City Attorney's Office, the City authorizes the execution of the Agreement and authorizes any and all actions that may be necessary or advisable to effectuate the purposes of this Resolution.

\* \* \* \* \*

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

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
APRIL QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California



Agenda Item 1.I

RECOMMENDATION

**The Finance Committee recommends that the City Council adopt a resolution approving amendments to the City of Tracy Investment Policy.**

EXECUTIVE SUMMARY

The City Treasurer annually reviews the City of Tracy Investment Policy (Policy) for compliance with all relevant State Codes governing the investment of City funds. The Policy also was reviewed and revised by the City of Tracy's investment advisors, Chandler Asset Management (Chandler). Chandler made specific recommendations for revision of the Policy, which are reflected in Attachment A. The Finance Committee (Committee) approved changes to the investment policy at their October 13, 2025 meeting.

BACKGROUND AND LEGISLATIVE HISTORY

The City Treasurer and the City's investment advisor, Chandler, regularly discuss the status of the performance of its managed assets and compliance with the Policy. The last update to the Investment policy was in October 2023. Chandler has confirmed that the City's Investment Policy is compliant with the provisions of California Government Code Section 53600 (Code) and the Tracy Municipal Code; however, they are making recommendation to conform to Code (See Attachment B: Chandler Asset Management memorandum).

On October 13, 2025 the Finance Committee reviewed and recommended approval of the changes to the investment policy.

ANALYSIS

Chandler made several recommendations to bring the Policy in-line with California Government Code 53601 et seq. and to conform to best practices. Among the changes recommended by Chandler are:

**Update to eligible authorized financial institutions, depositories, and broker dealer's section:**

- California Government Code Section 53601.5 describes the types of financial institutions that California local governments may transact with when placing investments.

**Authorized Investments:**

- A revision to the Municipal Securities section to differentiate investments outside of California from investments within California. Investments in State obligations are allowed from all 50 States, however, investments in local government obligations are only allowed from local agencies within California, not other States.
- Updating language throughout the authorized investment section to reflect "total" portfolio when referencing maximum thresholds per security type to create greater clarity on how the thresholds are measured.

- Renamed CDARs section to Placement Services Deposits to reflect an update to code on this broader category. AB 2618, effective 1/1/2025 and sunseting on 1/1/2031, limits the maximum exposure to this type of investment temporarily and this update reflects this change in law and with a more accurate section title.
- Replacing LAIF section and LGIP section with one combined and updated section. The new, expanded section more effectively addresses all current and potential LGIP use by the city, in one consolidated segment. The updated language is our suggestion at best practice that includes references to all three types of LGIPs defined by the Municipal Securities Rulemaking Board (MSRB) with government code references for clarity and accuracy.

**Prohibited Investments:**

A prohibition on securities with a forward settlement date exceeding 45 days from the time of investment was added to align with code and to protect the City from questionable investment practices.

**FISCAL IMPACT**

There is no fiscal impact with the acceptance of the proposed revisions to the Policy; investment income is included in the adopted budget.

**STRATEGIC PLAN**

This agenda item supports the Governance Strategy, Goal 2: ensure continued fiscal sustainability through budgetary and financial stewardship.

**ACTION REQUESTED OF THE CITY COUNCIL**

The Finance Committee recommends that the City Council adopt a resolution approving amendments to the City of Tracy Investment Policy.

Prepared by: Sara Castro, Director of Finance

Reviewed by: L. David Nefouse, City Attorney  
Arturo M. Sanchez, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

**ATTACHMENTS**

Attachment A – Investment Policy (Redline)  
Attachment B – Chandler Asset Management Memo

# CITY OF TRACY



# INVESTMENT POLICY

**ADOPTED OCTOBER 03,  
2023XX, 2025**

**RESOLUTION 2025-XXX3-200**

**CITY OF TRACY**

**COUNCIL POLICY**

**INVESTMENT POLICY A-2**

DATE ~~JUNE 16,~~  
~~2020~~October XX, 2025

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## I. INTRODUCTION

The purpose of this investment policy is to identify various policies and procedures that will foster a prudent and systematic investment program designed to seek the City of Tracy objectives of safety, liquidity and return on investment through a diversified investment portfolio. This policy also serves to organize and formalize the City of Tracy's investment-related activities, while complying with all applicable statutes governing the investment of public funds. This policy is written to incorporate industry best practices and recommendations from sources such as the Government Finance Officers Association (GFOA), California Municipal Treasurers Association (CMTA), California Debt and Investment Advisory Commission (CDIAC) and the Association of Public Treasurers (APT).

This investment policy was endorsed and adopted by the City Council and is effective as of the ~~XX46~~<sup>16</sup>th day of ~~October, 2025~~<sup>June, 2020</sup>, and replaces any previous versions.

## II. SCOPE

This policy covers all funds and investment activities under the direct authority of the City of Tracy, as set forth in the State Government Code, Sections 53600 *et seq.*, with the following exceptions:

- Proceeds of debt issuance shall be invested in accordance with the City of Tracy's general investment philosophy as set forth in this policy; however, such proceeds are to be invested pursuant to the permitted investment provisions of their specific bond indentures.
- Any other funds specifically exempted by the City Council.

### POOLING OF FUNDS

Except for cash in certain restricted and special funds, the City of Tracy will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

## III. PRUDENCE

Pursuant to California Government Code, Section 53600.3, all persons authorized to make investment decisions on behalf of the City of Tracy are trustees and therefore fiduciaries subject to the *Prudent Investor Standard*:

“...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing,

acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the Agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”

The Treasurer and other authorized persons responsible for managing the City of Tracy’s funds acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes provided that the Treasurer or other authorized persons acted in good faith. Deviations from expectations of a security’s credit or market risk should be reported to the governing body in a timely fashion and appropriate action should be taken to control adverse developments.

#### IV. OBJECTIVES

The City of Tracy’s overall investment program shall be designed and managed with a degree of professionalism worthy of the public trust. The overriding objectives of the program are to preserve principal, provide sufficient liquidity, and manage investment risks, while seeking a market-rate of return.

- **SAFETY.** Safety of principal is the foremost objective of the investment program. Investments will be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the City of Tracy will diversify its investments by investing funds among a variety of securities with independent returns.
- **LIQUIDITY.** The investment portfolio will remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
- **RETURN ON INVESTMENTS.** The investment portfolio will be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints for safety and liquidity needs.

#### V. DELEGATION OF AUTHORITY

Authority to manage the City of Tracy’s investment program is derived from California Government Code, Sections 41006 and 53600 *et seq.*

The City Council is responsible for the management of the City of Tracy's funds, including the administration of this investment policy. Management responsibility for the cash management of the City of Tracy's funds is hereby delegated to the Treasurer.

The Treasurer will be responsible for all transactions undertaken and will establish a system of procedures and controls to regulate the activities of subordinate officials and employees. Such procedures will include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer.

The City of Tracy may engage the services of one or more external investment advisers, who are registered under the Investment Advisers Act of 1940, to assist in the management of the City of Tracy's investment portfolio in a manner consistent with the City of Tracy's objectives. External investment advisers may be granted discretion to purchase and sell investment securities in accordance with this investment policy.

The City of Tracy's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City of Tracy recognizes that in a diversified portfolio, occasional measured losses may be inevitable and must be considered within the context of the overall portfolio's return and the cash flow requirements of the City of Tracy.

## **VI. ETHICS AND CONFLICTS OF INTEREST**

All participants in the investment process shall act as custodians of the public trust. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. ~~Thus~~Thus, employees and officials involved in the investment process shall refrain from personal business activity that could create a conflict of interest or the appearance of a conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Employees and investment officials shall disclose to the Treasurer any material interests in financial institutions with which they conduct business, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking any personal investment transactions with the same individual with whom business is conducted on behalf of the Agency.

## **VII. INTERNAL CONTROLS**

The Treasurer has the authority to delegate the establishment and maintenance of an internal control structure designed to ensure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be

designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Periodically, as deemed appropriate by the City of Tracy and/or the City Council, an independent analysis by an external auditor shall be conducted to review internal controls, account activity and compliance with policies and procedures.

### **VIII. AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES, AND BROKER/DEALERS**

To the extent practicable, the Treasurer shall endeavor to complete investment transactions using a competitive bid process whenever possible. The City of Tracy's Treasurer will determine which financial institutions are authorized to provide investment services to the City of Tracy. It shall be the City of Tracy's policy to purchase securities only from authorized institutions and firms.

The Treasurer shall maintain procedures for establishing a list of authorized broker/dealers and financial institutions which are approved for investment purposes that are selected through a process of due diligence as determined by the City of Tracy. Due inquiry shall determine whether such authorized broker/dealers, and the individuals covering the City of Tracy are reputable and trustworthy, knowledgeable and experienced in Public Agency investing and able to meet all of their financial obligations. These institutions may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (uniform net capital rule).

In accordance with Section 53601.5, institutions eligible to transact investment business with the City of Tracy include:

- Institutions licensed by the state as a broker-dealer, [as defined in Section 25004 of the Corporations Code, with proof of FINRA certification](#).
- Institutions that are members of a federally regulated securities exchange.
- Primary government dealers as designated by the Federal Reserve Bank and non-primary government dealers.
- [Nationally or state-chartered banks](#).
- [Savings associations of federal associations \(as defined in Section 5102 of the Financial Code\)](#).
- The Federal Reserve Bank.
- Direct issuers of securities eligible for purchase.



Selection of financial institutions and broker/dealers authorized to engage in transactions will be at the sole discretion of the City of Tracy, except where the City of Tracy utilizes an external investment adviser in which case the Agency may rely on the adviser for selection.

All financial institutions which desire to become qualified bidders for investment transactions (and which are not dealing only with the investment adviser) must supply the Treasurer with audited financials and a statement certifying that the institution has reviewed the California Government Code, Section 53600 *et seq.* and the City of Tracy's investment policy. The Treasurer will conduct an annual review of the financial condition and registrations of such qualified bidders.

Public deposits will be made only in qualified public depositories as established by State law. Deposits will be insured by the Federal Deposit Insurance Corporation, or, to the extent the amount exceeds the insured maximum, will be collateralized in accordance with State law.

Selection of broker/dealers used by an external investment adviser retained by the City of Tracy will be at the sole discretion of the adviser. Where possible, transactions with broker/dealers shall be selected on a competitive basis and their bid or offering prices shall be recorded. If there is no other readily available competitive offering, best efforts will be made to document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price.

## IX. AUTHORIZED INVESTMENTS

The City of Tracy's investments are governed by California Government Code, Sections 53600 *et seq.* Within the investments permitted by the Code, the City of Tracy seeks to further restrict eligible investments to the guidelines listed below. In the event a discrepancy is found between this policy and ~~the~~ Code, the more restrictive parameters will take precedence. Percentage holding limits and minimum credit quality requirements listed in this section apply at the time the security is purchased.

Any investment currently held at the time the policy is adopted which does not meet the new policy guidelines can be held until ~~maturity, and~~ maturity and shall be exempt from the current policy. At the time of the investment's maturity or liquidation, such fund shall be reinvested only as provided in the current policy.

An appropriate risk level shall be maintained by primarily purchasing securities that are of high quality, liquid, and marketable. The portfolio shall be diversified by security type and institution to avoid incurring unreasonable and avoidable risks regarding specific security types or individual issuers.

1. **MUNICIPAL SECURITIES** include obligations of the City of Tracy, the State of California, ~~any obligations of the treasuries or agencies of the other 49 states,~~ and any local agency within the State of California, provided that:

- The securities are rated in a rating category of “A” or its equivalent or better by at least one nationally recognized statistical rating organization (“NRSRO”).
- No more than 5% of the portfolio may be invested in any single issuer.
- No more than 30% of the portfolio may be in Municipal Securities.
- The maximum maturity does not exceed five (5) years.

**2. MUNICIPAL SECURITIES (REGISTERED TREASURY NOTES OR BONDS) of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.**

- The securities are rated in a rating category of “A” or its equivalent or better by at least one NRSRO.
- No more than 5% of the total portfolio may be invested in any single issuer.
- No more than 30% of the total portfolio may be in Municipal Securities.
- The maximum maturity does not exceed five (5) years.

**2.3. U.S. TREASURIES** and other government obligations for which the full faith and credit of the United States are pledged for the payment of principal and interest. There are no limits on the dollar amount or percentage that the City of Tracy may invest in U.S. Treasuries, provided that:

- The maximum maturity is five (5) years.

**4. FEDERAL AGENCIES** or United States Government-Sponsored Enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City of Tracy may invest in Federal Agency or Government-Sponsored Enterprises (GSEs), provided that:

- No more than 30% ~~of the~~ of the total portfolio may be invested in any single Agency/GSE issuer.
- The maximum percent of agency callable securities in the portfolio will be 20%.
- The maximum maturity does not exceed five (5) years.

**3.5. BANKER’S ACCEPTANCES**, provided that:

- They are issued by institutions which have short-term debt obligations rated “A-1” or its equivalent or better by at least one NRSRO; or long-term debt obligations which are rated in a rating category of “A” or its equivalent or better by at least one NRSRO.
- No more than 40% of the total portfolio may be invested in

Banker's Acceptances.

- No more than 5% of the total portfolio may be invested in any single issuer.
- The maximum maturity does not exceed 180 days.

**4.6. COMMERCIAL PAPER**, provided that the securities are issued by an entity that meets all of the following conditions in either paragraph (a) or (b) and other requirements specified below:

a. **SECURITIES** issued by corporations:

- (i) A corporation organized and operating in the United States with assets more than \$500 million.
- (ii) The securities are rated "A-1" or its equivalent or better by at least one NRSRO.
- (iii) If the issuer has other debt obligations, they must be rated in a rating category of "A" or its equivalent or better by at least one NRSRO.

b. **SECURITIES** issued by other entities:

- (i) The issuer is organized within the United States as a special purpose corporation, trust, or limited liability company.
  - (ii) The securities must have program-wide credit enhancements including, but not limited to, overcollateralization, letters of credit, or a surety bond.
  - (iii) The securities are rated "A-1" or its equivalent or better by at least one NRSRO.
- ~~City of Tracy may purchase No~~ no more than 10% of the outstanding commercial paper of any single issuer.
  - No more than 25% of the total portfolio may be invested in Commercial Paper. Under a provision sunseting on January 1, 2026, no more than 40% of the total portfolio may be invested in Commercial Paper if the City's investment assets under management are greater than \$100,000,000.
  - No more than 5% of the total portfolio may be invested in any single issuer.
  - The maximum maturity does not exceed 270 days.

**5.7. NEGOTIABLE CERTIFICATES OF DEPOSIT (NCDs)**, issued by a nationally or state-chartered bank, a savings association or a federal association, a state or federal credit union, or by a federally licensed or state-licensed branch of a foreign bank, provided that:

- The amount of the NCD insured up to the FDIC limit does not require any credit ratings.
- Any amount above the FDIC insured limit must be issued by institutions which have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term obligations rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
- No more than 30% of the total portfolio may be invested in NCDs. ~~(combined~~

~~with CDARS).~~

- No more than 5% of the total portfolio may be invested in any single issuer.
- The maximum maturity does not exceed five (5) years.

**6.8. FEDERALLY INSURED TIME DEPOSITS** (Non-Negotiable Certificates of Deposit) in state or federally chartered banks, savings and loans, or credit unions, provided that:

- The amount per institution is limited to the maximum covered under federal insurance.
- No more than 20% of the portfolio will be invested in a combination of federally insured and collateralized time deposits.
- The maximum maturity does not exceed five (5) years.

**7.9. COLLATERALIZED TIME DEPOSITS** (Non-Negotiable Certificates of Deposit) in state or federally chartered banks, savings and loans, or credit unions in excess of insured amounts which are fully collateralized with securities in accordance with California law, provided that:

- No more than 20% of the total portfolio will be invested in a combination of federally insured and collateralized time deposits.
- The maximum maturity does not exceed five (5) years.

**8.10. ~~CERTIFICATE OF DEPOSIT~~ PLACEMENT SERVICE ~~DEPOSITS (CDARS)~~**, provided that:

- No more than 30% of the total portfolio may be invested in qualifying placement service deposits, a combination of Certificates of Deposit, including CDARS.
- The full amount of each deposit along with accrued interest must at all times be insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
- Under a provision sunseting on January 1, 2031, no more than 50% of the portfolio may be invested in deposits through a placement service, including Certificates of Deposit, if the Agency is a city, district, or local agency that does not pool money with other local agencies.
- The maximum maturity does not exceed five (5) years.

**9.11. COLLATERALIZED BANK DEPOSITS.** City of Tracy's deposits with financial institutions will be collateralized with pledged securities per California Government Code, Section 53651. There are no limits on the dollar amount or percentage that the City of Tracy may have in these deposits.

**10.12. REPURCHASE AGREEMENTS** collateralized with securities authorized under California Government Code, and maintained at a level of at least 102% of the market value of the Repurchase Agreement. There are no limits on the dollar amount or percentage that the City of Tracy may invest, provided that:



- Securities used as collateral for Repurchase Agreements will be delivered to an acceptable third party custodian.
- Repurchase Agreements are subject to a Master Repurchase Agreement between the City of Tracy and the provider of the repurchase agreement. The Master Repurchase Agreement will be substantially in the form developed by the Securities Industry and Financial Markets Association (SIFMA).
- The maximum maturity does not exceed one (1) year.

### 13. LOCAL GOVERNMENT INVESTMENT POOLS (LGIP)

- State of California Local Agency Investment Fund (LAIF), created by California Government Code Section 16429.1, provided that:
  - The Agency may invest up to the maximum amount permitted by LAIF.
  - LAIF's investments in instruments prohibited by or not specified in the Agency's policy do not exclude the investment in LAIF itself from the Agency's list of allowable investments, provided LAIF's reports allow the Designated Official to adequately judge the risk inherent in LAIF's portfolio.
- Shares of Beneficial Interest Issued by a Joint Powers Authority (JPA), provided that:
  - The JPA is organized pursuant to California Government Code Section 6509.7 and invests in the securities and obligations authorized in subdivisions (a) to (r), inclusive.
  - Each share shall represent an equal proportional interest in the underlying pool of securities owned by the JPA.
  - The JPA has retained an investment advisor who is registered with the SEC (or exempt from registration), has assets under management in excess of \$500 million, and has at least five years' experience investing in instruments authorized by Section 53601, subdivisions (a) to (q).
- Other Local Government Investment Pools (LGIP)
  - Other LGIPs permitted by the agency (such as a County Pool as defined by California Government Code Section 27000.3).
  - No more than 20% of the total portfolio may be invested in LGIPs other than LAIF and JPAs.

### ~~11. STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND (LAIF), provided that:~~

- ~~• The City of Tracy may invest up to the maximum amount permitted by LAIF.~~
- ~~• LAIF's investments in instruments prohibited by or not specified in the City of Tracy's policy do not exclude the investment in LAIF itself from the City~~

~~of Tracy's list of allowable investments, provided LAIF's reports allow the Treasurer to adequately judge the risk inherent in LAIF's portfolio.~~

## ~~12. LOCAL GOVERNMENT INVESTMENT POOLS~~

- ~~• Other LGIPs permitted by the City.~~
- ~~• There is no issuer limitation for Local Government Investment Pools~~

### ~~13.14.~~ **CORPORATE MEDIUM TERM NOTES (MTNs)**, provided that:

- The issuer is a corporation organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.
- The securities are rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
- No more than 30% of the total portfolio may be invested in MTNs.
- No more than 5% of the total portfolio may be invested in any single issuer.
- The maximum maturity does not exceed five (5) years.

### ~~14.15.~~ **ASSET-BACKED, MORTGAGE-BACKED, MORTGAGE PASS-THROUGH SECURITIES, AND COLLATERALIZED MORTGAGE OBLIGATIONS FROM ISSUERS NOT DEFINED IN SECTIONS 3 AND 4 OF THE AUTHORIZED INVESTMENTS SECTION OF THIS POLICY,** provided that:

- The securities are rated in a rating category of "AA" or its equivalent or better by a NRSRO.
- No more than 20% of the total portfolio may be invested in these securities.
- No more than 5% of the total portfolio may be invested in any single Asset-Backed or Commercial Mortgage security issuer.
- The maximum legal final maturity does not exceed five (5) years.

### ~~15.16.~~ **MUTUAL FUNDS AND MONEY MARKET MUTUAL FUNDS** that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, provided that:

- a. **MUTUAL FUNDS** that invest in the securities and obligations as authorized under California Government Code, Section 53601 (a) to (k) and (m) to (q) inclusive and that meet either of the following criteria:
  1. Attained the highest ranking or the highest letter and numerical rating provided by not less than two (2) NRSROs; or
  2. Have retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by California Government Code, Section 53601 and with assets under management in excess of \$500 million.
  3. No more than 10% of the total portfolio may be invested in shares of any one mutual fund.

- b. **MONEY MARKET MUTUAL FUNDS** registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and issued by diversified management companies and meet either of the following criteria:
  1. Have attained the highest ranking or the highest letter and numerical rating provided by not less than two (2) NRSROs; or
  2. Have retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of \$500 million.
  3. No more than 20% of the total portfolio may be invested in Money Market Mutual Funds.
- c. No more than 20% of the total portfolio may be invested in these securities.

**16.17. SUPRANATIONALS**, provided that:

- Issues are US dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank.
- The securities are rated in a rating category of "AA" or its equivalent or better by a NRSRO.
- No more than 30% of the total portfolio may be invested in these securities.
- No more than 10% of the total portfolio may be invested in any single issuer.
- The maximum maturity does not exceed five (5) years.

**X. PROHIBITED INVESTMENT VEHICLES AND PRACTICES**

- State law notwithstanding, any investments not specifically described herein are prohibited, including, but not limited to futures and options.
- In accordance with Government Code, Section 53601.6, investment in inverse floaters, range notes, or mortgage derived interest-only strips is prohibited.
- Investment in any security that could result in a ~~zero interest~~zero-interest accrual if held to maturity is prohibited.
- Trading securities for the sole purpose of speculating on the future direction of interest rates is prohibited.
- Purchasing or selling securities on margin is prohibited.
- The use of reverse repurchase agreements, securities lending or any other form of borrowing or leverage is prohibited.
- The purchase of foreign currency denominated securities is prohibited.
- The purchase of a security with a forward settlement date exceeding 45 days from the time of the investment is prohibited.

**XI. Local Government INVESTMENT POOLS/MUTUAL FUNDS**

The City of Tracy shall conduct a thorough investigation of any pool or mutual fund prior to making an investment, and on a continual basis thereafter. Annually,

The Treasurer shall seek responses to the following questions from any investment pool or mutual fund in which the city invests~~develop a questionnaire which will answer the following general questions:~~

1. A description of eligible investment securities, and a written statement of investment policy and objectives.
2. A description of interest calculations and how it is distributed, and how gains and losses are treated.
3. A description of how the securities are safeguarded (including the settlement processes), and how often the securities are priced and the program audited.
4. A description of who may invest in the program, how often, what size deposit and withdrawal are allowed.
5. A schedule for receiving statements and portfolio listings.
6. Are reserves, retained earnings, etc. utilized by the pool/fund?
7. A fee schedule, and when and how it is~~is it~~ assessed.
8. Is the pool/fund eligible for bond proceeds and/or will it accept such proceeds?

## **XII. COLLATERALIZATION**

**CERTIFICATES OF DEPOSIT (CDs).** The City of Tracy shall require any commercial bank or savings and loan association to deposit eligible securities with an agency of a depository approved by the State Banking Department to secure any uninsured portion of a Non-Negotiable Certificate of Deposit. The value of eligible securities as defined pursuant to California Government Code, Section 53651, pledged against a Certificate of Deposit shall be equal to 150% of the face value of the CD if the securities are classified as mortgages and 110% of the face value of the CD for all other classes of security.

**COLLATERALIZATION OF BANK DEPOSITS.** This is the process by which a bank or financial institution pledges securities, or other deposits for the purpose of securing repayment of deposited funds. The City of Tracy shall require any bank or financial institution to comply with the collateralization criteria defined in California Government Code, Section 53651.

**REPURCHASE AGREEMENTS.** The City of Tracy requires that Repurchase Agreements be collateralized only by securities authorized in accordance with California Government Code:

- The securities which collateralize the repurchase agreement shall be priced at Market Value, including any Accrued Interest plus a margin. The Market Value of the securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities.
- Financial institutions shall mark the value of the collateral to market at least monthly and increase or decrease the collateral to satisfy the ratio requirement described above.
- The City of Tracy shall receive monthly statements of collateral.



### **XIII. DELIVERY, SAFEKEEPING AND CUSTODY**

**DELIVERY-VERSUS-PAYMENT (DVP).** All investment transactions shall be conducted on a delivery-versus-payment basis.

**SAFEKEEPING AND CUSTODY.** To protect against potential losses due to failure of individual securities dealers, and to enhance access to securities, interest payments and maturity proceeds, all cash and securities in the City of Tracy's portfolio shall be held in safekeeping in the City of Tracy's name by a third party custodian, acting as agent for the City of Tracy under the terms of a custody agreement executed by the bank and the City of Tracy. All investment transactions will require a safekeeping receipt or acknowledgment generated from the trade. A monthly report will be received by the City of Tracy from the custodian listing all securities held in safekeeping with current market data and other information.

The only exceptions to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools; (ii) time certificates of deposit, and, (iii) money mutual funds, since the purchased securities are not deliverable.

### **XIV. MAXIMUM MATURITY**

To the extent possible, investments shall be matched with anticipated cash flow requirements and known future liabilities.

The City of Tracy will not invest in securities maturing more than five (5) years from the date of trade settlement, unless the City Council has, by resolution, granted authority to make such an investment.

### **XV. RISK MANAGEMENT AND DIVERSIFICATION**

#### **MITIGATING CREDIT RISK IN THE PORTFOLIO**

Credit risk is the risk that a security or a portfolio will lose some or all of its value due to a real or perceived change in the ability of the issuer to repay its debt. The City of Tracy will mitigate credit risk by adopting the following strategies:

- The diversification requirements included in the "Authorized Investments" section of this policy are designed to mitigate credit risk in the portfolio.
- No more than 5% of the total portfolio may be deposited with or invested in securities issued by any single issuer unless otherwise specified in this policy.
- The City of Tracy may elect to sell a security prior to its maturity and record a capital gain or loss in order to manage the quality, liquidity or yield of the portfolio in response to market conditions or City of Tracy's risk preferences.
- If securities owned by the City of Tracy are downgraded by an NRSRO to a

level below the quality required by this investment policy, making the security ineligible for additional purchases, the following steps will be taken:

- Any actions taken related to the downgrade by the investment manager will be communicated to the Treasurer in a timely manner.
- If a decision is made to retain the security, the credit situation will be monitored and reported to the Council.

#### **MITIGATING MARKET RISK IN THE PORTFOLIO**

Market risk is the risk that the portfolio value will fluctuate due to changes in the general level of interest rates. The City of Tracy recognizes that, over time, longer-term portfolios have the potential to achieve higher returns. On the other hand, longer-term portfolios have higher volatility of return. The City of Tracy will mitigate market risk by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes.

The City of Tracy further recognizes that certain types of securities, including variable rate securities, securities with principal paydowns prior to maturity, and securities with embedded options, will affect the market risk profile of the portfolio differently in different interest rate environments. The City of Tracy, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- The City of Tracy will maintain a minimum of six months of budgeted operating expenditures in short term investments to provide sufficient liquidity for expected disbursements.
- The maximum percent of callable securities (does not include “make whole call” securities as defined in the Glossary) in the portfolio will be 20%.
- The maximum stated final maturity of individual securities in the portfolio will be five (5) years, except as otherwise stated in this policy.
- The duration of the portfolio will be approximately equal to the duration (typically, plus or minus 20%) of a Market Benchmark, an index selected by the City of Tracy based on the City of Tracy’s investment objectives, constraints and risk tolerances.

#### **XVI. REVIEW OF INVESTMENT PORTFOLIO**

The Treasurer shall periodically, but no less than quarterly, review the portfolio to identify investments that do not comply with this investment policy and establish protocols for reporting major and critical incidences of noncompliance to the City Council.

#### **XVII. PERFORMANCE EVALUATION**

The investment portfolio shall be designed to attain a market-average rate of return

throughout budgetary and economic cycles, taking into account the City of Tracy's risk constraints, the cash flow characteristics of the portfolio, and state and local laws, ordinances or resolutions that restrict investments.

The Treasurer shall monitor and evaluate the portfolio's performance relative to the chosen market benchmark(s), which will be included in the Treasurer's quarterly report. The Treasurer shall select an appropriate, readily available index to use as a market benchmark.

## **XVIII. REPORTING**

### **MONTHLY REPORTS**

Monthly transaction reports will be submitted by the Treasurer to the City Council within 60 days of the end of the reporting period in accordance with California Government Code Section 53607.

### **QUARTERLY REPORTS**

The Treasurer will submit a quarterly investment report to the City Council which provides full disclosure of the City of Tracy's investment activities within 60 days after the end of the quarter. These reports will disclose, at a minimum, the following information about the City of Tracy's portfolio:

1. An asset listing showing par value, cost and independent third-party fair market value of each security as of the date of the report, the source of the valuation, type of investment, issuer, maturity date, interest rate and interest rate.
2. Transactions for the period.
3. A description of the funds, investments and programs (including lending programs) managed by contracted parties (i.e. LAIF; [investment pools](#), [LGIPs](#), [outsidemoney managers](#), and securities lending agents)
4. A one-page summary report that shows:
  - a. Average maturity of the portfolio and modified duration of the portfolio;
  - b. Maturity distribution of the portfolio;
  - c. Percentage of the portfolio represented by each investment category;
  - d. Average portfolio credit quality; and,
  - e. Time-weighted total rate of return for the portfolio for the prior one month, three months, twelve months and since inception compared to the City of Tracy's market benchmark returns for the same periods;
5. A statement of compliance with investment policy, including a schedule of any transactions or holdings which do not comply with this policy or with the California Government Code, including a justification for their presence in the portfolio and a timetable for resolution.
6. A statement that the City of Tracy has adequate funds to meet its cash flow requirements for the next six months.

### **ANNUAL REPORTS**

A comprehensive annual report will be presented to the Investment Review Committee. The approved report will be presented to Council as a consent item with the purpose of the report being pulled for further discussion, if needed. This report will include comparisons of the City of Tracy's return to the market benchmark return, suggest policies and improvements that might enhance the investment program, and will include an investment plan for the coming year.

## **XIX. REVIEW OF INVESTMENT POLICY**

The investment policy will be reviewed and adopted at least annually within 120 days of the end of the fiscal year, to ensure its consistency with the overall objectives of preservation of principal, liquidity and return, and its relevance to current law and financial and economic trends.

Any recommended modifications or amendments shall be presented by Staff to the City Council for their consideration and adoption.



## GLOSSARY OF INVESTMENT TERMS

**AGENCIES.** Shorthand market terminology for any obligation issued by a *government-sponsored entity (GSE)*, or a *federally related institution*. Most obligations of GSEs are not guaranteed by the full faith and credit of the US government. Examples are:

**FFCB.** The Federal Farm Credit Bank System provides credit and liquidity in the agricultural industry. FFCB issues discount notes and bonds.

**FHLB.** The Federal Home Loan Bank provides credit and liquidity in the housing market. FHLB issues discount notes and bonds.

**FHLMC.** Like FHLB, the Federal Home Loan Mortgage Corporation provides credit and liquidity in the housing market. FHLMC, also called “FreddieMac” issues discount notes, bonds and mortgage pass-through securities.

**FNMA.** Like FHLB and FreddieMac, the Federal National Mortgage Association was established to provide credit and liquidity in the housing market. FNMA, also known as “FannieMae,” issues discount notes, bonds and mortgage pass-through securities.

**GNMA.** The Government National Mortgage Association, known as “GinnieMae,” issues mortgage pass-through securities, which are guaranteed by the full faith and credit of the US Government.

**PEFCO.** The Private Export Funding Corporation assists exporters. Obligations of PEFCO are not guaranteed by the full faith and credit of the US government.

**TVA.** The Tennessee Valley Authority provides flood control and power and promotes development in portions of the Tennessee, Ohio, and Mississippi River valleys. TVA currently issues discount notes and bonds.

**ASKED.** The price at which a seller offers to sell a security.

**ASSET BACKED SECURITIES.** Securities supported by pools of installment loans or leases or by pools of revolving lines of credit.

**AVERAGE LIFE.** In mortgage-related investments, including CMOs, the average time to expected receipt of principal payments, weighted by the amount of principal expected.

**BANKER’S ACCEPTANCE.** A money market instrument created to facilitate international trade transactions. It is highly liquid and safe because the risk of the trade transaction is transferred to the bank which “accepts” the obligation to pay the investor.

**BENCHMARK.** A comparison security or portfolio. A performance benchmark is a partial market index, which reflects the mix of securities allowed under a specific investment policy.

**BID.** The price at which a buyer offers to buy a security.

**BROKER.** A broker brings buyers and sellers together for a transaction for which the broker receives a commission. A broker does not sell securities from his own position.

**CALLABLE.** A callable security gives the issuer the option to call it from the investor prior to its maturity. The main cause of a call is a decline in interest rates. If interest rates decline since an issuer issues securities, it will likely call its current securities and reissue them at a lower rate of interest. Callable securities have reinvestment

risk as the investor may receive its principal back when interest rates are lower than when the investment was initially made.

**CERTIFICATE OF DEPOSIT (CD).** A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs may be marketable.

**CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SYSTEM (CDARS).** A private placement service that allows local agencies to purchase more than \$250,000 in CDs from a single financial institution (must be a participating institution of CDARS) while still maintaining FDIC insurance coverage. CDARS is currently the only entity providing this service. CDARS facilitates the trading of deposits between the California institution and other participating institutions in amounts that are less than \$250,000 each, so that FDIC coverage is maintained.

**COLLATERAL.** Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public monies.

**COLLATERALIZED MORTGAGE OBLIGATIONS (CMO).** Classes of bonds that redistribute the cash flows of mortgage securities (and whole loans) to create securities that have different levels of prepayment risk, as compared to the underlying mortgage securities.

**COMMERCIAL PAPER.** The short-term unsecured debt of corporations.

**COST YIELD.** The annual income from an investment divided by the purchase cost. Because it does not give effect to premiums and discounts which may have been included in the purchase cost, it is an incomplete measure of return.

**COUPON.** The rate of return at which interest is paid on a bond.

**CREDIT RISK.** The risk that principal and/or interest on an investment will not be paid in a timely manner due to changes in the condition of the issuer.

**CURRENT YIELD.** The annual income from an investment divided by the current market value. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

**DEALER.** A dealer acts as a principal in security transactions, selling securities from and buying securities for his own position.

**DEBENTURE.** A bond secured only by the general credit of the issuer.

**DELIVERY VS. PAYMENT (DVP).** A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

**DERIVATIVE.** Any security that has principal and/or interest payments which are subject to uncertainty (but not for reasons of default or credit risk) as to timing and/or amount, or any security which represents a component of another security which has been separated from other components ("Stripped" coupons and principal). A derivative is also defined as a financial instrument the value of which is totally or partially derived from the value of another instrument, interest rate, or index.

**DISCOUNT.** The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as T-bills and banker's acceptances, are known as discount securities. They sell at a discount from par, and return the par value to the investor at maturity without additional interest. Other

securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

**DIVERSIFICATION.** Dividing investment funds among a variety of investments to avoid excessive exposure to any one source of risk.

**DURATION.** The weighted average time to maturity of a bond where the weights are the present values of the future cash flows. Duration measures the price sensitivity of a bond to changes in interest rates. (See modified duration).

**FEDERAL FUNDS RATE.** The rate of interest charged by banks for short-term loans to other banks. The Federal Reserve Bank through open-market operations establishes it.

**FEDERAL OPEN MARKET COMMITTEE.** A committee of the Federal Reserve Board that establishes monetary policy and executes it through temporary and permanent changes to the supply of bank reserves.

**LEVERAGE.** Borrowing funds in order to invest in securities that have the potential to pay earnings at a rate higher than the cost of borrowing.

**LIQUIDITY.** The speed and ease with which an asset can be converted to cash.

**LOCAL AGENCY INVESTMENT FUND (LAIF).** A voluntary investment fund open to government entities and certain non-profit organizations in California that is managed by the State Treasurer's Office.

**LOCAL GOVERNMENT INVESTMENT POOL.** Investment pools that range from the State Treasurer's Office Local Agency Investment Fund (LAIF) to county pools, to Joint Powers Authorities (JPAs). These funds are not subject to the same SEC rules applicable to money market mutual funds.

**MAKE WHOLE CALL.** A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

**MARGIN.** The difference between the market value of a security and the loan a broker makes using that security as collateral.

**MARKET RISK.** The risk that the value of securities will fluctuate with changes in overall market conditions or interest rates.

**MARKET VALUE.** The price at which a security can be traded.

**MARKING TO MARKET.** The process of posting current market values for securities in a portfolio.

**MATURITY.** The final date upon which the principal of a security becomes due and payable.

**MEDIUM TERM NOTES.** Unsecured, investment-grade senior debt securities of major corporations which are sold in relatively small amounts on either a continuous or an intermittent basis. MTNs are highly flexible debt instruments that can be structured to respond to market opportunities or to investor preferences.

**MODIFIED DURATION.** The percent change in price for a 100 basis point change in yields. Modified duration is the best single measure of a portfolio's or security's exposure to market risk.

**MONEY MARKET.** The market in which short-term debt instruments (T-bills, discount notes, commercial paper, and banker's acceptances) are issued and traded.

**MORTGAGE PASS-THROUGH SECURITIES.** A securitized participation in the interest and principal cash flows from a specified pool of mortgages. Principal and interest

payments made on the mortgage are passed through to the holder of the security.

**MUNICIPAL SECURITIES.** Securities issued by state and local agencies to finance capital and operating expenses.

**MUTUAL FUND.** An entity which pools the funds of investors and invests those funds in a set of securities which is specifically defined in the fund's prospectus. Mutual funds can be invested in various types of domestic and/or international stocks, bonds, and money market instruments, as set forth in the individual fund's prospectus. For most large, institutional investors, the costs associated with investing in mutual funds are higher than the investor can obtain through an individually managed portfolio.

**NATIONALLY RECOGNIZED STATISTICAL RATINGS ORGANIZATION (NRSRO).**

A credit rating agency that the Securities and Exchange Commission in the United States uses for regulatory purposes. Credit rating agencies provide assessments of an investment's risk. The issuers of investments, especially debt securities, pay credit rating agencies to provide them with ratings. The three most prominent NRSROs are Fitch, S&P, and Moody's.

**NEGOTIABLE CD.** A short-term debt instrument that pays interest and is issued by a bank, savings or federal association, state or federal credit union, or state-licensed branch of a foreign bank. Negotiable CDs are traded in a secondary market and are payable upon order to the bearer or initial depositor (investor).

**PREMIUM.** The difference between the par value of a bond and the cost of the bond, when the cost is above par.

**PREPAYMENT SPEED.** A measure of how quickly principal is repaid to investors in mortgage securities.

**PREPAYMENT WINDOW.** The time period over which principal repayments will be received on mortgage securities at a specified prepayment speed.

**PRIMARY DEALER.** A financial institution (1) that is a trading counterparty with the Federal Reserve in its execution of market operations to carry out U.S. monetary policy, and (2) that participates for statistical reporting purposes in compiling data on activity in the U.S. Government securities market.

**PRUDENT PERSON (PRUDENT INVESTOR) RULE.** A standard of responsibility which applies to fiduciaries. In California, the rule is stated as "Investments shall be managed with the care, skill, prudence and diligence, under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims to accomplish similar purposes."

**REALIZED YIELD.** The change in value of the portfolio due to interest received and interest earned and realized gains and losses. It does not give effect to changes in market value on securities, which have not been sold from the portfolio.

**REGIONAL DEALER.** A financial intermediary that buys and sells securities for the benefit of its customers without maintaining substantial inventories of securities and that is not a primary dealer.



- REPURCHASE AGREEMENT.** Short-term purchases of securities with a simultaneous agreement to sell the securities back at a higher price. From the seller's point of view, the same transaction is a reverse repurchase agreement.
- SAFEKEEPING.** A service to bank customers whereby securities are held by the bank in the customer's name.
- STRUCTURED NOTE.** A complex, fixed income instrument, which pays interest, based on a formula tied to other interest rates, commodities or indices. Examples include inverse floating rate notes which have coupons that increase when other interest rates are falling, and which fall when other interest rates are rising, and "dual index floaters," which pay interest based on the relationship between two other interest rates - for example, the yield on the ten-year Treasury note minus the Libor rate. Issuers of such notes lock in a reduced cost of borrowing by purchasing interest rate swap agreements.
- SUPRANATIONAL.** A Supranational is a multi-national organization whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in the member countries.
- TOTAL RATE OF RETURN.** A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending value; it includes interest earnings, realized and unrealized gains, and losses in the portfolio.
- U.S. TREASURY OBLIGATIONS.** Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk, and are the benchmark for interest rates on all other securities in the US and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.
- TREASURY BILLS.** All securities issued with initial maturities of one year or less are issued as discounted instruments, and are called Treasury bills. The Treasury currently issues three- and six-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth out cash flows.
- TREASURY NOTES.** All securities issued with initial maturities of two to ten years are called Treasury notes, and pay interest semi-annually.
- TREASURY BONDS.** All securities issued with initial maturities greater than ten years are called Treasury bonds. Like Treasury notes, they pay interest semi-annually.
- VOLATILITY.** The rate at which security prices change with changes in general economic conditions or the general level of interest rates.
- YIELD TO MATURITY.** The annualized internal rate of return on an investment which equates the expected cash flows from the investment to its cost.



September 30, 2025

Mr. Ray McCray, Treasurer  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

Dear Ray,

The Chandler Team has completed our review of City of Tracy's investment policy. The City of Tracy investment policy continues to be well-written and effective for the management of the City's funds. Chandler Asset Management is recommending one modification to the policy to meet best practice. Please find a brief summary of the changes below:

- **Update to eligible authorized financial institutions, depositories, and broker dealer's section:**  
California Government Code Section 53601.5 describes the types of financial institutions that California local governments may transact with when placing investments. We recommend the City update the list and language to be more accurate, including code citation.
- **Authorized Investments:**
  - A revision to the Municipal Securities section to differentiate investments outside of California from investments within California. Investments in State obligations are allowed from all 50 States, however, investments in local government obligations are only allowed from local agencies within California, not other States. This update clarifies this point.
  - Updating language throughout the authorized investment section to reflect "total" portfolio when referencing maximum thresholds per security type to create greater clarity on how the thresholds are measured.
  - Renamed CDARs section to Placement Services Deposits to reflect an update to code on this broader category. AB 2618, effective 1/1/2025 and sunseting on 1/1/2031, limits the maximum exposure to this type of investment temporarily and this update reflects this change in law and with a more accurate section title.
  - Replacing LAIF section and LGIP section with one combined and updated section. The new, expanded section more effectively addresses all current and potential LGIP use by the city, in one consolidated segment. The updated language is our suggestion at best practice that includes references to all three types of LGIPs defined by the Municipal Securities Rulemaking Board (MSRB) with government code references for clarity and accuracy.
- **Prohibited Investments:**  
A prohibition on securities with a forward settlement date exceeding 45 days from the time of investment was added to align with code and to protect the City from questionable investment practices.



Please do not hesitate to contact us with any questions you may have, or if further review is needed.

Sincerely,

Steve Huntley, CPFO  
Senior Portfolio Strategist  
Chandler Asset Management

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**  
**RESOLUTION NO. 2025-**

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**APPROVING AMENDMENTS TO THE CITY OF TRACY INVESTMENT POLICY**

**WHEREAS**, The City of Tracy (City) has an adopted investment policy that provides guidance regarding investment of City funds which is consistent with the statutes of Government Code that governs the investment of public funds, and

**WHEREAS**, Annually, the City Treasurer reviews this policy with support from its registered investment advisors for any changes that would require revisions to the investment policy, and

**WHEREAS**, The revised investment policy is consistent with the City Council's overall strategic Priorities; ensure continued fiscal sustainability through budgetary and financial stewardship, and

**WHEREAS**, The Finance Committee reviewed the revised investment policy on October 13, 2025; now, therefore, be it

**RESOLVED**, That the City Council of the City of Tracy hereby approves the amendments to the City Investment Policy.

\* \* \* \* \*



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

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
APRIL QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Agenda Item 1.J

RECOMMENDATION

**Staff recommends that the City Council adopt a resolution approving a Deferred Improvement Agreement for frontage and utility improvements on the Hansen Road Extension associated with the Tracy Costco Depot Annex Project.**

EXECUTIVE SUMMARY

The proposed action approves a Deferred Improvement Agreement between the City of Tracy and Costco Wholesale Corporation (Developer) for the Hansen Road Extension frontage and utility improvements associated with the Tracy Costco Depot Annex Project, located at 16000 West Schulte Road.

The Project, which includes two industrial warehouse buildings totaling approximately 1.73 million square feet, was approved with Conditions of Approval requiring the Developer to construct its frontage improvements along the planned Hansen Road Extension. Because the roadway alignment depends on the future Transportation Master Plan (TMP) update, these improvements are being deferred under the proposed Agreement. Approval of this item will authorize execution and recordation of the Agreement to formalize the deferral and establish future construction and dedication obligations.

BACKGROUND AND LEGISLATIVE HISTORY

On December 4, 2024, staff presented the Project to the Planning Commission with a recommendation to approve the Project. Planning Commission concurred with staff's findings and recommendations.

On March 4, 2025, staff presented the Project to City Council with Planning Commission's recommendation. City Council concurred with the previous findings and recommendations and approved the Project along with the Project's Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP).

On June 12, 2025, San Joaquin Local Agency Formation Commission (LAFCo) staff presented the Project to its board, and that body also ultimately approved the Project.

After each approval, an appeal to rehear each approval was not received and therefore the Project is approved, and the property that is part of the Project is annexed into the City.

ANALYSIS

Developer, which is also the property owner, proposed the Tracy Costco Depot Annex Project, which was approved under Annexation and Pre-Zoning Application A/P19-0001 and Development Review Permit D19-0014. The project consists of two industrial warehouse buildings totaling approximately 1,736,724 square feet on an approximately 103-acre property located at 16000 West Schulte Road (APN 209-230-02).

Approval of the project included Conditions of Approval requiring the Developer to construct public improvements along its frontage, including curb, gutter, sidewalk, utilities, streetlights, landscaping, and an automatic irrigation system. These improvements are typically located within the public right-of-way.

At this time, the Hansen Road Extension frontage and utility improvements are located on private property. The future alignment and timing of the roadway are dependent upon the City's adoption of a new or modified Transportation Master Plan (TMP).

The Deferred Improvement Agreement (DIA) defers the Developer's obligation to construct the Hansen Road Extension frontage and utility improvements until the City adopts a new or modified TMP that continues to include the Hansen Road Extension in substantially the same location along the southern boundary of the Property.

If the updated TMP retains the Hansen Road Extension, the City and Developer will prepare an Off-Site Improvement Agreement (OIA) within five months of the TMP's adoption for City Council consideration. The OIA will define the detailed design, timing, and bonding requirements for construction of the deferred improvements, which include one travel lane, curb and gutter, and a 10-foot-wide bike lane and landscaped parkway.

Prior to construction, the Developer will dedicate the right-of-way to the City by Grant Deed and provide a Public Utility Easement to allow for construction and maintenance of power, gas, and telecommunications infrastructure. Should the future TMP omit or relocate the Hansen Road Extension from its current alignment, the Developer's obligations under the DIA will be deemed fully satisfied, and any posted security will be released.

#### FISCAL IMPACT

There will be no fiscal impact associated with this action. The improvements that are the subject of a future OIA between the City and the Developer will be funded and constructed by the Developer. As part of the DIA, the Developer is required to provide surety in the amount of \$1,346,400 to secure funding for these future improvements.

In addition, the Developer will be required to pay all applicable engineering review fees, including the cost of reviewing improvement plans, processing the OIA, and reviewing and recording Offers of Dedication and Public Utility Easements.

#### PUBLIC OUTREACH / INTEREST

All public outreach for the Project (notifications, public hearings, etc.) was conducted for the Planning Commission, City Council, and LAFCo hearings that were held. Additional public outreach specifically for the DIA is not required.

#### COORDINATION

This agenda item was prepared by the Development Engineering Division of the Community and Economic Development Department. No coordination was required with other departments for the preparation of this report.

#### CEQA DETERMINATION

An Environmental Impact Report (EIR) for the Tracy Costco Depot Annex was certified by the City Council on March 4, 2025. The frontage improvements on Schulte Road and sewer line on Lammers Road are within the scope of the development evaluated by the existing EIR and therefore no further environmental review is required for the Project under CEQA.

#### STRATEGIC PLAN

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

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution to approve a Deferred Improvement Agreement for frontage improvements on Hansen Road Extension with Costco Wholesale Corporation.

Prepared by: David I. Brotchie, PE, Senior Civil Engineer

Reviewed by: Forrest Ebbs, Community and Economic Development Director  
Sara Castro, Finance Director  
Daniella Green, Assistant City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

#### ATTACHMENTS

Attachment A – Deferred Improvement Agreement, Tracy Costco Depot Annex Project, Hansen Road Extension



APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION 2025-\_\_\_\_\_**

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**APPROVING DEFERRED IMPROVEMENT AGREEMENT BETWEEN THE CITY AND COSTCO WHOLESALE CORPORATION FOR FRONTAGE AND UTILITY IMPROVEMENTS OF THE HANSEN ROAD EXTENSION FOR THE TRACY COSTCO DEPOT ANNEX PROJECT AND AUTHORIZING THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER.**

**WHEREAS**, Costco Wholesale Corporation (Developer) is the Developer of the Tracy Costco Depot Annex Project located at 16000 West Schulte Road, Assessor's Parcel Number 209-230-02; and

**WHEREAS**, the project will essentially construct two industrial warehouse buildings totaling approximately 1,736,724 square feet on an approximately 103-acre property; and

**WHEREAS**, on March 4, 2025, the City Council approved the Project along with the Project's Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP); and

**WHEREAS**, the Conditions of Approval (COAs) for the Project require Developer to construct frontage and utility improvements on Hansen Road Extension; and

**WHEREAS**, pursuant to the Tracy Municipal Code, Developer is required to execute two Offsite Improvement Agreements (OIAs) and to post the necessary securities to guarantee completion of the required improvements; and

**WHEREAS**, Developer is also required to record a Grant Deed of Right-of-Way Dedication In Fee Interest for Hansen Road Extension frontage and utility improvements and a Grant Deed of Public Utility Easement for utilities associated with the Project; and

**WHEREAS**, there will be no fiscal impact to the General Fund associated with this proposed item. Developer will pay for the cost of processing the agreements, plan check fees, Offers of Dedication and grants of Public Utility Easements; and

**WHEREAS**, the proposed Project is within the scope of development evaluated in the certified Environmental Impact Report (EIR) for the Tracy Costco Depot Annex, and therefore no further environmental review is required for the Project under CEQA; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy hereby approves the Deferred Improvement Agreement with Costco Wholesale Corporation for the Hansen Road Extension

frontage and utility improvements, and authorizes the City Clerk to file the Agreement with the San Joaquin County Recorder; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy hereby authorizes the Mayor to execute the Offsite Improvement Agreements and Grant Deed on behalf of the City of Tracy and directs the City Clerk to record the Grant Deed and related documents as required.

\*\*\*\*\*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November 2025, by the following vote:

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

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ATTEST:  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

EXHIBITS

Exhibit 1 – Deferred Improvement Agreement, Tracy Costco Depot Annex Project,  
Hansen Road Extension

Agenda Item 1.K

RECOMMENDATION

**Staff recommends that the City Council adopt the following Resolution:**

**1) Authorizing the City Manager, or their designee, to negotiate and execute a Professional Services Agreement with a qualified respondent to the City's Audit and Quality Assurance Review and Analysis of Tracy Aquatic Center Conceptual Designs in an amount not to exceed \$110,000; and**

**2) Appropriating \$110,000 from the City of Tracy's General Fund for such professional services agreement and amending the FY 2025-26 operating and capital budget to reflect such appropriation.**

EXECUTIVE SUMMARY

At its August 19, 2025, the City Council directed staff to provide a comparison between two Aquatic Center Design Sets: (1) the "Community Plan" and (2) the "City Plan." The City Council directed staff to review both Design Sets for feasibility, viability, and cost recovery analysis. The requested analysis was to consider the City's limited resources as a public agency; the complex and interconnected history between the City Plan and the Community Plan; and the expected financial performance of a large-scale Aquatic Center in the City. Staff subsequently published an informal RFP and received one responsive bid, which is currently in review. In anticipation that the response is compliant with the City's RFP, and to keep the process moving forward, staff returns during the review process seeking authority to negotiate and execute a professional services agreement in an amount not to exceed \$110,000.

BACKGROUND AND LEGISLATIVE HISTORY

An Aquatic Center has been recognized as a need since the early 2000's and has gone through various iterations of planning, public outreach, and design over the years. In November 2016, residents approved, a twenty-year half-cent transactions and use (sales) tax, to providing funding for City services/facilities.

In or about 2018, the City Council approved the Aquatic Center as a major amenity that would be funded by Measure V sales tax revenue. During this time, the City collaborated with its residents and a local developer, Surland Companies, to create conceptual programming and cost estimates for the City Council and public to review.

These designs ultimately came to be known as the Aquatic Center "Community Plan" designs. In 2020, the City Council approved the Aquatic Center Program Priorities which includes (in priority order):

- 50-meter-long course competition pool
- Recreation/warm-up pool
- Lazy river
- Waterslides
- Toddler area
- Indoor pool (optional)
- Fitness center (optional)

In 2022, for a variety of complex legal reasons the City pivoted away from the Community Plan design and directed staff to develop new designs. As of 2024, the City has contracted with Construction Manager, Griffin Structures, Inc. to oversee the development of the Aquatic Center project. The Architectural firm Group 4 was retained in 2024 by the City to develop conceptual, schematic designs, community engagement to determine community priorities, and coordination with City departments and regulatory agencies reviewing the Aquatics Center project (the "City Plan"). The City Plan includes many of the community desired elements from the Community Plan. Collectively the Community Plan and the City Plan are collectively referred hereto as the "Design Sets."

#### REQUESTED ANALYSIS / AUDIT

At its August 19, 2025, the City Council directed staff to provide a comparison between two Design Sets: (1) the "Community Plan" and (2) the "City Plan." The City Council directed staff to provide a comparison between the Community Plan seen by the Council and the City's current conceptual design with Group 4 and that the analysis include the current status of each design; including the concepts and the construction documents, an estimated timeline for each project, side-by-side comparison of the amenities, cost estimates and the assumptions that underlie them, estimated annual operating costs including the entrance fees that were discussed, staffing needs for operations, contingencies for maintenance, the sustainable design elements included in each plan, the financing options, and the analysis regarding private versus public operators, all while the Group 4 plans continue; and an analysis regarding free passes for equity however that may be.

Pursuant to the direction above staff prepared an informal RFP which was sent out on October 2, 2025, with responses due by October 20, 2025 at 5:00 p.m. The RFP was sent to nine firms believed to be qualified to conduct this very specific type of audit. One response was received in a timely manner.

#### ANALYSIS

The RFP response is currently being reviewed by the City Manager (CMO) and City Attorney's (CAO) Office's for responsiveness and completeness. Concurrent with the review, and given the complexity and magnitude of the audit, and the need to commence in a timely manner staff is seeking authority to negotiate and execute a contract for an amount not to exceed \$110,000. Such contract negotiations will only begin if, and when, the CMO and CAO complete their review. Time being of the essence this action will allow for the audit to commence as soon as the contract is executed.

#### FISCAL IMPACT

Council will need to appropriate \$110,000 from the General Fund and amend the FY 2025/26 Operating and Capital Budget to reflect such appropriation.

#### PUBLIC OUTREACH/ INTEREST

Not applicable



### COORDINATION

The City Attorney and City Manager's Office's collaborated on the preparation of the RFP and agenda item. Staff you communicated with the two design firms for limited input to ensure our RFP was asking for assessment of the appropriate elements.

### CEQA DETERMINATION

This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., 'CEQA') and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; 'CEQA Guidelines') in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378). Specifically, this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §§15378(b)(5)). Further, even if this item was deemed a "project," and therefore subject to CEQA, the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

### STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the following Resolution:

- 1) Authorizing the City Manager, or their designee, to negotiate and execute a Professional Services Agreement with a qualified respondent to the City's Audit and Quality Assurance Review and Analysis of Tracy Aquatic Center Conceptual Designs in an amount not to exceed \$110,000; and
- 2) Appropriating \$110,000 from the City of Tracy's General Fund for such professional services agreement and amending the FY 2025-26 operating and capital budget to reflect such appropriation.

Prepared by: Arturo M. Sanchez, Assistant City Manager

Reviewed by: Sara Castro, Director of Finance

David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

APPROVED AS TO FORM AND LEGALITY

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CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**APPROPRIATING \$110,000 FROM THE CITY'S GENERAL FUND FOR A PROFESSIONAL SERVICES AGREEMENT WITH A QUALIFIED RESPONDENT TO THE CITY'S AUDIT AND QUALITY ASSURANCE REVIEW AND ANALYSIS OF TRACY AQUATIC CENTER CONCEPTUAL DESIGNS IN AN AMOUNT NOT TO EXCEED \$110,000**

**WHEREAS**, on August 19, 2025, the City Council directed staff to provide a comparison between two Aquatic Center Design Sets: (1) the "Community Plan" and (2) the "City Plan."; and

**WHEREAS**, the City Council directed staff to review both Design Sets for feasibility, viability, and cost recovery analysis; and

**WHEREAS**, the requested analysis was to consider the City's limited resources as a public agency; the complex and interconnected history between the City Plan and the Community Plan; and the expected financial performance of a large-scale Aquatic Center in the City; and

**WHEREAS**, staff subsequently published an informal RFP and received one responsive bid, which is currently in review; and

**WHEREAS**, such informal RFP was sent out on October 2, 2025, with responses due by October 20, 2025 at 5:00 p.m.; and

**WHEREAS**, The RFP was also sent directly to nine qualified firms to conduct this very specific type of audit. One response was received in a timely manner; and

**WHEREAS**, the RFP response is currently being reviewed by the City Manager (CMO) and City Attorney's (CAO) Office for responsiveness and completeness; and

**WHEREAS**, concurrent with the review, and given the complexity and magnitude of the audit, and the need to commence in a timely manner staff is seeking authority to negotiate and execute a contract for an amount not to exceed \$110,000; and

**WHEREAS**, such contract negotiations will only begin if, and when, the CMO and CAO complete their review and find that the RFP responsive was timely, complete and responsive; and

**WHEREAS**, time being of the essence this action will allow for the audit to commence as soon as the contract is executed;

now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy 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 the City Council hereby appropriates \$110,000 for a professional services agreement with a qualified respondent to the city's audit and quality assurance review and analysis of Tracy Aquatic Center conceptual designs; and be it further

**RESOLVED:** The City Manager, or designee, is authorized to take all actions needed to implement the intent of this Resolution.

\*\*\*\*\*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November 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: \_\_\_\_\_  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the City of  
Tracy, California

Agenda Item 3.A

RECOMMENDATION

**Staff recommends that the City Council adopt an Ordinance: 1) repealing the 2022 edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, Existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under Tracy Municipal Code Title 9; 2) making findings to substantiate modifications to the 2025 California Building Codes and Standards, due to local climatic, geological or topographical conditions; 3) adopting, with local amendments, the 2025 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) adopting Appendices C, F, H, I, J, K, P, Q under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices BF, CH, BH, BI, BJ, BM, CI, CK, CJ under the Residential Code, Wildland-Urban Interface Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, O, AND P, under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) adopting California Environmental Quality Act Exemption Findings.**

EXECUTIVE SUMMARY

The 2025 California Building and Fire Codes are mandated for enforcement throughout California beginning January 1, 2026, six months after their publication regardless of local adoption timelines. This enforcement date is established by state law under the California Building Standards Law (Health and Safety Code, Division 13, Part 2.5, beginning with Section 18901), which also establishes the California Building Standards Commission (CBSC) and governs the process by which building standards are developed and adopted.

To ensure the City of Tracy can effectively implement necessary local amendments, adopt specific code appendices, and modernize outdated administrative provisions and references, updates to Title 9 of the Tracy Municipal Code (TMC) are proposed at this time. These proposed changes are detailed in Attachment A (Draft Ordinance) and justified in Attachment B (Justification for Local Amendments).

BACKGROUND INFORMATION

Pursuant to Health and Safety Code Section 18938, the California Building Standards Commission has selected January 1, 2026, as the effective date for the 2025 California Building Code, 2025 California Mechanical Code, 2025 California Electrical Code, 2025 California Plumbing Code, 2025 California Residential Code, 2025 California Wildland-Urban Interface code, 2025 California Fire Code and 2025 California Green Building Standard Code.

Every three years, Building/Construction and Fire Codes are amended by the State to include provisions of the most recent version. The State of California Building Standards Commission adopts new State standards, which cities and counties are therefore mandated to adopt. If codes with amendments are not adopted locally by January 1, 2026, then cities are required to follow State codes only. The need for the new ordinances is to adopt specific Appendixes and/or Administration provisions not adopted by the State. An example of this is:



- Appendix J will assist staff and design professionals with clear direction for construction design guidelines for grading, excavation and earthwork.

Appendices that are not uniformly required but are supported by findings. In addition to the mandated 2025 California Codes mentioned above, City staff recommends adopting of certain appendices. This approach was also taken in 2022, as well as previous adoptions of the California Building Code. Once the Ordinance is adopted, the City Clerk is directed to submit this ordinance to the California Building Standards Commission for filing.

The major changes in this code cycle:

- New California Wildland-Urban Interface Code. The interdiction to a new code was created by consolidating the California Fire Code chapter 49 , California Building Code Chapter 7A, and The California Residential Code section R337 creating the 2025 California Wildland-Urban interface code.
- California Fire Code Section 302.1 Exceptions 1, 2, 3, 4, 5, & 6 - Provides fire safety requirements for batteries in storage facilities. This is proactive in the event of a fire where large quantities of batteries are stored.
- California Fire Code Section 913.2 - Requiring a diesel driven fire pump, or electric fire pump with diesel emergency generator backup be installed. This ensures fire protection is in place to the building when there is loss of power.

Most of the changes noted within the 2025 California Codes should have minimal impact upon construction sites throughout the City but constitute a continued effort to achieve the highest levels of health and life safety in the built environment under specified minimum standards.

#### CEQA DETERMINATION

This Ordinance was found to be categorically exempt from environmental review under section 15061 (b)(3), the "common sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268.

#### DEPARTMENT COORDINATION

Department coordination included review by the South San Joaquin County Fire Authority.

#### FISCAL IMPACT

Expenses related to the adoption of the 2025 California Building, Fire, and related codes are included in department budgets. There are sufficient funds available for this request.

#### STRATEGIC PLAN

The adoption of the 2025 California Codes does not directly support any portion of the Strategic Plan and yet is not in conflict with any of the Strategic Plan's goals or objectives.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council: adopt an Ordinance: 1) repealing the 2022 edition of the California Building Code, Fire Code, Mechanical Code, Plumbing Code, Energy Code, Residential Code, Wildland-Urban Interface Code, Existing Building Code, Green Standards Building Code, and the Historic Building Code, all codified under Tracy Municipal Code Title 9; 2) making findings to substantiate modifications to the 2025 California Building Codes and Standards, due to local climatic, geological or topographical conditions; 3) adopting, with local amendments, the 2025 California Building Codes and Standards, and codifying the same as Tracy Municipal Code Title 9; 4) adopting Appendices C, F, H, I, J, K, P, Q under the California Building Code, Appendices D and G under the Mechanical Code, Appendices A, B, C, D, E, G, H, I, J and K under the Plumbing Code, Appendices BF, CH, BH, BI, BJ, BM, CI, CK, CJ under the Residential Code, Appendix A under the Historical Building Code, and Appendices B, BB, C, CC, D, F, H, L, N, O , and P under the Fire Code, and codifying the same as Tracy Municipal Code Title 9; and 5) adopting California Environmental Quality Act Exemption Findings.

Prepared by: Dennis Canright, Building Official

Reviewed by: Forrest Ebbs, Director of Community and Economic Development  
Randall Bradley, Fire Chief, South San Joaquin County Fire Authority  
Sara Castro, Finance Director  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

ATTACHMENTS

Attachment A – Proposed Ordinance adopting the various 2025 California Codes and appendices thereto, including local amendments, and repealing, amending, and adding to Title 9 of the Tracy Municipal Code

Attachment B – Justification of code amendments

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**ORDINANCE NO. \_\_\_\_\_**

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**AN ORDINANCE:**

**1) REPEALING THE 2022 EDITION OF THE CALIFORNIA BUILDING CODE, FIRE CODE, MECHANICAL CODE, PLUMBING CODE, ENERGY CODE, RESIDENTIAL CODE, EXISTING BUILDING CODE, GREEN STANDARDS BUILDING CODE, AND THE HISTORIC BUILDING CODE, ALL CODIFIED UNDER TRACY MUNICIPAL CODE TITLE 9;**

**2) MAKING FINDINGS TO SUBSTANTIATE MODIFICATIONS TO THE 2025 CALIFORNIA BUILDING CODES AND STANDARDS, DUE TO LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS;**

**3) ADOPTING, WITH LOCAL AMENDMENTS, THE 2025 CALIFORNIA BUILDING CODES AND STANDARDS, AND CODIFYING THE SAME AS TRACY MUNICIPAL CODE TITLE 9;**

**4) ADOPTING APPENDICES C, F, H, I, J, K, P, AND Q UNDER THE CALIFORNIA BUILDING CODE, APPENDICES D AND G UNDER THE MECHANICAL CODE, APPENDICES A, B, C, D, E, G, H, I, J AND K UNDER THE PLUMBING CODE, APPENDICES BF, CH, BH, BI, BF, BM, CI, CK, CJ UNDER THE RESIDENTIAL CODE, APPENDIX A UNDER THE HISTORICAL BUILDING CODE, WILDLAND-URBAN INTERFACE CODE AND APPENDICES B, BB, C, CC, D, F, H, L, N, O, AND P UNDER THE FIRE CODE, AND CODIFYING THE SAME AS TRACY MUNICIPAL CODE TITLE 9; AND**

**5) ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION FINDINGS.**

**WHEREAS**, pursuant to Sections 17922, 17958, 17958.5 and 17958.7 of the California Health and Safety Code, the City may adopt the provisions of the California Building, Residential, Plumbing, Mechanical, Electrical, Existing Building, Historical Building Codes, Green Building Standards Code, Wildland-Urban Interface Code and Building Efficiency Energy Standards with certain amendments to those provisions which are reasonably necessary to protect the health, welfare and safety of the citizens Tracy because of local climatic, geological and topographical conditions; and

**WHEREAS**, the City Council hereby makes the following findings with respect to local geological, topographical and climatic conditions relating to the amendments to the California Codes for which such findings are required:

1. Tracy is a growing community of nearly 100,000 people located in a region of the State

that lies near several areas of seismic activity, with main faults near Tracy associated with the San Andreas Fault System of the greater San Francisco Bay Area, Calaveras, Hayward, and the Marsh Creek-Greenville active fault located immediately west of the southern portion of San Joaquin County, in which Tracy is located. Tracy is proximate to these faults capable of producing earthquakes.

2. Concern for fire-life safety associate with a structural failure due to a seismic event considering the large number of buildings, the use of new structural systems, the poor performance of certain construction materials, and the quality of construction.
3. Severe seismic events could disrupt communications, mobility, damage gas mains, cause extensive electrical hazards, and place extreme demands on the limited and widely dispersed resources of the Fire Department resulting in challenges to meet the fire and life safety needs of the community.
4. The local climatic and topographical conditions of Tracy are characterized as containing areas of highly flammable vegetation and typically warm, dry summers that can contribute to wildfire conducive conditions. Tracy is located in an area of significant high winds that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response time by the local fire department in the event of an emergency.
5. Local geographical strata of expansive soils can result in differential volume changes of soil and lead to horizontal and vertical displacement of the slab causing major structural damage.
6. Local geological conditions are characterized by corrosive soils which notably present within and around the city limits. Increased protections are put into place to prevent and slow down the corrosive action which will ensure that electrical and structural components maintain their integrity and minimize or prevent structural damage.

**WHEREAS**, this Ordinance was found to be categorically exempt from environmental review under section 15061 (b)(3), the "common sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268.

**WHEREAS**, the City Council of the City of Tracy is the decision-making body for this Ordinance; and

**WHEREAS**, the City Council adopted Ordinance No. 1274 on December 6, 2022, to adopt the 2022 California Building Code Standards; and

**WHEREAS**, the City Clerk is directed to submit this ordinance upon enactment of the California Building Standards Commission for filing pursuant to applicable law.



**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: Readopted sections.** Tracy Municipal Code sections 9.04.010, 9.04.020 and 9.04.040 are readopted in their entirety without change.

**SECTION 3: Amended sections.** Tracy Municipal Code sections 9.04.030 and 9.04.050 are hereby amended to read as follows:

9.04.030 Adoption by reference of the California Building Code.  
The City hereby adopts by reference the code entitled " 2025 California Building Code," Volumes 1 and 2, including appendices C, F, H, I, J, K, P, and Q copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Building Code"), as amended by this chapter. The California Building Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6.

9.04.050 Amendments to the California Building Code  
The City of Tracy hereby makes the following local amendments to the California Building Code:  
9.04.050 is readopted in its entirety.

**APPENDIX P**

**Section P108. 4 1 is amended to read as follows:**

**P108. 4.1** Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 42 inches (914 mm) in height. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

**SECTION 4: Readopted sections.** Tracy Municipal Code sections 9.06.010, 9.06.020, 9.06.040, 9.06.050, and 9.06.060 are readopted in their entirety without change.

**SECTION 5: Amended sections.** Tracy Municipal Code section 9.06.030 is hereby amended to read as follows:

9.06.030 Adoption by reference of the California Fire Code.  
The City hereby adopts by reference the code entitled "~~2022~~ 2025 California Fire Code" including appendices B, BB, C, CC, D, F, H, L, N, ~~and O, and P~~ copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Fire Code"), as amended by this chapter. The California Fire Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6.

9.06.070 Amendments to the California Fire Code.

The City of Tracy hereby makes the following local amendments to the California Fire Code:

## CHAPTER 1

Section 103.1 is amended to read as follows:

Section 103.1 Creation of agency. The South San Joaquin County Fire Authority is hereby created and the official in charge thereof shall be known as the fire code official. The function of the agency shall be the implementation, administration and d enforcement of the provisions of this code.

Section 103.2 Appointment is hereby repealed in its entirety as it purports to give vested employment rights different than currently exists for the fire code official.

Section 105.2.3 is amended to read as follows:

Section 105.2.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application.

A new application shall be submitted, and corresponding fees shall be paid when an application for a permit has expired.

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Extensions. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained, and corresponding fees shall be paid when a permit has expired."

Section 105.5.5 is amended to read as follows:

105.5.5 Carnivals, Fairs, Festivals, and Exhibitions. A permit is required to operate a carnival, fair, festival, or exhibition.

Section 105 is amended by adding subsections ~~105.6.55 through 105.6.57~~ 105.5.60 through 105.5.63 to read as follows:

Section ~~105.6.55-105.5.60~~ Christmas tree lots haunted house or corn maze. An operational permit is required to operate a temporary or permanent operation.

~~105.5.56~~ 105.5.61 Emergency Responder Radio Coverage. An operational permit is required for facilities with Emergency Responder Radio Coverage Systems.

~~105.5.57~~ 105.5.62 Indoor Growing Operation. An operational permit is required to operate an indoor growing operation.

Exception: Agricultural Greenhouses in an agricultural zone.

~~105.5.58~~ 105.5.63 Retail Cannabis Operation. An operational permit is required to operate a retail cannabis operation.

Section 106 is amended by adding subsection 106.2.1.1 to read as follows:

106.2.1.1 Detail Page. An 8 ½" x 11" document and an electronically submitted "detail" page for emergency responder data files shall be submitted to and approved by the fire authority before final inspection. Detail page shall include a site plan showing:

- a. Property, site layout

- b. Roads, fire access lanes, and building access points
- c. Premises identification (Address, building identification, suites, room numbers, etc.)
- d. Fire Hydrant and Fire Department Connection (FDC) locations
- e. Knox product locations
- f. Fire alarm control locations
- g. Fire riser locations
- h. Hose valve locations
- i. "Main Electrical" and "Main Gas Disconnect" locations
- j. Hazardous materials storage

Section ~~107~~ 108 is amended by adding subsection ~~107.7~~ 108.7 to read as follows:  
~~107.7~~ 108.7 Reinspection Fee. A reinspection fee may be assessed for each inspection, test, or reinspection when such portion of work for which an inspection is requested is not complete or when corrections requested to be inspected are not made. This section is not to be interpreted as requiring reinspection fees the first time an inspection or test is rejected for failure to comply with the requirements of the code, but as controlling the practice of requesting inspections/tests before the job is ready for such inspection or test. Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection/test is requested, failure for those individuals conducting the test to show up at the scheduled time or deviating from the approved plans. The fee shall be equal to all incurred costs for inspection and administrative staff at the fully burdened rate.

## CHAPTER 2

Section 202 subsection FALSE ALARM is amended to read as follows:  
FALSE ALARM shall mean the giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that there is a fire, medical emergency, rescue request, or other need for emergency service at or near the place indicated by the person giving, signaling, or transmitting such information, and there is found to be no need for emergency services.

## CHAPTER 3

Chapter 3 of the 2022 California Fire Code is adopted in its entirety as amended below:

Section 315.7.2 is amended to read as follows:

315.7.2 Distance to lot line. Where pallets, palletized packing boxes, bin boxes or other combustibles are piled or stored adjacent to a property line, the distance from such storage or pile shall not be less than 20 feet to the property line.

Section 315.7.3 is amended to read as follows:

315.7.3 Storage height. Pallets, palletized packing boxes, bin boxes and other combustible materials shall be stored or piled with due regard to stability but in no case greater than ~~15~~ 12 feet in height.

Exception: Bin boxes may be stacked to a maximum height of 20 feet.

Section 315 is amended by adding section 315.7.8 to read as follows:

Section 315.7.8 Outside storage of pallets, palletized packing boxes, bin boxes and other combustibles.

Section 315.7.8.1 Operational permit required. An operational permit shall be obtained to store pallets, palletized packing boxes, bin boxes and other combustible materials more than 2500 cubic feet.

Section 315.7.8.2 Proximity to other combustible yard storage

Pallets, palletized packing boxes and bin boxes shall be stored within the limitations to other combustible yard storage as per Table 315.7.8.3 (a). The distance of stacked pallets, palletized packing boxes or bin boxes adjacent to buildings on the same lot shall comply with Table 315.7.8.3 (b).

Table 315.7.8.3 (a)

Minimum distance of piled storage to other combustible yard storage

# of Pallets Bins or boxes	Min. Ft.
<50	20 Feet
50-200	30 Feet
>200	50 Feet

Table 315.7.8.3 (b)

Minimum distance of piled or combustible storage to buildings

Building Wall Construction	# of Pallets, Bins or Boxes		
	<50	50-200	>200
Masonry without openings	0 ft.	0 ft.	15 ft.
Wood or metal with outside sprinklers	10 ft.	20 ft.	30 ft.
Wood, Metal or Masonry W/O outside sprinklers	20 ft.	30 ft.	50 ft.

#### Section 315.7.8.3 Fire access

Fire access driveways between and around pallets, palletized packing boxes, bin boxes or other combustibles shall be a minimum of 20 feet in width and maintained free from accumulation of rubbish, weeds, machinery, equipment, or other obstructions that may block access or add to the fire hazard. Driveways shall be spaced to establish a maximum grid of storage not to exceed 50 feet by 50 feet and no pile shall exceed 2500 square feet in dimension or more than 50 feet in any one dimension. An approved turning radius around such piles shall be maintained at all times.

#### Section 315.7.8.4 Fencing

Outside storage of pallets, palletized packing boxes, bin boxes or other combustibles operating under a permit shall be enclosed by a suitable fence not less than 6 feet in height.

#### Section 315.7.8.5 Water Supply

An approved water supply and hydrants capable of supplying the required fire flow shall be provided within 400 feet or all portions of the storage area in accordance with section 507 of the ~~2019~~ 2025 California Fire Code or NFPA 1142 (where municipal water supplies are not available).

#### Section 320.1 General amended section by repealing the exceptions as follows:

The storage of batteries shall comply with [Section 320](#).

#### Exceptions:

- ~~1. New or refurbished batteries installed in the equipment, devices or vehicles they are designed to power.~~
- ~~2. New or refurbished batteries packed for use with the equipment, devices or vehicles they are designed to power.~~
- ~~3. Batteries in original retail packaging that are rated at not more than 300 watt-hours for lithium-ion batteries or contain not more than 25 grams of lithium metal for lithium metal batteries.~~



- ~~4. 4. Temporary storage of batteries or battery components during the battery manufacturing process prior to completion of final quality control checks.~~
- ~~5. 5. Temporary storage of batteries during the vehicle manufacturing or repair process.~~
- ~~6. 6. Batteries in use, staged for use after charging, or charging for use with equipment that are rated at 300 watt-hours or less for lithium-ion batteries or contain 25 grams or less of lithium metal for lithium metal batteries.~~

#### CHAPTER 4

Section 401.5 is amended by adding subsection 401.5.1 Cost to read as follows:  
Section 401.5.1 Cost recovery. All costs incurred by the City to any response to a false alarm will be charged to that person, property owner, firm or corporation causing the transmission of the false alarm.

Section 403.10.6 is amended section by repealing the exceptions as follows:  
**Exceptions:** A fire safety and evacuation plan is not required for the storage or merchandizing of any of the following:

- ~~1. New or refurbished batteries installed for use in the equipment or vehicles they are designed to power.~~
- ~~2. New or refurbished batteries packed for use with the equipment or vehicles they are designed to power for merchandizing purposes.~~
- ~~3. New or refurbished lithium-ion batteries rated at not more than 300 watt-hours and lithium metal batteries containing not more than 25 grams of lithium metal in their original retail packaging.~~

#### CHAPTER 5

Section 503.6 is amended to read as follows:  
Section 503.6 Security gates. The installation of security gates across a fire apparatus access road shall require, prior to installation, approval by the fire code official. Where security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. All electrically operated automatic gates across fire apparatus access roads shall be equipped with traffic preempting optical signal receivers compatible with the emitters utilized by the Fire Department, which will activate the gate and override all command functions of the gate controller. Knox Switches shall be provided at automatic gates. The traffic preemptive optical signal receiver and key switch shall be provided on both sides of an automatic access gate where an exit loop is not provided. The automatic gate shall have a battery backup or manual mechanical disconnect readily accessible to emergency personnel in case of power failure. All gates must meet Fire Department standards deemed necessary by the fire code official for rapid, reliable access. Electric gate operators, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed, and installed to comply with the requirements of ASTM F 2200. All manual gates shall be equipped with a Knox-Box containing a key to the gate, or an approved Knox-Padlock.

Section 505.1 is amended to read as follows:  
Section 505.1 Address Identification. New and existing buildings shall be provided and maintained with approved address identification. The identification shall comply with all of the following:

1. Not less than 4" high with a 1/2" stroke width. For Commercial Buildings, the size shall be a minimum of 24" high with a 6" stroke width.
2. Located minimum of 6' above grade.

3. Illuminated at night. Illumination shall be either internally or externally at an intensity of 5.0 foot-candles.
4. Numbers shall contrast with the background.
5. Numbers shall be placed on a portion of the building that is both legible and visible from the street that fronts the property.
6. Numbers shall not be placed on a moveable door and shall not be obstructed from view from the street.
7. Addresses shall be Arabic numbers or alphabetical letters and conventional in form.

Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole, or other approved sign or means shall be used to identify the structure. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response.

Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way. Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space.

Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

Section 506.1 is amended to read as follows:

Section 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life safety or firefighting purposes, the fire code official is authorized to require a key box in which all keys necessary for entering any portion of the property, building or area shall be contained. The key box shall be manufactured by Knox (listed in accordance with UL 1037) and as a minimum size, shall be a Knox-Box 3200 series box with exterior dimensions of 5"x4"x3 ¾". Larger boxes will be required dependent upon the number of keys to be set within the box. The Knox-Box shall be installed at a height of 72" above finished grade in an accessible location approved by the fire code official. Keys within the box shall be permanently and readily identified.

Section 506 is amended by adding subsection 506.3 to read as follows:

Section 506.3 Hazardous materials management plan box. When a facility stores or uses hazardous materials, the fire code official may require the installation of a secured box manufactured by KNOX and located at the facilities primary entrance or fire control room. The plan box shall contain up-to-date hazardous materials inventory sheets (HMIS) of all the hazardous materials stored or used within the facility, hazardous materials management plan (HMMP) and contact information of the company liaison to the fire department. The plan box shall be waterproof and of sufficient size to contain HMMP and HMIS information without the need to fold the documentation.

Section 509 is amended by adding subsection 509.3 to read as follows:

509.3 Fire Control Room. All new buildings protected with an automatic fire extinguishing system shall be provided with a Fire Control Room in which shall contain system control valves and where practical, fire alarm panel, smoke exhaust controls and all other equipment (excluding fire pump) as designated by the fire code official. If the electrical power equipment is not located within the Fire Control Room, then, it shall be in a room immediately adjacent thereto or as approved by the fire code official. The fire control room shall be located to be directly accessible from the exterior of the building and provided with a durable and permanent sign on the exterior of the access door to identify the space as the fire control room.

Section 603 is amended by adding subsection 603.1.3 to read as follows:

603.1.3 Main Disconnects. The main electrical service to any commercial building shall be accessible for emergency shut off from the outside of the building. This may be accomplished by providing one (1) main disconnect, a Knox disconnect or shunt trip device. If, out of necessity, there is more than one main service disconnect, these disconnects shall be in close proximity to each other as approved by the fire code official. If a generator system activates automatically when a shunt trip or main disconnect shuts down, a control to stop the generator must be located with the main disconnect or shunt trip. Shunt trips, main disconnects and generator controls shall be identified by signs approved by the fire code official.

**EXCEPTION:**

1. Fire Control Room with a marked door that is directly accessible from the outside of the building.

## CHAPTER 9

Section 901 is amended by adding subsection 901.6.3.2 to read as follows:

901.6.3.2 Records Reporting. Fire detection, alarm, and extinguishing systems shall be maintained in an operative condition at all times and shall be replaced or repaired when they become defective. Non-required fire protection systems and equipment shall be inspected, tested, and maintained or removed. All inspection, testing and maintenance reports shall be forwarded to the Fire Authority using electronic media to the designated third party as selected by the Fire Authority. Paper (hard copy) reports are not permitted.

Section 903 is amended by adding subsection 903.2.20 to read as follows:

Section 903.2.22 Automatic fire sprinklers. In addition to the requirements specified in Section 903 of this code, an automatic fire sprinkler system shall be installed throughout and maintained in operable condition in the following buildings:

1. Every building hereafter constructed in which the total area of the building is greater than 6,000 square feet including overhangs.
2. Every building hereafter constructed of three or more stories in height as defined in the building code.
3. Every building hereafter remodeled or improved within a three-year period when the cost of improvements (alterations and/or structural repairs to the building) requiring permits exceeds a valuation threshold as specified below and the total area of the building exceeds 6,000 square feet.

The calculation is determined using a valuation threshold of \$100,000 based on the 1985 "ENR US20 Cities" Average Construction Cost Index of 4195 adjusted by area cost factors. The city will annually update the valuation threshold to a current amount based on the increase in the index since the last figure used.

4. Every building hereafter changed in occupancy classification and the total area is greater than 6,000 square feet, and the proposed use is deemed to be more hazardous based on risk analysis by the fire code official.
5. Every building hereafter in which square footage is increased by 50% or more within a three-year period and the total square footage of the building exceeds 6000 square feet. If the additional square footage added to a building creates a total that exceeds the minimum code requirement for sprinklers for that occupancy type, then automatic sprinklers shall be required.
6. (Exception) Minor additions; not greater than 500 square feet in area to existing non-sprinklered buildings and the purpose of the addition is for accessory storage or disabled access upgrades.

Section 903.3.6 is amended to read as follows:

903.3.6 Hose threads. Fire hose threads and fittings used in connection with automatic sprinkler systems shall be "National Hose" (NH).

Section 912.2.1 is amended to read as follows:

912.2.1 Location. With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of fire department connections shall be approved by the fire code official. Fire department connections shall be within one hundred (100) feet of a fire hydrant.

Section 912.5 is amended to read as follows:

Section 912.5 Signs. A metal sign with raised letters at least 1 inch (25 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes, or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection serves a portion of a building or a specific building among multiple buildings a sign shall be provided to reflect the appropriate building or portion of a building served.

Section 913.2 is amended to read as follows:

The fire pump, driver and controller shall be protected in accordance with NFPA 20 against possible interruption of service through damage caused by explosion, fire, flood, earthquake, rodents, insects, windstorm, freezing, vandalism and other adverse conditions. The fire pump, driver and controller shall be diesel driven or it shall be electric with a diesel emergency generator backup as a secondary power source.

Section 913 is amended by adding the following text to the end of the section:

Section 913.7 Meters and testing devices. Where fire pumps are provided, they shall have a test loop installed in accordance with the applicable portions of NFPA 20 Section 4.21.2.

## CHAPTER 11

Chapter 11 of the ~~2022~~ 2025 California Fire Code is partially adopted with adopted sections listed below (sections adopted by the State Fire Marshal remain unchanged unless modified below):

Section 1103.2 amended to read as follows:

Section 1103.2 Emergency responder radio coverage in existing buildings. Existing buildings that do not have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction shall be equipped with such coverage when any of the following conditions apply:

1. Where the use or occupancy group of the building has been changed and the use or occupancy is more hazardous.
2. Where the addition of metal racking systems, equipment, or interior walls utilizing metal, masonry or concrete materials that interfere with emergency responder radio coverage within the building as noted below:
  - a. Where multiple tenant spaces exist within a single structure, only the tenant space where improvements are made that trigger radio coverage shall have radio coverage. The improvements made to provide adequate radio coverage shall be designed, however, to have the capability to expand indoor radio coverage to all other areas of the building by adding cable and antennas if needed for subsequent improvements in these other areas of the building. Survivability of the cable pathway and "junction" locations between tenant spaces shall be addressed.
  - b. New metal racks (including required aisle and flue space) or equipment installed that increase existing metal racks (including required aisle and flue space) or



- equipment by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces greater than 400,000 square feet shall require radio coverage.
- c. New metal racks (including required aisles and flue spaces) or equipment that cover 30% or greater area of the tenant space where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet; 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces greater than 400,000 square feet.
  - d. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that increase existing masonry or concrete walls and elevated floor/ceilings and metal-framed walls and floor/ceilings (area calculation) by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces more than 400,000 square feet shall require radio coverage.
  - e. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that cover 30% or greater area of the tenant space (area calculation) where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet, 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces more than 400,000 square feet.
3. Every building hereafter in which square footage of the building is increased by 50% or more within a three-year period and the total square footage of the building exceeds 10,000 square feet. Exception: 1). Group R Division 3 Occupancies and buildings constructed entirely of structural members made of wood.

#### CHAPTER 25

Chapter 25 of the ~~2022~~ 2025 California Fire Code is adopted in its entirety without amendment.

#### CHAPTER 26

Chapter 26 of the ~~2022~~ 2025 California Fire Code is adopted in its entirety without amendment.

#### CHAPTER 32

Chapter 32 of the 2025 California Fire Code is adopted in its entirety as amended below:  
Table 3203.8 – Examples of Commodity Classification, Product Category Batteries. Product Lithium-ion repealing (~~excludes lithium-ion installed in the equipment or appliance it powers~~)  
Classification High-hazard.

#### CHAPTER 57

Chapter 57 of the ~~2022~~ 2025 California Fire Code is adopted in its entirety as amended below:  
That the geographic limits referred to in Chapter 57 of the ~~2022~~ 2025 California Fire Code are hereby established as follows:

Section 5704.2.9.6.1 is amended to include the geographical areas such storage is prohibited:

Section 5704.2.9.6.1 Locations where above-ground tanks are prohibited. Storage of class I and 2 liquids in above-ground tanks is prohibited in all zoning districts except districts zoned for commercial, industrial, or agricultural use.

Exception: Above ground tanks located at public safety facilities.

Section 5706.2.4.4 is amended to include the geographical areas such storage is prohibited:

Section 5706.2.4.4. Locations where above-ground tanks are prohibited. Locations where above-ground tanks are prohibited. Storage of class I and 2 liquids in above-ground tanks is prohibited in all zoning districts except districts zoned for commercial, industrial, or agricultural use.

#### CHAPTER 58

Chapter 58 of the 2022 2025 California Fire Code is adopted in its entirety as amended below: That the geographic limits referred to in Chapter 58 of the 2022 2025 California Fire Code are hereby established as follows:

5806.2 Limitations. The storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited in any area which is zoned for other than industrial use.

#### CHAPTER 61

Section 6104.2 of the 2022 2025 California Fire Code is amended to include the geographical areas restricting the storage of liquefied petroleum gas:

6104.2 Maximum capacity within established limits. The storage of liquefied petroleum gases prohibited in any central business district and in all zoning districts except districts zoned for commercial, industrial, rural, or agricultural uses.

#### APPENDIX B

Section B105.2 is amended by adding the following text to the end of the section:  
Exception:

5. A maximum reduction in required fire-flow of up to 50 percent, as approved by the fire code official, is allowed when the building is provided with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 as opposed to the 75% reduction values given for minimum fire flows in Table B1105.2. A reduction in required fire-flow of up to 75 percent, as approved by the fire code official, is allowed for warehouse buildings of Type I, Type II, and Type III construction provided with ESFR automatic fire sprinkler systems. The resulting fire-flow for any of these reductions shall not be less than 1500 gallons per minute for the prescribed duration according to Table B105.1(2). Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix C.

#### APPENDIX BB

Section BB105.1 and Exception is amended to read as follows:  
Section BB105.1 The minimum fire-flow and flow duration for school buildings shall be as specified in Table B8105.1.

Exception: A reduction in required fire flow of up to 50 percent is allowed when the building is provided with an approved automatic sprinkler system. When a reduction in fire flow is used, fire flow shall not be less than 1500 gallons per minute for the prescribed duration as specified in Table B8105.1. Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix CC.

#### APPENDIX C

Appendix C is amended by adding section C106 to read as follows:  
Section C106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table C102.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table C102.1 footnote "b"

- b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

## APPENDIX CC

Appendix CC is amended by adding section CC106 to read as follows:

Section CC106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table CC105.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table CC105.1 footnote "b"

- b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

**SECTION 6: Readopted sections.** Tracy Municipal Code sections 9.08.010, 9.08.020, 9.08.040, 9.08.050, 9.08.060, 9.08.070 and 9.08.080 through 9.08.160 are readopted in their entirety without change.

**SECTION 7: Amended section.** Tracy Municipal Code sections 9.08.030 is hereby amended to read as follows:

9.08.030 Adoption by reference of the California Electrical Code.

The City hereby adopts by reference the code entitled 2025 California Electrical Code," copyrighted by the National Fire Protection Association and approved by the California Building Standards Commission (hereinafter "California Electrical Code"), as amended by this chapter. The California Electrical Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 8: Readopted sections.** Tracy Municipal Code sections 9.10.010, 9.10.020, 9.10.040 and 9.10.050 9.10.60 are readopted in their entirety without change.

**SECTION 9: Amended section.** Tracy Municipal Code section 9.10.030 is hereby amended to read as follows:

"9.10.030 Adoption by reference of the California Residential Code. The City hereby adopts by reference the code entitled " 2025 California Residential Code" and appendices BF, CH, BH, BI BJ, BM, CI, CK and CJ copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Residential Code"), as amended by this chapter. The California Residential Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 11: Readopted sections.** Tracy Municipal Code sections 9.12.010, 9.12.020, 9.12.040, and 9.12.050 9.12.060 are readopted in their entirety without change.

**SECTION 12: Amended sections.** Tracy Municipal Code section 9.12.030 is amended to read as follows:

9.12.030 Adoption by reference of the California Plumbing Code.

The City hereby adopts by reference the code entitled " 2025 California Plumbing Code," including appendices A, B, C, D, E, G, H, I, J and K, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Plumbing Code"), as amended by this chapter. The California Plumbing Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 14: Readopted sections.** Tracy Municipal Code sections 9.14.010, 9.14.020 and 9.14.040 are readopted in their entirety without change.

**SECTION 15: Amended section.** Tracy Municipal Code section 9.14.030 is hereby amended to read as follows:

9.14.030 Adoption by reference of the California Green Building Standards Code.

The City hereby adopts by reference the code entitled " 2025 California Green Building Standards Code" without appendices and copyrighted by the California Building Standards Commission (hereinafter "California Green Building Standards Code"), as amended by this chapter. The California Green Building Standards Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 16: Readopted sections.** Tracy Municipal Code sections 9.16.010, 9.16.020, 9.16.040 and 9.16.050 9.16.060 are readopted in their entirety without change.

**SECTION 17: Amended section.** Tracy Municipal Code section 9.16.030 is hereby amended to read as follows:

"9.16.030 Adoption by reference of the California Mechanical Code.

The City hereby adopts by reference the code entitled " 2025 California Mechanical Code," and appendices D and F attached thereto, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Mechanical Code"), as amended by this chapter. The California Mechanical Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 19: Readopted sections.** Tracy Municipal Code section 9.40.010, 9.40.020, 9.40.030, 9.40.040, and 9.40,050 are readopted in their entirety.

**SECTION 20: Readopted sections.** Tracy Municipal Code sections 9.48.010, 9.48.020 and 9.48.040 are readopted in their entirety without change.

**SECTION 21: Amended section.** Tracy Municipal Code section 9.48.030 is hereby amended to read as follows:

9.48.030 Adoption by reference of the California Historical Building Code.

The City hereby adopts by reference the code entitled " 2025 California Historical Building



Code" including all appendices attached thereto and copyrighted by the California Building Standards Commission (hereinafter "California Historical Building Code"), as amended by this chapter. The California Historical Building Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 22: Readopted section.** Tracy Municipal Code section 9.50.010, 9.50.020, 9.50.040, and 9.50.050 are readopted in their entirety without change.

**SECTION 23: Amended section.** Tracy Municipal Code section 9.50.030 is amended to read as follows:

9.50.030 Adoption by reference of the California Existing Building Code.

The City hereby adopts by reference the code entitled "2025 California Existing Building Code", without appendices, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Existing Building Code"), as amended by this chapter. The California Existing Building Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022."

**SECTION 24: Readopted sections.** Tracy Municipal Code sections 9.64.010, 9.64.020 and 9.64.040 are readopted in their entirety without change.

**SECTION 25: Amended section.** Tracy Municipal Code section 9.64.030 is hereby amended to read as follows:

9.64.030 Adoption by reference of the California Energy Code.

The City hereby adopts by reference the code entitled "2025 California Energy Code," without appendices, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6."

**SECTION 26: Adoption new code.** Tracy Municipal Code section 9.18.010, 9.18.020 9.18.030 9.18.040 9.18.050 is amended to read as follows:  
9.00.030 Adoption by reference of the California Wildland-Urban Interface Code.

The City hereby adopts by reference the code entitled "2025 California Wildland-Urban Interface Code", without appendices, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Wildland-Urban Interface Code"), as amended by this chapter. The California Wildland-Urban Interface Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022."

## **Chapter 9.18 – WILDLAND-URBAN INTERFACE CODE**

### **9.18.010 - Reference to chapter.**

This chapter 9.18 of the Tracy Municipal Code may be referred to as the "City Wildland-Urban Interface Code," and is adopted pursuant to Government Code section 50022.2. For purpose of clarity, the term "Code," when used alone, shall refer to the Tracy Municipal Code.

### **9.18.020 - Purpose of chapter.**

The purpose of this code is to establish minimum [regulations](#) for the safeguarding of life and for property protection. Regulations in this code are intended to mitigate the risk to life and structures from intrusion of fire from wildland fire exposures and fire exposures from adjacent structures and to mitigate structure fires from spreading to wildland fuels. The extent of this regulation is intended to be tiered commensurate with the relative level of hazard present.

The unrestricted use of property in wildland-urban interface areas is a potential threat to life and property from fire and resulting erosion. Safeguards to prevent the occurrence of fires and to provide adequate fire protection facilities to control the spread of fire in wildland-urban interface areas shall be in accordance with this code.

This code shall supplement the jurisdiction's building and fire codes, to provide for special regulations to mitigate the fire- and life-safety hazards of the wildland-urban interface areas.

**9.18.030 - Adoption by reference of the wildland-urban interface Code.**

The City hereby adopts by reference the code entitled "2022 California wildland-urban interface Code, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California wildland-urban interface Code"), as amended by this chapter. The California wildland-urban interface Code is on file with the City Clerk and is available for inspection and copying in accordance with Government Code section 50022.6.

**9.18.040 - Penalty provisions.**

California wildland-urban interface Code subsection 109.3.7, Violation penalties, is amended by deleting the existing text and replacing it to read as follows:

(a) Violations of this chapter shall be enforced by the City in accordance with Tracy Municipal Code section [9.02.040](#).

**9.18.050 - Amendments to the California wildland-urban interface Code.**

The City of Tracy hereby makes the following local amendments to the California wildland-urban interface Code:

CHAPTER 1

Section 105.4.2 is amended to read as follows:

*Section 105.4.2 Time limitation of application.* An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the Code official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section 105.8 is amended to read as follows:

*Section 105.8 Expiration.* Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Code official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the Code official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

## Chapter 9.44 - BOARD OF APPEALS<sup>[5]</sup>

### **SECTION 35 Amend 9.44.010 by adding California Wildland-Urban interface Code.**

#### **9.44.010 - Name and purpose.**

The Board of Appeals is created in order to hear appeals by persons aggrieved by any administrative decisions in the City's application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, Residential, Green Building Standards, Historical Building Code, Energy Code, Existing Building Code and Fire Codes, California wildland-urban interface Code, or regulations adopted under them. (See TMC Chapter 9; and TMC sections 9.02.050 and 9.06.050.) It will also serve as the appeal board when determinations are made regarding special conditions for persons with disabilities, under California Building Code section 1.9.1.5 or California Health and Safety Code section 19957.5.

**SECTION 28: Title, chapter, and section headings.** Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

**SECTION 29: CEQA Determination:** The adoption of this ordinance is exempt from CEQA pursuant to section 15061 (b)(3), the "common sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268.

**SECTION 30: 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 31: Effective Date.** This ordinance shall become effective upon the thirtieth (30<sup>th</sup>) day after final adoption.

**SECTION 32:** Department coordination included Fire Department review.

**SECTION 33: Publication.** The City Clerk is directed to publish this ordinance in a manner required by law.

**SECTION 34: 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 4<sup>th</sup> day of November 2025, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2025, by the following vote:

AYES –  
NOES –  
ABSENT –  
ABSTENTION –

\_\_\_\_\_  
DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
APRIL B.A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Date of Attestation: \_\_\_\_\_



### Justification for amended code sections

1. Amending Section 105.2 item 1 of the California Building Code clarifying building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
2. Amending Section 105.2 item 2 of the California Building Code specifying specific fence types that are not exempt from a building permit. This amendment is administrative in nature.
3. Amending Section 105.3.2 of the California Building Code clarifying the time limitations for permit applications. This amendment is administrative in nature.
4. Amending Section 105.5 of the California Building Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
5. Amending Section 502.1 of the California Building Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
6. Amending Section 1808A.6.1 of the California Building Code clarifying the requirements for slabs-on-grade. This amendment is due to geological strata of expansive soils and that is intended to address the differential volume changes of soil and to prevent horizontal and vertical displacement of the slab.
7. Amending Section P108. 4.1 of the California Building Code by requiring guardrail heights located at lofts to coincide with current California Residential Code requirements. This amendment is administrative in nature.
8. Amending Section 103.1 of the California Fire Code specifying the South San Joaquin County Fire Authority is the agency responsible for the implementation, administration, and enforcement of the Fire Code. This amendment is administrative in nature.
9. Repealing Section 103.2 of the California Fire Code regarding the appointment of the fire code official. This amendment is administrative in nature.
10. Amending Section 105.2.3 of the California Fire Code clarifying the time limits for permit applications. This amendment is administrative in nature.
11. Amending Section 105.3.2 of the California Fire Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
12. Amending Section 105.5.5 of the California Fire Code adding the text to include festivals and exhibitions. This amendment is administrative in nature.
13. Adding Section ~~105.5.55~~ 105.5.60 to the California Fire Code expanding operation permit requirements for both temporary and permanent operation of Christmas tree lots, haunted houses, and corn mazes. This amendment is administrative in nature.
14. Adding Section ~~105.5.56~~ 105.5.61 to the California Fire Code expanding operation permit requirements for facilities equipped with emergency responder radio coverage systems. This amendment is administrative in nature.
15. Adding Section ~~105.5.57~~ 105.5.62 to the California Fire Code expanding operation permit requirements for indoor growing operations with the exception of agricultural greenhouses in an agricultural zone. This amendment is administrative in nature.
16. Adding Section ~~105.5.58~~ 105.5.63 to the California Fire Code expanding operation permit requirements for retail cannabis operations. This amendment is administrative in nature.
17. Addition Section 106.2.1.1 to the California Fire Code requiring the submission of a detail page for emergency responder data files. This amendment is administrative in nature.

## Attachment B

18. Adding Section ~~107.7~~ 108.7 to the California Fire Code specifying when reinspection fees may be assessed. This amendment is administrative in nature.
19. Amending Section 202 of the California Fire Code clarifying the definition of "False Alarm". This amendment is administrative in nature.
20. Amending Section 112.4 of the California Fire Code clarifying the violations and penalties provisions. This amendment is administrative in nature.
21. Amending Sections 315.7.2 and 315.7.3 to the California Fire Code the distances from lot lines and storage heights of pallets, palletized packing boxes, and bin boxes. This amendment is due to climatic and topographical conditions where summer weather conditions that are very dry, hot and windy causing ordinary combustibles to be easily ignited and fires to be fast spreading. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
22. Adding Sections 315.7.8.1 through 315.7.8.5 to the California Fire Code requiring specific limitations on the exterior storage of pallets, palletized packing boxes, and bin boxes due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements for limitations on placement, pile height and pile size, fire access, fencing and water supply will mitigate the added danger posed to the citizens and properties of the City of Tracy.
23. Amending Section 320.1 is to address battery storage and the larger quantities that will be stored within warehouses in our jurisdiction. The repeal of the exception will enable a quicker response by our Fire Authority to an emergency fire event. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
24. Adding Section 401.5.1 to the California Fire Code specifying recovery costs for responding to false alarms. This amendment is administrative in nature.
25. Amending Section 403.10.6 is to address battery storage and the larger quantities that will be stored within warehouses in our jurisdiction. Emergency evacuation plans are a preventative measure for occupants of a business. This amendment is administrative in nature.
26. Amending Section 503.6 of the California Fire Code clarifying the requirements for access where electrically operated gates are provided. This amendment is administrative in nature.
27. Amending Section 505.1 of the California Fire Code clarifying the requirements for address identification on new and existing buildings. The additional language addresses commercial structures within our jurisdiction. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department Authority to an emergency fire event.
28. Amending Section 506.1 of the California Fire Code clarifying the requirements for the type and placement of key boxes. This amendment is administrative in nature and provides information that is lacking in the Fire Code, where the Fire Code points to local authority requirements.
29. Adding Section 506.3 to the California Fire Code requiring that a hazardous material plan box be provided due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of hazardous materials plan boxes mitigates this issue by providing for faster more precise

response by fire service responders by having immediate access to information thereby saving time and properly deploying Fire Department Authority resources.

30. Adding Section 509.3 to the California Fire Code requiring that all buildings protected by automatic fire extinguishing systems be provided with a Fire Control Room due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of control rooms provides for faster more precise response by fire service responders as well as providing exposure protection for fire service equipment not addressed elsewhere in the code.
31. Adding Section 603.1.3 to the California Fire Code requiring that the main electrical for any commercial building be accessible for shut off from outside the building or in a room directly accessible from outside the building due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of an exterior shut off or shut offs in a room directly accessible from outside the building provides for faster more precise response by fire service responders.
32. Adding Section 901.6.3.2 to the California Fire Code requiring fire protection system reports be submitted using the electronic media designated by the Fire Authority. This amendment is administrative in nature.
33. Adding Section 903.2.22 to the California Fire Code requiring fire sprinklers in a variety of buildings due to the climatic condition of low water table and minimal rainfall. The use of automatic fire sprinklers has been documented to show that suppressing an equivalent fire requires approximately only 1/3 the required water flow by direct application at the incipient stage of the fire rather than subsequent application of hose streams.
34. Amending Section 903.3.6 to the California Fire Code requiring fire hose threads and fitting used in the connection with automatic fire sprinkler systems to be "National Hose" (NH). This amendment is administrative in nature.
35. Amending Section 912.2.1 to the California Fire Code requiring a fire hydrant to be positioned with 100 feet of a fire department connection. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread.
36. Amending Section 912.5 of the California Fire Code identifying requirements for proper signs indicating which portion of a building or building on a multiple building site for which an FDC serves. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread. If an FDC is not properly identified as to which building it serves, critical operational time is lost.
37. Amending Section 913.2 to provide diesel driven fire pump, driver and controller or electric fire pump with diesel emergency generator backup is due to the local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
38. Adding Section 913.7 to the California Fire Code to read, "Where fire pumps are provided, a test loop shall be installed in accordance with the applicable portions of NFPA 20 Section 4.21.2." This amendment is due to the climatic condition of low water table and minimal rainfall. The use of a test loop for performing the annual testing of fire pumps reduces water usage that will further affect the water table and create possible water shortages for necessary firefighting.

## Attachment B

39. Amending Section 1103.2 of the California Fire Code specifying in detail the thresholds for the enforcement for radio coverage in existing buildings. This amendment is administrative in nature.
40. Adding Chapter 25 of the California Fire Code. Building standards not adopted by the California State Fire Marshal require local jurisdictions to adopt to enforce the provisions. This amendment is administrative in nature.
41. Adding Chapter 26 of the California Fire Code. Building standards not adopted by the California State Fire Marshal require local jurisdictions to adopt to enforce the provisions. This amendment is administrative in nature.
42. Amending Table 3203.8 to repeal the exclusion of lithium-ion batteries installed in the equipment or appliance it powers address the larger quantities that will be stored within warehouses in our jurisdiction. The repeal of the exception will enable a quicker response by our Fire Authority to an emergency fire event.
43. Amending section 5704.2.9.6.1 to clarify the geographical areas storage of flammable and combustible liquids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
44. Amending section 5706.2.4.4 to clarify the geographical areas storage of flammable and combustible liquids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
45. Amending section 5806.2 to clarify the geographical areas storage of flammable gases and flammable cryogenic fluids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
46. Amending section 6104.2 to clarify the geographical areas storage of liquefied petroleum gases are restricted. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
47. Adding Section B105.2 Exception 5 to the California Fire Code specifying the conditions for the reduction of fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
48. Amending Section BB105.1 of the California Fire Code specifying the conditions for use of Exception 1 to reduce fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
49. Adding Section C106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment, therefore, is an administrative clarification.
50. Amending Table C102.1 footnote b of the California Fire Code altering the conditions for use of footnote b. CFC Table C102.1 footnote b, provides fire hydrant spacing and flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes as conditions and replaces them with a more usable standard which is based on the difficulty of fire operations across the median since the standards do not address the width of the median, intervening features such as transportation stops or grade differentials and is administrative in nature.
51. Amending Table CC105.1 footnote b to the California Fire Code altering the conditions for use of footnote b. CFC Table CC105.1 footnote b, provides fire hydrant spacing and



flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes conditions and replaces them with a more usable standard which is based on the difficulty of fire operations across the median since the standards do not address the width of the median, intervening features such as transportation stops or grade differentials and is administrative in nature.

52. Adding Section CC106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that the fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment is, therefore, an administrative clarification.
53. Amending Sections 250.52(A)(5) and 250 (A)(7) of the California Electrical Code which requires increased protection for the size of buried electrical grounds due to the geological condition that corrosive soils are notably present within and around the city limits of the City of Tracy which corrode and destroy such grounding at an accelerated rate.
54. Amending Section R105.2 item 1 of the California Residential Code clarifying the building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
55. Amending Section R105.2 item 2 of the California Residential Code identifying specific fence types that are not exempt from a permit. This amendment is administrative in nature.
56. Amending Section R105.3.2 of the California Residential Code clarifying the time limitations for plan review applications and permissible extensions. This amendment is administrative in nature.
57. Amending Section R105.5 of the California Residential Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
58. Amending Table R301.2(1) of the California Residential Code by inputting jurisdictional specific information into the table (design criteria). This amendment is administrative in nature.
59. Amending Section R3.081 of the California Residential Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
60. Amending CJ108.2.4 of the California Residential Code by requiring guardrail heights located at lofts to coincide with other provisions of the current California Residential Code. This amendment is administrative in nature.
61. Amending Section 104.3.3 of the California Plumbing Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
62. Amending Section 104.4.3 of the California Plumbing Code clarifying the time limits for plumbing permits and permissible extensions. This amendment is administrative in nature.
63. Amending Section 104.4.4 of the California Plumbing Code clarifying extensions for plumbing permits. This amendment is administrative in nature.
64. Amending Section 106.3 of the California Plumbing Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.

## **Attachment B**

65. Amending Section 104.3.3 of the California Mechanical Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
66. Amending Section 104.4.3 of the California Mechanical Code clarifying the time limits for mechanical permits and permissible extensions. This amendment is administrative in nature.
67. Amending Section 104.4.4 of the California Mechanical Code clarifying the extensions for mechanical permits. This amendment is administrative in nature.
68. Amending Section 106.3 of the California Mechanical Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.
69. Amending Section 105.3.2 of the California Existing Building Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
70. Amending Section 105.5 of the California Existing Building Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
71. Amending Section 113.4 of the California Existing Building Code by modifying the text of subsection for penalties and violations. This amendment is administrative in nature.
72. Amending Section 105.4.2 of the California Wildland-Urban Interface Code clarifying the time limitations for plan review applications and permissible extensions. This amendment is administrative in nature.
73. Amending Section 105.8 of the California Wildland-Urban Interface Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION 2025-\_\_\_\_\_**

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**SETTING FORTH FINDINGS TO SUPPORT LOCAL AMENDMENTS TO THE 2025 CALIFORNIA CODE OF REGULATIONS, TITLE 24 PARTS 1-12, BY THE BUILDING SAFETY DIVISION OF THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT AND THE COMMUNITY RISK REDUCTION DIVISION OF THE SOUTH SAN JOAQUIN COUNTY FIRE AUTHORITY. THE ADOPTION OF THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15061 (B)(3), THE "COMMON SENSE" EXEMPTION BECAUSE ADDING AND CLARIFYING LANGUAGE RELATED TO THE APPLICABILITY OF BUILDING CODES AFFECTS THE PROCESSING AND ISSUANCE OF MINISTERIAL PERMITS. MINISTERIAL PERMITS ARE ALSO EXEMPT FROM CEQA UNDER CEQA GUIDELINES SECTION 15268.**

**WHEREAS**, Health and Safety Code Section 17958 provides that the City of Tracy ("City") shall adopt Ordinances and regulations imposing the same or modified or changed requirements as are contained in the regulations adopted by the State of California pursuant to Health and Safety Code Section 17922; and

**WHEREAS**, Health and Safety Code Section 17958.5 permits the City to make modifications or changes to the requirements contained in the provisions published in the California Building Standards Code and other regulations adopted pursuant to Health and Safety Code Section 17922 (hereinafter "Codes"); and

**WHEREAS**, Health and Safety Code Section 17958.7(a) requires that the City Council, before making any modifications or changes to the Codes, shall make an express finding that such changes or modifications are reasonably necessary because of local climactic, geographic, or topographic conditions; and

**WHEREAS**, Staff recommends that the City Council introduce an ordinance adopting, by reference, the 2025 California building and related codes, specifying which appendices apply to the City of Tracy, re-adopting certain existing sections of title 9 of the Tracy Municipal Code, adopting local standards related to emergency housing, straw-clay construction, corrosive soils, exterior pallet storage, radio amplification systems, other emergency responder requirements and flood plain regulations and set a public hearing date and time for adoption of the ordinance; now, therefore, be it

**RESOLVED:** That the City Council of the City of Tracy makes the following findings supporting the local amendments to the California Code of Regulations, Title 24 Parts 1-12:

1. Amending Section 105.2 item 1 of the California Building Code clarifying building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
2. Amending Section 105.2 item 2 of the California Building Code specifying specific fence types that are not exempt from a building permit. This amendment is administrative in nature.
3. Amending Section 105.3.2 of the California Building Code clarifying the time limitations for permit applications. This amendment is administrative in nature.
4. Amending Section 105.5 of the California Building Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
5. Amending Section 502.1 of the California Building Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
6. Amending Section 1808A.6.1 of the California Building Code clarifying the requirements for slabs-on-grade. This amendment is due to geological strata of expansive soils and that is intended to address the differential volume changes of soil and to prevent horizontal and vertical displacement of the slab.
7. Amending Section P104..1 of the California Building Code by requiring guardrail heights located at lofts to coincide with current California Residential Code requirements. This amendment is administrative in nature.
8. Amending Section 103.1 of the California Fire Code specifying the South San Joaquin County Fire Authority is the agency responsible for the implementation, administration, and enforcement of the Fire Code. This amendment is administrative in nature.
9. Repealing Section 103.2 of the California Fire Code regarding the appointment of the fire code official. This amendment is administrative in nature.
10. Amending Section 105.2.3 of the California Fire Code clarifying the time limits for permit applications. This amendment is administrative in nature.
11. Amending Section 105.3.2 of the California Fire Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
12. Amending Section 105.5.5 of the California Fire Code adding the text to include festivals and exhibitions. This amendment is administrative in nature.
13. Adding Section ~~105.5.55~~ 105.5.60 to the California Fire Code expanding operation permit requirements for both temporary and permanent operation of Christmas tree lots, haunted houses, and corn mazes. This amendment is administrative in nature.
14. Adding Section ~~105.5.56~~ 105.5.61 to the California Fire Code expanding operation permit requirements for facilities equipped with emergency responder radio coverage systems. This amendment is administrative in nature.
15. Adding Section ~~105.5.57~~ 105.5.62 to the California Fire Code expanding operation permit requirements for indoor growing operations with the exception of agricultural greenhouses in an agricultural zone. This amendment is administrative in nature.
16. Adding Section ~~105.5.58~~ 105.5.63 to the California Fire Code expanding operation permit requirements for retail cannabis operations. This amendment is administrative in nature.
17. Addition Section 106.2.1.1 to the California Fire Code requiring the submission of a detail page for emergency responder data files. This amendment is administrative in nature.



18. Adding Section ~~407.7~~ 108.7 to the California Fire Code specifying when reinspection fees may be assessed. This amendment is administrative in nature.
19. Amending Section 202 of the California Fire Code clarifying the definition of “False Alarm”. This amendment is administrative in nature.
20. Amending Section 112.4 of the California Fire Code clarifying the violations and penalties provisions. This amendment is administrative in nature.
21. Amending Sections 315.7.2 and 315.7.3 to the California Fire Code the distances from lot lines and storage heights of pallets, palletized packing boxes, and bin boxes. This amendment is due to climatic and topographical conditions where summer weather conditions that are very dry, hot and windy causing ordinary combustibles to be easily ignited and fires to be fast spreading. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
22. Adding Sections 315.7.8.1 through 315.7.8.5 to the California Fire Code requiring specific limitations on the exterior storage of pallets, palletized packing boxes, and bin boxes due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements for limitations on placement, pile height and pile size, fire access, fencing and water supply will mitigate the added danger posed to the citizens and properties of the City of Tracy.
23. Amending Section 320.1 is to address battery storage and the larger quantities that will be stored within warehouses in our jurisdiction. The repeal of the exception will enable a quicker response by our Fire Authority to an emergency fire event. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
24. Adding Section 401.5.1 to the California Fire Code specifying recovery costs for responding to false alarms. This amendment is administrative in nature.
25. Amending Section 403.10.6 is to address battery storage and the larger quantities that will be stored within warehouses in our jurisdiction. Emergency evacuation plans are a preventative measure for occupants of a business. This amendment is administrative in nature
26. Amending Section 503.6 of the California Fire Code clarifying the requirements for access where electrically operated gates are provided. This amendment is administrative in nature.
27. Amending Section 505.1 of the California Fire Code clarifying the requirements for address identification on new and existing buildings. The additional language addresses commercial structures within our jurisdiction. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department Authority to an emergency fire event.
28. Amending Section 506.1 of the California Fire Code clarifying the requirements for the type and placement of key boxes. This amendment is administrative in nature and provides information that is lacking in the Fire Code, where the Fire Code points to local authority requirements.
29. Adding Section 506.3 to the California Fire Code requiring that a hazardous material plan box be provided due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at

which fires spread and increasing exposure hazards to structures. The inclusion of hazardous materials plan boxes mitigates this issue by providing for faster more precise response by fire service responders by having immediate access to information thereby saving time and properly deploying Fire Department Authority resources.

30. Adding Section 509.3 to the California Fire Code requiring that all buildings protected by automatic fire extinguishing systems be provided with a Fire Control Room due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of control rooms provides for faster more precise response by fire service responders as well as providing exposure protection for fire service equipment not addressed elsewhere in the code.
31. Adding Section 603.1.3 to the California Fire Code requiring that the main electrical for any commercial building be accessible for shut off from outside the building or in a room directly accessible from outside the building due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of an exterior shut off or shut offs in a room directly accessible from outside the building provides for faster more precise response by fire service responders.
32. Adding Section 901.6.3.2 to the California Fire Code requiring fire protection system reports be submitted using the electronic media designated by the Fire Authority. This amendment is administrative in nature.
33. Adding Section 903.2.22 to the California Fire Code requiring fire sprinklers in a variety of buildings due to the climatic condition of low water table and minimal rainfall. The use of automatic fire sprinklers has been documented to show that suppressing an equivalent fire requires approximately only 1/3 the required water flow by direct application at the incipient stage of the fire rather than subsequent application of hose streams.
34. Amending Section 903.3.6 to the California Fire Code requiring fire hose threads and fitting used in the connection with automatic fire sprinkler systems to be "National Hose" (NH). This amendment is administrative in nature.
35. Amending Section 912.2.1 to the California Fire Code requiring a fire hydrant to be positioned with 100 feet of a fire department connection. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread.
36. Amending Section 912.5 of the California Fire Code identifying requirements for proper signs indicating which portion of a building or building on a multiple building site for which an FDC serves. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread. If an FDC is not properly identified as to which building it serves, critical operational time is lost.
37. Amending Section 913.2 to provide diesel driven fire pump, driver and controller or electric fire pump with diesel emergency generator backup is due to the local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread. And the area is intersected by Interstates 5, 205, and 580 and experiences a large volume of commuter traffic that can delay fire and emergency service response.
38. Adding Section 913.7 to the California Fire Code to read, "Where fire pumps are provided, a test loop shall be installed in accordance with the applicable portions of NFPA 20 Section 4.21.2." This amendment is due to the climatic condition of low water table and minimal rainfall. The use of a test loop for performing the annual testing of fire

pumps reduces water usage that will further affect the water table and create possible water shortages for necessary firefighting.

39. Amending Section 1103.2 of the California Fire Code specifying in detail the thresholds for the enforcement for radio coverage in existing buildings. This amendment is administrative in nature.
40. Adding Chapter 25 of the California Fire Code. Building standards not adopted by the California State Fire Marshal require local jurisdictions to adopt to enforce the provisions. This amendment is administrative in nature.
41. Adding Chapter 26 of the California Fire Code. Building standards not adopted by the California State Fire Marshal require local jurisdictions to adopt to enforce the provisions. This amendment is administrative in nature.
42. Amending Table 3203.8 to repeal the exclusion of lithium-ion batteries installed in the equipment or appliance it powers address the larger quantities that will be stored within warehouses in our jurisdiction. The repeal of the exception will enable a quicker response by our Fire Authority to an emergency fire event.
43. Amending section 5704.2.9.6.1 to clarify the geographical areas storage of flammable and combustible liquids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
44. Amending section 5706.2.4.4 to clarify the geographical areas storage of flammable and combustible liquids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
45. Amending section 5806.2 to clarify the geographical areas storage of flammable gases and flammable cryogenic fluids are prohibited. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
46. Amending section 6104.2 to clarify the geographical areas storage of liquefied petroleum gases are restricted. This amendment is administrative in nature and provides information where the Fire Code points to local authority requirements.
47. Adding Section B105.2 Exception 5 to the California Fire Code specifying the conditions for the reduction of fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
48. Amending Section BB105.1 of the California Fire Code specifying the conditions for use of Exception 1 to reduce fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
49. Adding Section C106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment, therefore, is an administrative clarification.
50. Amending Table C102.1 footnote b of the California Fire Code altering the conditions for use of footnote b. CFC Table C102.1 footnote b, provides fire hydrant spacing and flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes as conditions and replaces them with a more usable standard which is based on the difficulty of fire operations across the median since the standards do not address the width of the

median, intervening features such as transportation stops or grade differentials and is administrative in nature.

51. Amending Table CC105.1 footnote b to the California Fire Code altering the conditions for use of footnote b. CFC Table CC105.1 footnote b, provides fire hydrant spacing and flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes conditions and replaces them with a more usable standard which is based on the difficulty of fire operations across the median since the standards do not address the width of the median, intervening features such as transportation stops or grade differentials and is administrative in nature.
52. Adding Section CC106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that the fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment is, therefore, an administrative clarification.
53. Amending Sections 250.52(A)(5) and 250 (A)(7) of the California Electrical Code which requires increased protection for the size of buried electrical grounds due to the geological condition that corrosive soils are notably present within and around the city limits of the City of Tracy which corrode and destroy such grounding at an accelerated rate.
54. Amending Section R105.2 item 1 of the California Residential Code clarifying the building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
55. Amending Section R105.2 item 2 of the California Residential Code identifying specific fence types that are not exempt from a permit. This amendment is administrative in nature.
56. Amending Section R105.3.2 of the California Residential Code clarifying the time limitations for plan review applications and permissible extensions. This amendment is administrative in nature.
57. Amending Section R105.5 of the California Residential Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
58. Amending Table R301.2(1) of the California Residential Code by inputting jurisdictional specific information into the table (design criteria). This amendment is administrative in nature.
59. Amending Section R308.1 of the California Residential Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
60. Amending AZ108.2.4 of the California Residential Code by requiring guardrail heights located at lofts to coincide with other provisions of the current California Residential Code. This amendment is administrative in nature.
61. Amending Section 104.3.3 of the California Plumbing Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
62. Amending Section 104.4.3 of the California Plumbing Code clarifying the time limits for plumbing permits and permissible extensions. This amendment is administrative in nature.



63. Amending Section 104.4.4 of the California Plumbing Code clarifying extensions for plumbing permits. This amendment is administrative in nature.
64. Amending Section 106.3 of the California Plumbing Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.
65. Amending Section 104.3.3 of the California Mechanical Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
66. Amending Section 104.4.3 of the California Mechanical Code clarifying the time limits for mechanical permits and permissible extensions. This amendment is administrative in nature.
67. Amending Section 104.4.4 of the California Mechanical Code clarifying the extensions for mechanical permits. This amendment is administrative in nature.
68. Amending Section 106.3 of the California Mechanical Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.
69. Amending Section 105.3.2 of the California Existing Building Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
70. Amending Section 105.5 of the California Existing Building Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
71. Amending Section 113.4 of the California Existing Building Code by modifying the text of subsection for penalties and violations. This amendment is administrative in nature.
72. Amending Section 105.4.2 of the California Wildland-Urban Interface Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
73. Amending Section 105.8 of the California Wildland-Urban Interface Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
74. Amending Section 109.3.7 of the California Wildland-Urban Interface Code by modifying the text of subsection for penalties and violations. This amendment is administrative in nature.

**SECTION 1.** Department coordination included Fire Department review.

**SECTION 2.** The adoption of this ordinance is exempt from CEQA pursuant to section 15061 (b)(3), the "common sense" exemption because adding and clarifying language related to the applicability of building codes affects the processing and issuance of ministerial permits. Ministerial permits are also exempt from CEQA under CEQA Guidelines Section 15268.

The aforementioned amendments have been incorporated in detail in Ordinance \_\_\_\_\_; and be it

**FURTHER RESOLVED:** That the Building Division of the Community & Economic Development Department shall file copies of Resolution 2025-\_\_\_\_\_ and Ordinance \_\_\_\_\_ with the California Building Standards Commission as required by Health and Safety Code Section 17958.7.

\* \* \* \* \*

The foregoing Resolution 2025-\_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of November 2025 by the following vote:

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST:

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APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California



# 2025 California Building Standards Code Adoption

Presented by Dennis Canright  
City of Tracy Building Official

November 4, 2025

# Code Adoption:

The California Building Standards Commission has selected January 1, 2026 as the effective date for the 2025 California Building Codes.



# Every three years, building/construction codes are amended by the State of California.

- Cities and counties are mandated to adopt State standards.
- If not adopted by January 1, 2026, those jurisdictions are required to follow State codes only.

# 2025 California Building Standards Code Title 24 (effective January 1, 2026)

- California Building Code
- California Existing Building Code
- California Residential Code
- California Green Building Standard Code
- California Mechanical Code
- California Plumbing Code
- California Electrical code
- California Energy Code
- California Wildland-Urban Interface Code
- California Fire Code

# Major Changes:

## 2025 California Wildland-Urban Interface Code

- The interdiction to a new code was created by consolidating the California Fire Code chapter 49 , California Building Code Chapter 7A, and The California Residential Code section R337 creating the 2025 California Wildland-Urban interface code. No changes to current construction in Tracy

## 2025 California Building Code

- **Appendix J Grading** will assist staff and design professionals with clear direction for construction design guidelines for grading, excavation and earthwork.

## 2025 California Fire Code

- **Section 320.1 Exceptions 1, 2, 3, 4, 5, & 6** - Provides fire safety requirements for batteries in storage facilities. This is proactive in the event of a fire where large quantities of batteries are stored.
- **Section 913.2** - Requiring a diesel driven fire pump, or electric fire pump with diesel emergency generator backup be installed. This ensures fire protection is in place to the building when there is loss of power.



# Public Communication

## ☐ Tracy Press

## ☐ Community and Economic Development

- flyers, handout, counter information
- Building & Safety website

## ☐ E-mail Notification

- Contractors
- Architects
- Engineers
- Developers and other interested parties
- Delta BIA



Think Inside the Triangle™



# 2025 California Building Code

Free online code access:

*<https://www.cityoftracy.org/our-city/departments/building-safety>*

*<https://www.dgs.ca.gov/bsc/codes>*

# Staff Recommendation:

Adopt 2025 Building Code updates as amended by Ordinance

# Questions

?

Agenda Item 4.A

RECOMMENDATION

**City Council receive the annual informational report of the Environmental Sustainability Commission for calendar year 2024 and projected goals for calendar year 2025**

EXECUTIVE SUMMARY

The Environmental Sustainability Commission (ESC) was formed by the City Council under Resolution 2023-068 for the purpose of advising the Council on issues related to sustainability, environmental stewardship, and opportunities for advancement on those fronts. The ESC is tasked with presenting an informational report to the City Council each year and providing goals for the following year. This annual report reviews calendar year 2024 and provides projected goals for 2025.

BACKGROUND AND LEGISLATIVE HISTORY

On February 7, 2023, the Tracy City Council directed staff to develop a commission that would be advisory to the City Council on environmental sustainability, environmental stewardship, and opportunities for advancement of these areas. On April 18, 2023, staff returned with an agenda item and the Tracy City Council under Resolution 2023-068, approved the formation of the Environmental Sustainability Commission. This Commission is supported by the Public Works Department and meets the fourth Thursday of the month at 7:00 p.m. in Council Chambers.

The focus of the ESC under its by-laws is to advise City Council through guidance of the development of an environmental sustainability plan for the City. The Commission consists of seven (7) members made up of five (5) adult residents, and two (2) youth residents. The Commissioners are recommended to have a background and expertise in the specific areas of environmental sustainability practices such as the water, wastewater, solid waste, climate action, landscape/urban forest, and/or sustainable energy.

ANALYSIS

The Commission's first meeting was held on September 28, 2023. The five adult members at this meeting consisted of Dotty Nygard, James Damasco, Tony Acosta, Nicolas Sese, and Navi Kahlon. The five adult members nominated and voted Dotty Nygard as the new Chair and James Damasco as the Vice-Chair. Over the next several months, the two youth commissioners were selected and consisted of Anthony Wahhab and Leah Shoaito.

On November 6, 2023, Commissioner Nygard notified administrative staff that she would be resigning from the Commission and on December 20, 2023, Jenny Wood became the newest commissioner for the ESC. Commissioner Sese was nominated and voted in as the new Chair upon Commissioner Nygard's resignation. Several other commissioner changes would occur and as of June 30, 2025, the Commission consisted of Jenny Wood – Chair, James Damasco – Vice Chair, Adult Commissioners – Nicholas Sese, Navjot (Navi) Kahlon, Gurdeep (Gary) Shergill, and Youth Commissioner – Leah Shoaito.



Being a young commission with Commissioners that were new to Parliamentary Procedure and Brown Act Policy, the Commission experienced many challenges during this timeframe. Quite a few monthly commission meetings could not be conducted due to quorum issues, and several commissioners were removed due to absenteeism which led to many of the quorum issues experienced. During this time, it was also difficult to recruit for youth commissioners due to the changes being implemented by City Council for how youth were to be appointed by City Council. However, once this was resolved, applications and selections were conducted and appointments were recommended and approved.

Highlights of the first 15 months of the ESC included:

- Formation of an Ad-Hoc Sustainability Action Plan Committee
- Participation in local events such as Tracy Earth Project talks, Tracy Earth Day and various other local community educational events
- Received Informational Reports from City Staff and Local Businesses on environmental topics such as Tracy's Solid Waste programs, Heirloom – Carbon Sequestration, and San Joaquin Valley Air Pollution Control District
- Received and recommended City Council adopt the Urban Forest Management Plan
- Reviewed and Held Public Meetings for Environmental Impact Reports.

Goals for 2025 and early 2026 include:

- Finalize updates to the Sustainability Action Plan in preparation for the General Plan Updates
- Review and recommend initiatives such as the Green Fleet Policy, Heritage Tree Ordinance, and other environmentally sustainable practices
- Support City environmental initiatives and community events

#### FISCAL IMPACT

Staff support and expenses related to the ESC are captured in the Public Works Department annual budget

#### PUBLIC OUTREACH/ INTEREST

ESC meetings are public and held the fourth Thursday of the month in City Council Chambers. Agendas are posted online and at the meeting.

#### COORDINATION

Utilities staff coordinate with various internal departments and divisions along with external agencies in establishing the annual workplan for presentations and items related to the ESC.

#### CEQA DETERMINATION

This action is not a project under the California Environmental Quality Act (CEQA) and is therefore not subject to environmental review.

STRATEGIC PLAN

This item meets City Council Strategic Initiatives for Quality of Life by developing environmental sustainability strategies for the City.

ACTION REQUESTED OF THE CITY COUNCIL

City Council receive the annual informational report of the Environmental Sustainability Commission for calendar year 2024 and projected goals for calendar year 2025

Prepared by: Stephanie Reyna-Hiestand, Assistant Director - Utilities

Reviewed by: Anush Nejad, Public Works Director  
Sara Castro, Finance Director  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Attachments: A - PowerPoint Presentation by Environmental Sustainability Commission

# Environmental Sustainability Commission



First Annual Report:  
September 2023 - December 2024



# ENVIRONMENTAL SUSTAINABILITY COMMISSION FORMATION



- ESTABLISHED BY CITY COUNCIL THROUGH RESOLUTION 2023-068 FOR THE PURPOSE OF ADVISING THE COUNCIL ON ISSUES RELATED TO THE SUSTAINABILITY, ENVIRONMENTAL STEWARDSHIP, AND OPPORTUNITIES FOR ADVANCEMENT ON THOSE FRONTS.
- THE ENVIRONMENTAL SUSTAINABILITY COMMISSION (ESC) IS ADVISORY TO THE CITY COUNCIL.
- ESTABLISHED BY-LAWS AS APPROVED BY CITY COUNCIL FOR THE GOVERNANCE OF THE CONDUCT OF THE COMMISSION AT MEETINGS AND THE TRANSACTION OF ITS AFFAIRS.





# ESC By-Laws



- Purpose: to develop and recommend to City Council, comprehensive, integrated environmental policies for implementation by the City to protect and enhance the City's air, water, and land.
  - Acting as an advocate for protecting, preserving, and enhancing the environment as it relates to issues under consideration by the City Council and Planning Commission.
  - Serving in an advisory role to the City Council and all Boards and Commissions,
  - Providing a means for promoting discussion and education on issues related to the environment and sustainability.
  - Preparing an annual report to be presented to the City Council such as this one



# CURRENT COMMISSION

THROUGH JUNE 30, 2025



## ADULT COMMISSIONERS

Jenny Wood  
*Chair*

James Damasco  
*Vice Chair*

Nicholas Sese

Navjot Kahlon

Gurdeep Shergill

## YOUTH COMMISSIONERS

Leah Shoaito

Vacant

*ESC makeup is seven members: five adults and two youth*



# First Year Highlights

## September 2023 – December 2024



**Conducted education and outreach at events, like the Tracy Earth Day event in April 2024**

**Formed the Sustainability Action Plan (SAP) Ad-Hoc Committee**

- Two-member committee to review the SAP and make recommendations to the Commission for discussion and action

**Individual Commissioners attended Tracy Earth Project talks, community educational events, including Tracy Renewable Energy, SB1383, Beam Circular, and Valley Link**

**Received Informational Reports from City staff and local businesses**

- Public Works Solid Waste – SB1383 Food Waste
- Heirloom – Carbon Sequestration
- San Joaquin Valley Air Pollution Control District – Air Quality in Tracy

**Received and Recommended Council Adoption of the Urban Forest Management Plan**

**Reviewed and Held Public Meetings on Environmental Impact Reports**

- Recirculated Draft EIR for the Costco Depot Annex Project
  - Commission submitted comments
- Draft EIR for the Schulte Road Warehouse Project





# Future Work Plan Tasks



- Finalize updates to the Sustainability Action Plan (SAP) by the end of 2025 in preparation for the General Plan in 2026
- Recommend and propose comprehensive, integrated environmental policies for implementation by the City to protect and enhance the City's air, water, and land.
- Review and Discuss Council recommendations on environmental policy and provide comment. ( e.g. the Green Fleet Policy )
- Support City environmental initiatives and community events, e.g. Tracy Earth Day





Agenda Item 4.B

RECOMMENDATION

**Staff recommends that the City Council receive the annual informational report of the Tracy Arts Commission for the 2024 calendar year and projected goals for calendar year 2025.**

EXECUTIVE SUMMARY

The Tracy Arts Commission was formed by the City Council for the purpose of preserving and cultivating the expression and appreciation of the Arts in Tracy. At the April 6, 2021, regular City Council meeting, the Council expressed the desire to receive an annual report. This annual report reviews the calendar year 2024 and provides projected goals for 2025.

BACKGROUND AND LEGISLATIVE HISTORY

The Tracy Arts Commission (previously known as the Cultural Arts Commission and Community Cultural Arts Commission) was established in 1991 for the purposes of: maintaining the Civic Art Plan (adopted by City Council, Reso 2003-002), contributing to the quality of life of the residents of Tracy through the high quality civic spaces and access to a broad array of artistic experiences, expanding the knowledge and understanding of the community's history and culture, supporting the economic vitality of the City through increased property values and cultural tourism, and reinforcing downtown as a cultural destination.

The Tracy Arts Commission (TAC) advises the City Council on the subjects of Citywide public art including private development and public/private partnerships, fosters public/private partnerships for the creation of civic art, supports individuals and organizations involved in the arts by promoting their events, offering resources, educational tools, and advising on policies to City Council that will support those endeavors, and commits to nourishing artistic vision, honoring diversity, supporting creativity and promoting cooperative partnerships through the Re-Granting Program.

ANALYSIS

Since 2019 the TAC has worked to develop new and more relevant programming in conjunction with the community's growth and change. These efforts have resulted in meaningful collaborations with, and the support of, our creative community.

2024 Goals

In 2024, the TAC continued to focus in the areas of public programming and civic art.

**PUBLIC PROGRAMMING:**

- Tracy Arts Month, April 2024  
The Cultural Arts Division (CAD) developed Tracy Arts Month in 2021 as an annual platform to celebrate the arts and culture, bring attention to our local-area creative community, and encourage public interaction. In 2024, the Commission presented the *Community Collaborative Mural Project* with José Luis Piña Moralez, featuring workshops and public display. The hands-on educational project recognized the work of celebrated Mexican artist Rufino Tamayo, and resulted in a 26 panel collaborative mural.

- Downtown Tracy Artwalk, Summer/Fall, 2024  
The Cultural Arts Division developed the Downtown Tracy Artwalk in 2015 as a platform to build a network of creative displays and activities on the streetscape, in support of our creative community and the merchants in the downtown core. The Commission supports the Artwalk events by providing hospitality to the participants, presenting artists and organizations, and engaging in community outreach.
- 2024-25 Co-Present – Open Mic Night Event Series  
As part of the 2024-25 Presenting Season at the Grand Theatre Center for the Arts, a monthly series of free, all-ages Open Mic Night events were offered between September 2024 and June 2025.
- 2024 Re-Granting Program  
The Re-Granting Program provides Tracy artists, arts organizations, and arts educators with meaningful funding to present new arts-based events and activities in the City. In 2024, the TAC awarded one \$2,000 grant in support of poetry activities and events presented by the Tracy Friends of the Library.

**CIVIC ART:**

- Multi-Generational Recreation Center & El Pescadero Park Project – CIP 78178  
As a function of the Civic Art Program, the CAD in collaboration with the TAC issued a Request For Proposals (RFP) seeking thematic concepts to enhance the new facility and park amenities. 19 proposals were accepted from artists and studios from across California.

Goals for 2025

The Tracy Arts Commission has identified the following goals for calendar year 2025, summarized below:

**Focus Area: ADMINISTRATIVE**

- TAC Bylaws Revision

**Focus Area: PUBLIC PROGRAMMING**

- Tracy Arts Month, April 2025
- Downtown Tracy Artwalk, Summer/Fall 2025
- 2025 Re-Granting Program
- 2025-26 Open Mic Night Event Series

**Focus Area: CIVIC ART**

- Multi-Generational Recreation Center & El Pescadero Park Project Recommendations
- City Council Review of Civic Art Plan Update

FISCAL IMPACT

Expenses related to support Tracy Arts Commission's projects and programming are included in the Cultural Arts Division General Fund budget.

STRATEGIC PLAN

This agenda item relates to the City of Tracy's Quality of Life Strategic Priority, which is to provide an outstanding quality of life by enhancing the City's amenities, business mix and services, and cultivating connections to promote positive change and progress in our community.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive the annual informational report of the Tracy Arts Commission for the 2024 calendar year and projected goals for calendar year 2025.

Prepared by: William Wilson, Cultural Arts Supervisor

Reviewed by: Arturo M. Sanchez, Assistant City Manager  
Sara Castro, Director of Finance  
L. David Nefouse, City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:

Attachment A – Tracy Arts Commission Annual Report PowerPoint

# Tracy Arts Commission

## ➔ 2024 Annual Report



Serving in an advisory role to City Council in the Cultural Arts Division, the Tracy Arts Commission (TAC) seeks to preserve and cultivate the expression and appreciation of the arts through engaging and educational public programming. The TAC is to represent the diversity of the creative community, from patrons and artists of all kinds, and encourage and stimulate the growth of broad-based arts and cultural programs.

- Utilizes Budget, Civic Art & Special Events Subcommittees
- Maintains the Civic Art Plan (Resolution 2003-02)
- Supports the creative community through collaboration, promotion & granting
- Perform other arts-related duties & functions as City Council may direct

### 2024-25 Roster:

Maxine Lees

CHAIR

Cynthia Reis

VICE CHAIR

Nila Dhugga

Debbie Jones

Taranjit Sandhu





# 2024



## ➤ Tracy Arts Month, April 2024

Presented the *Community Collaborative Mural Project* with José Juis Piña Moralez at the Grand, featuring free, hands-on workshops and public display.



## ➤ Downtown Tracy Artwalk, June/July/October

Presented new participants [**Emerging Artists**] :

Adra Aljewad

Alexandra Faulkner

Samantha Faulkner

Larkin Fleckner

Samantha Holcomb

Mohini Rangunwala

**Provided Hospitality** across the event series to over 100 participants.



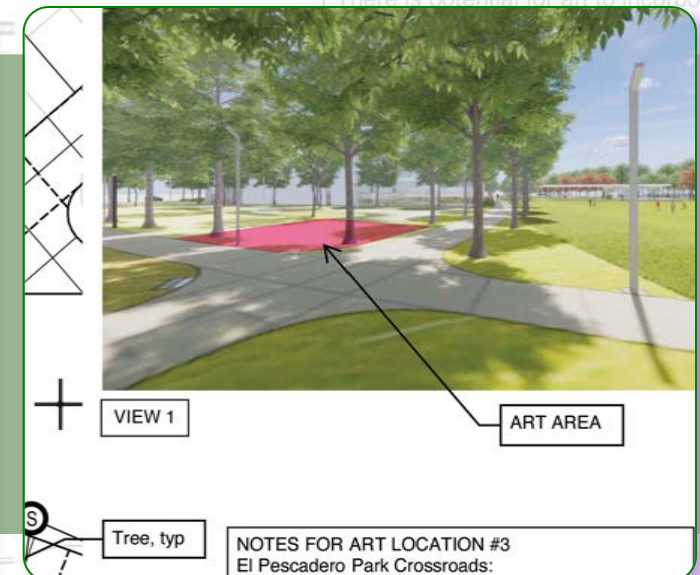


2024

## ➡ Civic Art Project: Multi-Generational Recreation Center & El Pescadero Park Project – CIP 78178

Issued a Request For Proposals in consideration of original artworks to be featured at new public amenity.  
Seeking concepts of generational time, growth and knowledge as universal experiences.  
Received 19 proposals to be reviewed for recommendations to City Council in 2025.

### CIVIC ART PROGRAM Cultural Arts & Parks & Recreation Collaboration



➡ 2024



➡ 2024 Re-Granting Program – Awarded \$2,000

in support to

**Tracy Friends of the Library**

*Coming Together: 5th Annual Tracy Poetry Contest*

featuring a poetry writing workshop at the Library,  
reading and awards presentation at the Grand,  
and the publication of a book of poetry in 2025.

➡ 2024-25 Co-Present – Open Mic Night event series

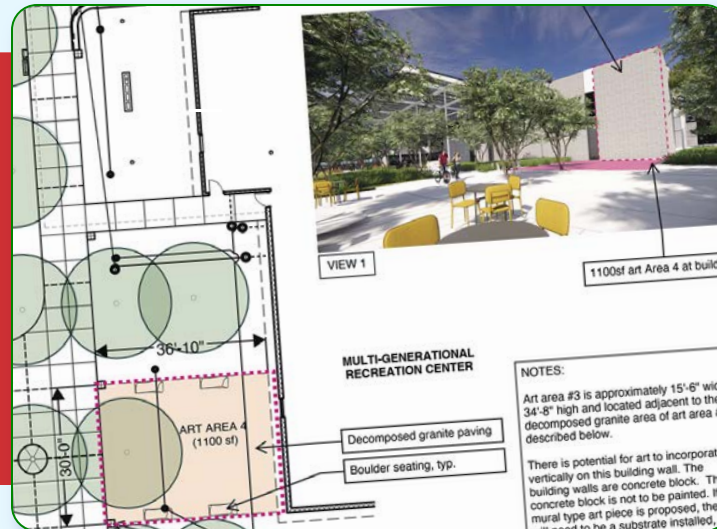
in collaboration with 2024-25 Presenting Season at the Grand

Free, All-Ages, event series from September, 2024 through June, 2025





# 2025



- Tracy Arts Month, April 2025
- Downtown Tracy Artwalk Support, Summer/Fall 2025
- Multi-Generational Recreation Center & El Pescadero Park Project Recommendations
- 2025 Re-Granting Program Call For Applications & Awards
- 2025-26 Open Mic Night collaboration with the Presenting Program at the Grand
- TAC Bylaws Revision
- City Council Review of Civic Art Plan Update



November 4, 2025

#### Agenda Item 4.C

**Adoption of a resolution declaring the intention to establish city of Tracy Community Facilities District No. 2025-1 (The Avenues) and approving related documents and actions; adoption of a resolution of intention to incur bonded indebtedness and other debt for City of Tracy Community Facilities District No. 2025-1 (The Avenues); setting the public hearing date for December 16, 2025 to consider questions of establishing the Community Facilities District, levying the special tax and incurring bonded indebtedness and other debt.**

#### EXECUTIVE SUMMARY

Surland Communities, LLC is the master developer of the residential development project known as The Avenues ("Master Developer"), and Woodside 05N, LP, a California limited partnership ("Builder"), is the home builder and owner of the lots in The Avenues. The Avenues is part of the Ellis Specific Plan Area. The Builder intends to construct 471 residential units ("Project"). The land is described in the proposed boundary map for the CFD (Attachment B).

The Builder has petitioned the City (Attachment A) to form a community facilities district under the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), to be known as City of Tracy Community Facilities District No. 2025-1 (The Avenues) ("CFD"), in order to finance costs of public infrastructure and certain public services necessary or incident to development within the Ellis Specific Plan Area.

The formation process will require three City Council meetings, including tonight's meeting.

#### BACKGROUND AND LEGISLATIVE HISTORY

For this agenda item, the City Council will be asked to consider the following actions:

- adoption of a Resolution of Intention Declaring the Intention to Establish City of Tracy Community Facilities District No. 2025-1 (The Avenues) and Approving Related Documents and Actions ("Resolution of Intention to Establish a CFD");
- adoption of a Resolution of Intention to Incur Bonded Indebtedness and Other Debt for City of Tracy Community Facilities District No. 2025-1 (The Avenues) ("Resolution of Intention to Incur Debt");
- setting a public hearing date of December 16, 2025, to consider questions of establishing the CFD, levying the special tax and issuing bonded indebtedness and other debt; and
- directing the preparation of a Community Facilities District Report.

#### BRIEF PROJECT HISTORY

The land proposed to be included in the CFD is located in the Ellis Specific Plan Area.

The Master Developer is the master developer of the Project, and the Builder is the home builder and owner of the lots in The Avenues. The Avenues is part of the Ellis Specific Plan Area. The Builder expects to construct 471 residential units.

## ANALYSIS

### **PROPOSED CFD**

#### ***What the CFD Does***

The CFD is a mechanism for funding the public infrastructure that the Project developer is required to build as a condition of development in the Ellis Specific Plan Area (the “Facilities”), and it will also fund certain public services (the “Services”). The Facilities and the Services are described in Exhibit A to the Resolution of Intention to Establish a CFD.

The Rate and Method of Apportionment of Special Tax (the “RMA”) for the CFD, which is set forth in Exhibit B of the Resolution of Intention to Establish a CFD, establishes two special taxes: (i) a Facilities Special Tax, that will be used over a 40-year period to finance the Facilities and (ii) a perpetual Services Special Tax that will be used to pay for Services. As homes are sold, the new property owners assume the responsibility to pay the Facilities Special Tax and the Services Special Tax in the amount specified in the RMA.

#### ***Deposit and Reimbursement Agreement***

The Developer has agreed to advance funds to pay for the costs of forming the CFD and certain non-contingent costs of issuing bonds. The Developer’s obligation to advance these funds and the City’s agreement to reimburse those advances with proceeds of bonds and special taxes from the CFD will be documented in a Deposit and Reimbursement Agreement, to be considered by the City Council at this meeting (Attachment C).

#### ***The Proposed Cost of Financing the Improvements***

The City will be asked to issue bonds to finance the Facilities.<sup>1</sup> The bonds issued by the City for the CFD will not exceed the principal amount of \$60,000,000 (the “Bonded Indebtedness Limit”). The CFD will also be authorized to incur other debt (as defined in the Mello-Roos Act).

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<sup>1</sup> The facilities constructed or acquired may be located within or outside the CFD.

**Facilities Special Taxes.** The maximum Facilities Special Tax in the CFD for fiscal year 2025-26 is established by the RMA, as follows:

**TABLE 1**  
**Base Facilities Special Tax**  
**Developed Property and Final Map**  
**Property**

<b>Land Use Category</b>	<b>Lot Category</b>	<b>Base Facilities Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*</b>	<b>Base Facilities Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*</b>
Single Family Detached Property and Final Map Property	Lot Category A	\$4,714 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$5,227 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$5,598 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$7,090 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Other Property	N/A	\$56,909 per Acre	\$0 per Acre

\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.

It is expected that the maximum annual Facilities Special Taxes will be used to service the bonds and other debt issued by the City for the CFD and to pay for Facilities on a “pay as you go” basis.

For the first 10 years in which the Facilities Special Tax is levied in the CFD, the City will levy the maximum Facilities Special Tax on Developed Property and any Remainder Taxes (Facilities Special Tax revenues in excess of (i) debt service for outstanding bonds, (ii) administrative costs, (iii) amounts required to replenish reserve fund, (iv) amounts needed cure delinquencies occurring in the prior Fiscal Year; or (v) administrative expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds) will be used to reimburse the Project developer. Thereafter, the City will levy the Facilities Special Tax as necessary to pay debt service, administrative expenses and costs of the Facilities, among other authorized purposes.

**Services Special Taxes.** The maximum Services Special Tax in the CFD for Fiscal Year 2025-26 is established by the RMA, as follows:

**TABLE 2**  
**Maximum Services Special Tax**  
**Developed Property and Final Map**  
**Property**

<b>Land Use Category</b>	<b>Lot Category</b>	<b>Maximum Services Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*</b>	<b>Maximum Services Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*</b>
Single Family Detached Property and Final Map Property	Lot Category A	\$920 per Residential Unit or SFD Lot	\$1,863 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$920 per Residential Unit or SFD Lot	\$1,965 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$920 per Residential Unit or SFD Lot	\$2,040 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$920 per Residential Unit or SFD Lot	\$2,338 per Residential Unit or SFD Lot
Other Property	N/A	\$9,467 per Acre	\$20,849 per Acre

\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.

As shown in Table 2, the RMA establishes a two-phase structure for Services Special Taxes, in which the Services Special Tax will be lower until the occurrence of the “Transition Event”, which is defined in the RMA to mean that (i) all Bonds secured by the levy and collection of Facilities Special Taxes have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds or Facilities Special Taxes.

#### ***How Long will it Take to Pay Off the Bonds***

This CFD allows for multiple bond issues for the CFD, each of which is expected to have a term of thirty years. The Facilities Special Tax can be levied in the CFD until the earlier of the Transition Year (as defined in the RMA) or Fiscal Year 2066-67.

#### ***The Financing Team***

The financing team for the CFD has been selected and used by the City in other bond issues and includes Jones Hall as Bond Counsel and Disclosure Counsel, Piper Sandler, as the negotiated underwriter, CSG Advisors, Inc. as municipal advisor, Harris and Associates as Program Manager, and Goodwin Consulting Group as Special Tax Consultant and CFD Administrator.



### ***Acquisition Agreement***

In general, community facilities districts can be “construction districts” (in which the community facilities district finances public infrastructure to be constructed by a public agency) or “acquisition districts” (in which the community facilities district finances the acquisition of public infrastructure that has been built by a developer in the community facilities district). Community facilities districts can also finance connection fees payable by a developer.

It is expected that the CFD will primarily be an acquisition district, and that the City will enter into an Acquisition Agreement with the Master Developer. Staff expects to ask the City Council to approve the form of an Acquisition Agreement at a future meeting.

### ***Joint Community Facilities Agreement***

The Master Developer has asked the City to authorize the CFD to finance certain fees payable to the Jefferson School District as a condition of development of the property in the Ellis Specific Plan Area, and the Resolution of Intention to Establish a CFD authorizes the City Manager to execute on behalf of the City a joint community facilities agreement with the Jefferson School District in order to comply with Section 53316.2 of the Mello-Roos Act (Attachment D).

## **REQUIRED CFD LEGISLATIVE ACTIONS**

### ***First Legislative Action (first Council meeting)***

The Mello-Roos Act is both a procedural law (establishing a community facilities district and authorizing the levy of a special tax) and a bond law (authorizing issuance of bonded indebtedness and other debt). Under the Mello-Roos Act, adoption of the Resolution of Intention to Establish a CFD formally starts the process for formation of the CFD by describing the Facilities and Services to be financed, proposing a special tax formula and setting a public hearing on the questions of establishing the CFD and levying the special taxes. This resolution also directs the preparation of a CFD Report which must contain, among other things, a brief description of the public facilities and services by type which will be “required to adequately meet the needs of the district” and the estimated cost (including estimated bonding and administrative costs) of providing those facilities and services.

The City Council may also begin a concurrent process for issuance of bonds and other debt. The bonds and other debt will be special obligations of the City payable only from special taxes levied in the CFD. The Resolution of Intention to Incur Debt begins the debt process; it sets forth the maximum amount of bonded debt to be incurred for the CFD. This resolution also calls for a public hearing on the proposed bonded and other debt, which is set for the same time as the hearing on formation of the CFD.

### ***Second Legislative Action (second Council meeting)***

The two public hearings are proposed for December 16, 2025. Protests against the establishment of the CFD, the extent of the CFD or the proposed facilities or services may be made orally or in writing by any interested persons or taxpayers. If 50% or more of the registered voters residing in the CFD, or 6 registered voters residing in the CFD, whichever is greater, or the owners of 50% or more of the non-exempt land in the CFD, file written protests against establishment of the CFD, the proceedings must stop for at least one year.

On December 16, 2025, after completion of the public hearings, the City Council will be asked to adopt the following resolutions:

1. Resolution Forming City of Tracy Community Facilities District No. 2025-1 (The Avenues) and Approving Related Documents and Actions ("Resolution of Formation"). This resolution forms the CFD, establishes the scope of the Facilities and Services, and adopts the special tax formula for the CFD.
2. Resolution of Necessity to Incur Bonded Indebtedness and Other Debt. This resolution declares the necessity to incur bonded indebtedness and other debt and establishes the maximum amount of any bonded debt.
3. Resolution Calling Special Election. This resolution calls for the required vote by the qualified electors in the CFD on (i) the levy of the special taxes, (ii) issuance of a not-to-exceed bonded and other debt and (iii) an appropriations limit.

Under the Mello-Roos Act, if the CFD, at the end of the public hearing, contains fewer than 12 registered voters (this includes any registered voters living in the CFD, including renters), the vote is by landowners with each owner having one vote for each acre or portion of acre owned.

Staff has confirmed that there are no registered voters living on the property to be included in the CFD, and the Builder is expected to be the only qualified elector for the proposed election in the CFD. Because, as permitted by the Mello-Roos Act, the Builder has waived the waiting period otherwise required by the Mello-Roos Act between adoption of the Resolution of Formation and the election, the election will be held at the same meeting as the hearing and after the adoption of the Resolution Calling Special Election.

Following a successful election, the following actions would need to be taken:

1. The City Council will be asked to adopt a Resolution Confirming Results and Directing Recording of Notice of Special Tax Lien for City of Tracy Community Facilities District No. 2025-1 (The Avenues), which determines the outcome of the election and provides for the required recording of the special tax lien notice. Recordation of the notice of special tax lien gives constructive notice of the existence of the ability of the City Council to levy special taxes to finance the Facilities and Services according to the RMA.
2. Introduction (First Reading) of the Ordinance Ordering Levy of Special Taxes. This ordinance orders the levy of the Facilities Special Tax and the Services Special Tax to finance the Facilities and Services according to the RMA.

At a third Council meeting, the City would perform the second reading and adoption of the Ordinance Ordering the Levy of Special Taxes.

At such time as the City and the Master Developer are ready to issue bonds to pay for authorized Facilities, staff will return for approval of bonds and related documents.

## STRATEGIC PLAN

This action to initiate the formation of a CFD to finance the Services for the Project supports goal 2 of the Strategic Plan: "Ensure continued fiscal sustainability through financial and budgetary stewardship."

### FISCAL IMPACT

There is no cost to the General Fund associated with this request. Bond Counsel/Disclosure Counsel, Municipal Advisor, Underwriter, Tax Consultant/CFD Administrator, and Project Manager expenses are either contingent upon the successful sale and closure of the bonds and paid from bond proceeds and/or are paid through the Deposit and Reimbursement Agreement.

### RECOMMENDATION

Adoption of a resolution declaring the intention to establish city of Tracy community facilities district no. 2025-1 (The Avenues) and approving related documents and actions; adoption of a resolution of intention to incur bonded indebtedness and other debt for city of Tracy community facilities district no. 2025-1 (the avenues); setting the public hearing date for December 16, 2025 to consider questions of establishing the community facilities district, levying the special tax and incurring bonded indebtedness and other debt

Prepared by: Sara Castro, Finance Director  
Chris Lynch, Jones Hall

Reviewed by: L. David Nefouse, City Attorney  
Arturo M. Sanchez, Assistant City Manager

Approved by: Arturo M. Sanchez, Assistant City Manager

### ATTACHMENTS

Attachment A - Petition  
Attachment B - Boundary Map  
Attachment C - Deposit and Reimbursement Agreement  
Attachment D - Joint Community Facilities Agreement

**PETITION TO CREATE A  
COMMUNITY FACILITIES DISTRICT  
(Including Waivers)**

November 1, 2025

City Council of the  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

Members of the Council:

This is a petition to create a community facilities district and related matters (the "Petition") submitted pursuant to the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the "Act").

1. Petitioners. This Petition is submitted pursuant to the Act to the City of Tracy (the "City") by the owner (the "Property Owner") of 100% of the fee simple interest in the parcels of land identified by Assessor Parcel Numbers shown below (the "Property") and further shown on the map attached hereto as Exhibit B. The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City's proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any "due-on-encumbrance" clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a community facilities district to be designated "City of Tracy Community Facilities District No. 2025-1 (The Avenues)" (the "CFD"), which CFD shall initially include only the Property; and
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (1) to levy a special tax for facilities (the "Facilities Special Tax") on the non-exempt property located within the CFD, (2) to levy a special tax for public services (the "Services Special Tax") on the non-exempt property located within the CFD and (3) to authorize the issue of bonded indebtedness and other debt (as defined in the Act) for the CFD, all as shall be more fully established during the course of the requested legal proceedings for establishment of the CFD.

3. Boundaries of CFD. The Property Owner hereby asks that the territory within the boundaries of the CFD be as shown on the map attached hereto as Exhibit B.

Property Owner hereby represents and warrants that, to the best knowledge of the Property Owner as of the date hereof, there are no registered voters residing within the boundaries of the Property.



4. Purpose of CFD. The Property Owner believes that the CFD is necessary to finance public facilities and public services associated with the Ellis Specific Plan, which includes the residential development project commonly known as The Avenues (the "Project"). The CFD shall be created for the purpose of financing the facilities (the "Facilities") and the public services described in Exhibit A attached hereto and incorporated herein by reference. The City Council shall be requested from time to time to issue special tax bonds and other debt in one or more series to finance the Facilities and the related incidental expenses of the proceedings and bond financing, and the Property Owner will cooperate in each issuance of special tax bonds and other debt.

5. Elections. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonded indebtedness and other debt and to establish an appropriations limit for the CFD be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on the CFD under the Act or as soon thereafter as possible.

6. Waivers. The Property Owner hereby acknowledges, confirms and agrees that, pursuant to Section 53326 of the Act, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the CFD and the concurrence of the election official conducting the election. The Property Owner hereby consents to the waiver of, and hereby waives, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of the election (other than the right to have ballots accurately counted), including, but not limited to, all notices with respect thereto (published, mailed or otherwise to be given), any voter qualification requirements, any time limitations, all publication requirements, all pre-election, election or voting procedures (other than the right to vote) and all canvass, recount and tie vote procedures.

The Property Owner hereby acknowledges, confirms and agrees that, as the election vote is to be by the landowners of the CFD, any impartial analysis, arguments or rebuttals, if any, with respect to the election may, pursuant to Section 53327(b) of the Act, be waived with the unanimous consent of all the landowners of the CFD. The Property Owner hereby consents to the waiver of, and hereby waives, the requirements of Section 53327(a) of the Act that there be prepared and included in the ballot material provided to each voter an impartial analysis pursuant to Section 9160, 9280 or 9500 of the California Elections Code (the "Elections Code"), and arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and Section 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and Section 9295 of the Elections Code, or pursuant to Sections 9501 to 9507, inclusive, of the Elections Code, or pursuant to other provisions of law applicable to other special districts as appropriate.

Other than the rights preserved herein, the Property Owner hereby waives any and all defects in notice or procedure in the proposed proceedings to establish the CFD, approve the levy of the special taxes, approve the issuance of bonded indebtedness and other debt, and approve an appropriations limit for the CFD, whether known or unknown.

The Property Owner hereby waives all requirements as to the form and content of the ballot and the ballot measure for the election, including, without limitation, all requirements that the ballot measure be condensed, abbreviated or summarized in the ballot, the requirements in Section 9051 of the Elections Code and the requirements in Section 13119(b) of the Elections Code that the ballot measure include the amount of money to be raised annually from the special

taxes and the rate and duration of the special taxes; provided, however, that, notwithstanding the foregoing, the Property Owner is not waiving, and does not waive, the requirement in Section 13247 of the Elections Code that the ballot label be followed with the words "Yes" and "No".

The Property Owner hereby waives all requirements as to the preparation, printing and delivery of election materials for the election (other than delivery of the ballot to each voter as provided in the Act) and the form and content of such election materials, including, without limitation, that a fiscal impact report or statement be prepared, delivered or referenced, that a voter information guide or pamphlet be prepared, printed, delivered or made available and that the full ballot measure be printed in materials, other than the ballot, delivered or made available to voters.

The Property Owner hereby waives its right to make any protest or complaint or to undertake any legal action challenging the validity of the election.

The Property Owner's acknowledgement, pursuant to the Petition, that the CFD will be created and that the special taxes will be levied and bonds be issued to finance all or a part of the Facilities, evidences, and the Property Owner hereby represents and confirms, that the Property Owner was in possession of such information and knowledge as it deemed necessary or appropriate with respect to such matters. The Property Owner hereby represents and confirms that it is fully informed with respect to such matters and fully understands the consequences thereof.

The Property Owner hereby acknowledges, confirms and agrees that that the Property Owner and representatives thereof, including its financial advisor and legal counsel, received, reviewed, participated in discussions regarding, and provided comments and input on the documents and instruments constituting, the proceedings to establish the CFD, including, without limitation, this Petition (with Waiver), the Rate and Method and the description of the authorized Facilities.

The Property Owner hereby acknowledges, confirms and agrees (a) that the Rate and Method is set forth in Exhibit C hereto, and (b) that the Rate and Method contains detailed provisions specifying (i) the type of the special taxes (a special tax) and the amount or rate of the special taxes to be levied on each parcel of property in the CFD, (ii) the duration of the special taxes, and (iii) the use of the revenue derived from the special taxes (to pay the costs of Facilities and Services, to pay debt service on Bonds and other debt, to pay administrative costs and to pay or provide for other related costs or expenses). The Property Owner hereby acknowledges, confirms and agrees that by virtue of the ballot's reference to the Resolution of Formation, which sets forth the Rate and Method, and by virtue of the Property Owner and representatives thereof, including its financial advisor and legal counsel, receiving, reviewing, participating in discussions regarding and providing comments and input on the Rate and Method, the Property Owner has such information and knowledge about the matters described in clause (b) of this paragraph that is at least equal to that it would have had if such matters had been set forth in the ballot.

The Property Owner hereby represents and confirms that it has obtained, and is in possession of, such information and knowledge with respect to the Property Owner's representations, warranties, acknowledgements, confirmations, agreements, consents and waivers contained in this Certificate as it has deemed necessary or appropriate. The Property Owner hereby represents and confirms that it is fully informed with respect to such representations, warranties, acknowledgements, confirmations, agreements, consents and waivers and fully understands the consequences thereof. The Property Owner hereby represents

and confirms that each such waiver by the Property Owner is a knowing, intelligent and voluntary waiver.

7. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by Surland Communities, LLC, the master developer of the Ellis Specific Plan (the "Master Developer"), made not later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Master Developer, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of the CFD.

8. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

9. Electronic Signatures. The Property Owner hereby agrees that its electronic signatures or other electronic indication of execution on all documents related to this transaction, and the electronic signature or other electronic indication of execution of other parties related to this transaction, shall be treated the same and have the same legally binding and enforceable effect as original manual signatures.


By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified in Exhibit D, and consists of 60.92 acres

The name of the owner of record of such property and the petitioner and its mailing address is:

WOODSIDE 05N, LP, a California limited partnership

By: WDS GP, Inc.,  
a California corporation,  
its General Partner

By: \_\_\_\_\_

Name: Michael LaFortune

Its: Authorized Agent

Mailing Address:

Mike LaFortune  
Vice President of Land Acquisition & Development  
Woodside Homes of Northern California  
1130 Iron Point Road, Suite 200  
Folsom, Ca 95630  
Mobile: (916) 790-7121  
Michael.lafortune@woodsidehomes.com

## **EXHIBIT A**

### **PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE CFD**

#### **City of Tracy Community Facilities District No. 2025-1 (The Avenues)**

#### **FACILITIES**

The CFD shall be authorized to finance all or a portion of the costs of the acquisition, construction and improvement of facilities permitted under the Mello-Roos Act and that are required as conditions of development of the property within the Ellis Specific Plan area, including, but not limited to, the following:

1. Public Buildings and Facilities (excluding Aquatic or Swim Center);
2. Wastewater Treatment Plant Improvements and Facilities;
3. Wastewater Collection Pipeline Improvements and Facilities;
4. Drainage Improvements and Facilities;
5. Water Improvements and Facilities;
6. Roadway Improvements and Facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, pavement;
7. Public Parks and Facilities (excluding Aquatic or Swim Center), including trails and bike paths;
8. Ancillary Improvements and Facilities such as, publicly-owned masonry walls and fences; and
9. School facilities and equipment to be owned and operated by the Jefferson School District.

Any facility authorized to be financed by the CFD may be financed through the construction and acquisition of the facility or through the payment of fees for such facility.

The facilities constructed or acquired may be located within or outside the CFD.

The facilities to be financed shall include all hard and soft costs associated with the facilities, including the costs of the acquisition of land and rights-of-way, the costs of design, engineering and planning, the costs of any environmental or traffic studies, surveys or other reports, costs related to landscaping and irrigation, soils testing, permits, plan check, and inspection fees, insurance, legal and related overhead costs, coordination and supervision and any other costs or appurtenances related to any of the foregoing as further defined in one or more acquisition agreements with the developer of the Property in the CFD.

#### **SERVICES**

Special taxes collected in the CFD may finance, in whole or in part, the following services ("services" and "maintenance" shall have the meaning given those terms in the Mello-Roos Community Facilities Act of 1982):



1. Costs of operation, maintenance, repair, and replacement for the streetlights and street sweeping within the CFD (including all costs required by Pacific Gas & Electric), as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.

2. Costs of providing Police and Public Works services for the property in the CFD, as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.

3. Costs of maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance, operations, repair, and replacement costs associated with the adjacent landscape frontage on Valpico Road, as more fully described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.

4. Costs of operation, maintenance, repair, and replacement for the property within the CFD's fair share of storm drain basin or any other systems designed to meet the requirements of the City's Stormwater Standards Manual, as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.

#### OTHER

The CFD may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.

2. Administrative fees of the City and the bond trustee or fiscal agent related to the CFD and the Bonds.

3. Reimbursement of costs related to the formation of the CFD advanced by the City, the Master Developer, the landowner(s) in the CFD, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the Master Developer, the landowner(s) in the CFD or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the CFD.

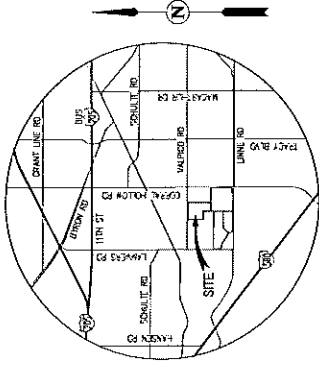
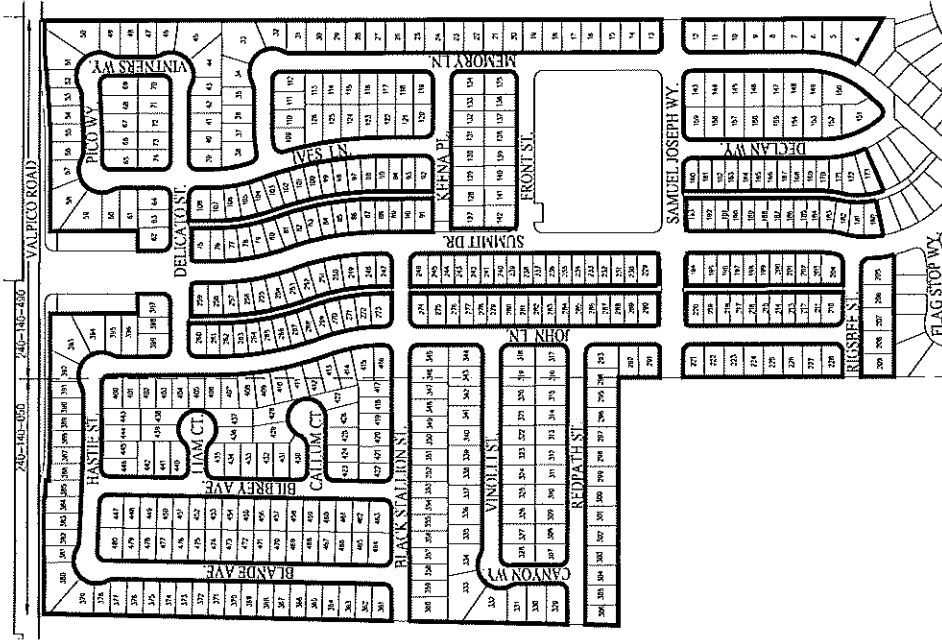
Special Taxes may be collected and set-aside in designated funds and collected over several years, and used to fund Facilities or Services authorized to be financed by the CFD.

**EXHIBIT B**

**PROPOSED BOUNDARY MAP**

**City of Tracy  
Community Facilities District No. 2025-1  
(The Avenues)**

# PROPOSED BOUNDARIES OF CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES) COUNTY OF SAN JOAQUIN STATE OF CALIFORNIA



VICINITY MAP  
NOT TO SCALE

## RECORDER'S STATEMENT

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF TRACY THIS \_\_\_\_ DAY OF \_\_\_\_ 2025.

APRIL B.A. QUINTANILLA  
CITY CLERK  
CITY OF TRACY  
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES) COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF TRACY AT A REGULAR MEETING HEREOF, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_ 2025, BY ITS RESOLUTION NO. \_\_\_\_\_.

APRIL B.A. QUINTANILLA  
CITY CLERK  
CITY OF TRACY  
STATE OF CALIFORNIA

FILED THIS \_\_\_\_ DAY OF \_\_\_\_ 2025, AT THE HOUR OF \_\_\_\_ O'CLOCK \_\_\_\_ M. IN BOOK \_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

BY: STEVE J. BESTOLARDES  
RECORDER / COUNTY CLERK  
COUNTY OF SAN JOAQUIN

BY: \_\_\_\_\_  
DEPUTY RECORDER

## LEGEND:

CFD NO. 2025-1 (THE AVENUES) BOUNDARY

REFERENCE LOT NUMBER, (471 LOTS TOTAL)

4

COUNTY OF SAN JOAQUIN  
STATE OF CALIFORNIA

ASSESSOR'S PARCEL NUMBERS

[illegible]



**EXHIBIT C**

**PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**

**City of Tracy  
Community Facilities District No. 2025-1  
(The Avenues)**

**CITY OF TRACY  
COMMUNITY FACILITIES DISTRICT NO. 2025-1  
(THE AVENUES)**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**

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Special Taxes applicable to each Assessor's Parcel in the City of Tracy Community Facilities District No. 2025-1 (The Avenues) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into the CFD.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Accessory Unit"** means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

**"Acquisition Agreement"** means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this RMA.

**“Assessor’s Parcel” or “Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

**“Assessor’s Parcel Map”** means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

**“Authorized Facilities”** means the public facilities authorized to be financed, in whole or in part, by the CFD.

**“Authorized Services”** means the public services authorized to be funded, in whole or in part, by the CFD.

**“Base Facilities Special Tax”** means, for any Land Use Category and Lot Category, the applicable Facilities Special Tax initially identified in Table 1 of Section C, as may be adjusted pursuant to Sections D and H herein.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by the CFD to fund Authorized Facilities.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay interest on Bonds.

**“CFD”** means the City of Tracy Community Facilities District No. 2025-1 (The Avenues).

**“CFD Formation”** means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

**“City”** means the City of Tracy.

**“City Council”** means the City Council of the City of Tracy.

**“County”** means the County of San Joaquin.

**“Developed Property”** means, in any Fiscal Year, all Parcels of Taxable Property that are not Taxable Owners Association Property, Taxable Welfare Exemption Property, or Taxable Public Property for which a building permit was issued prior to June 1 of the preceding Fiscal Year.

**“Development Class”** means, individually, Developed Property, Final Map Property, Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property.

**“Escalation Factor”** means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2025 to April 2026.

**“Expected Land Uses”** means the number of and Lot Category assignment for Residential Units and the acreage of Other Property expected within the CFD at CFD Formation, as identified in Attachments 1 and 2 of this RMA. Pursuant to Section D herein, the Administrator shall update

Attachment 2 each time there is a Land Use Change. Updates to Attachments 1 and 2 shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

**“Expected Maximum Facilities Special Tax Revenues”** means the amount of annual revenue that would be available from Taxable Property in the CFD if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues at CFD Formation are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within the CFD prepay a portion of the Facilities Special Tax obligation. Updates to Attachments 1 and 2 shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

**“Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

**“Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities or Authorized Services to be funded directly from Facilities Special Tax proceeds (in the manner set forth in Step 1 of Section E.1 herein) to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“Final Map”** means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

**“Final Map Property”** means, in any Fiscal Year, all SFD Lots created within Final Maps that had recorded prior to June 1 of the preceding Fiscal Year and which have not yet become Developed Property.

**“First Bond Sale”** means issuance of the first series of Bonds secured, in whole or in part, by Special Taxes levied and collected from Parcels in the CFD.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Improvement Fund”** means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.



**“Indenture”** means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“Index”** means the Consumer Price Index of the San Francisco-Oakland-Hayward area for all urban consumers.

**“Land Use Category”** means the categories of land use identified in Tables 1 and 2 in Section C below.

**“Land Use Change”** means a proposed or approved change to the Expected Land Uses within the CFD after CFD Formation, including changes to the Lot Category designation for SFD Lots.

**“Lot Category”** means, individually, Lot Category A, Lot Category B, Lot Category C, and Lot Category D.

**“Lot Category A”** includes SFD Lots that are designated as Lot Category A in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category B”** includes SFD Lots that are designated as Lot Category B in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category C”** includes SFD Lots that are designated as Lot Category C in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category D”** includes SFD Lots that are designated as Lot Category D in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Maximum Facilities Special Tax”** means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and H below.

**“Maximum Services Special Tax”** means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

**“Other Property”** means, in any Fiscal Year, all Parcels of Developed Property within the CFD that are not Single Family Detached Property

**“Owners Association”** means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within the CFD.

**“Owners Association Property”** means any property within the CFD that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

**“Proportionately”** means, for each Development Class, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all parcels assigned to the Development Class.

**“Public Property”** means any property within the boundaries of the CFD that is owned by the federal government, State of California or other local governments or public agencies.

**“Remainder Special Taxes”** means, as calculated between September 1<sup>st</sup> and December 31<sup>st</sup> of any Fiscal Year, any Facilities Special Tax revenues that were collected in the prior Fiscal Year and were not needed to: (i) pay debt service on the Bonds that was due in the calendar year in which the Remainder Special Taxes are being calculated; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement, liquidity support and rebate payments on the Bonds; (iii) replenish reserve funds created for the Bonds under the Indenture; (iv) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected; or (v) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

**“Required Coverage”** means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

**“Residential Unit”** means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

**“RMA”** means this Rate and Method of Apportionment of Special Taxes.

**“Services Special Tax”** means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

**“Services Special Tax Requirement”** means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

**“SFD Lot”** means an individual residential lot, identified and numbered on a recorded Final Map, on which a building permit was or is permitted to be issued for construction of a single family

detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels for which a building permit was issued for construction of a Residential Unit.

**“Special Taxes”** means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

**“Taxable Owners Association Property”** means, in any Fiscal Year after the First Bond Sale, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and H below), the Parcel was not anticipated to be Owners Association Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Taxable Property”** means all Parcels within the boundaries of the CFD that are not exempt from the Special Taxes pursuant to law or Section G below.

**“Taxable Public Property”** means in any Fiscal Year after the First Bond Sale, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and H herein), the Parcel was not anticipated to be Public Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Taxable Welfare Exemption Property”** means in any Fiscal Year after the First Bond Sale, any Parcel of Welfare Exemption Property that satisfies all three of the following conditions: (i) the Parcel had not been Welfare Exemption Property on the date of issuance of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Section D herein), the Parcel was not anticipated to be Welfare Exemption Property based on the Expected Land Uses, as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Special Tax because it has become Welfare Exemption Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Transition Event”** shall be deemed to have occurred when the Administrator determines that the following events have occurred: (i) all Bonds secured by the levy and collection of Facilities Special Taxes in the CFD have been fully repaid or there are sufficient revenues available to fully repay the Bonds in funds and accounts that, pursuant to the Indenture, will require such revenues to be applied to repay the Bonds; (ii) all Administrative Expenses from prior Fiscal Years have been paid or reimbursed to the City; and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds or Facilities Special Taxes.

**“Transition Year”** means the first Fiscal Year in which the Administrator determines that the Transition Event occurred in the prior Fiscal Year.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Final Map Property, Taxable Public Property, Taxable Owners Association Property, or Taxable Welfare Exemption Property as defined herein.

**“Welfare Exemption Property”** means, in any Fiscal Year, any Parcels in the CFD that have received a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code and for which such welfare exemption is still in place.

## **B. DATA FOR ADMINISTRATION OF SPECIAL TAXES**

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Final Map Property, Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, or Taxable Welfare Exemption Property; (ii) for Developed Property, categorize each Parcel as Single Family Detached Property or Other Property, (iii) for Single Family Detached Property and Final Map Property, determine the Lot Category for each Parcel; (iv) for Other Property, determine the Acreage of each Parcel; (v) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year; and (vi) determine if the Transition Event occurred in the prior Fiscal Year. In addition, the Administrator shall, on an ongoing basis, monitor Final Maps and building permits to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D herein.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in the CFD was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

## **C. MAXIMUM SPECIAL TAXES**

### **1. *Developed Property and Final Map Property***

#### **a. *Facilities Special Tax***

The Maximum Facilities Special Tax for a Parcel of Developed Property or Final Map Property is the greater of: (i) the Base Facilities Special Tax set forth in Table 1 below, or (ii) the Maximum Facilities Special Tax determined pursuant to Section D.



**Table 1**  
**Base Facilities Special Tax**  
**Developed Property and Final Map Property**

Land Use Category	Lot Category	Base Facilities Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*	Base Facilities Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*
Single Family Detached Property and Final Map Property	Lot Category A	\$4,714 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$5,227 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$5,598 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$7,090 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Other Property	N/A	\$56,909 per Acre	\$0 per Acre

\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property or Final Map Property, the Maximum Facilities Special Tax applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except in the event of a partial prepayment pursuant to Section H herein.

**b. Services Special Tax**

Table 2 below identifies the Maximum Services Special Tax for Developed Property and Final Map Property in the CFD.

**Table 2**  
**Maximum Services Special Tax**  
**Developed Property and Final Map Property**

Land Use Category	Lot Category	Maximum Services Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*	Maximum Services Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*
Single Family Detached Property and Final Map Property	Lot Category A	\$920 per Residential Unit or SFD Lot	\$1,863 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$920 per Residential Unit or SFD Lot	\$1,965 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$920 per Residential Unit or SFD Lot	\$2,040 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$920 per Residential Unit or SFD Lot	\$2,338 per Residential Unit or SFD Lot
Other Property	N/A	\$9,467 per Acre	\$20,849 per Acre

\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.

2. *Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property*

a. **Facilities Special Tax**

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property prior to the Transition Year is \$56,909 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. In and after the Transition Year, the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

b. **Services Special Tax**

The Maximum Services Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Transition Year is \$9,467 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by the Escalation Factor. In and after the Transition Year, the Maximum Services Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$20,849 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by the Escalation Factor.

**D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX**

1. *Land Use Changes*

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were originally calculated based on the Expected Land Uses at CFD Formation. Attachment 2 is subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

**Prior to the First Bond Sale**, if a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

**After the First Bond Sale**, if a Land Use Change is proposed or identified, Steps 1 through 3 below must be applied:

**Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D or a partial

prepayment has been made), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues prior to the Land Use Change.

**Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in the CFD after the Land Use Change based on application of the Base Facilities Special Taxes from Table 1.

**Step 3:** If the revenues calculated in Step 2 are (i) higher than those determined in Step 1 or (ii) less than those calculated in Step 1, but the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below Required Coverage, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below Required Coverage, one of the following shall occur:

**3.a.** The landowner requesting the Land Use Change (the “Requesting Landowner”) may make a prepayment in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage, as determined pursuant to Section H below. If the Requesting Landowner notifies the Administrator that he/she would like to remedy the reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment estimate or (ii) the date of issuance of any building permits for any Parcel owned by the Requesting Landowner that was Final Map Property or Undeveloped Property at the time the Administrator prepared the prepayment estimate, or

**3.b.** If a prepayment is not received by the due date specified above, the Base Facilities Special Tax used to determine the Maximum Facilities Special Tax for each Parcel of Taxable Property in the area affected by the Land Use Change shall be increased proportionately until the Expected Maximum Facilities Special Tax Revenues are sufficient to maintain Required Coverage.

Pursuant to this Section D.1, the Administrator may from time to time update Attachment 2 to reflect revised Expected Maximum Facilities Special Tax Revenues. Such update shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

If multiple Land Use Changes are proposed simultaneously by a single landowner (which may include approval of multiple Final Maps at one time), and the landowner requests that the impact of two or more of the Land Use Changes be considered together, the Administrator shall consider the combined effect of the Land Use Changes to determine if there is a reduction in Expected Maximum Facilities Special Tax Revenues. If there is a reduction that would reduce debt service coverage below Required Coverage, and no prepayment has been received, then the Base Facilities Special Tax used to determine the Maximum Facilities Special Tax for each Parcel of Taxable Property in the areas affected by the Land Use Changes shall be increased proportionately until

the aggregate amount that can be levied within such areas is equal to the amount that could have been levied prior to the proposed Land Use Changes. If Land Use Changes are proposed simultaneously by multiple landowners, or if an individual landowner proposing multiple Land Use Changes does not request that such Land Use Changes be considered together, the Administrator shall consider the proposed Land Use Changes individually.

Notwithstanding the foregoing, once a certificate of occupancy has been issued for a Residential Unit on a Parcel, the Maximum Facilities Special Tax for the Parcel cannot be increased because of subsequent Land Use Changes that may occur within the area in which the Parcel is located.

The duties imposed on the Administrator pursuant to this Section D to review Land Use Changes, and to review Final Maps and make certain calculations, are intended only to facilitate the administration of the Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider, or owner of property the right to receive notice of the potential impact of Land Use Changes on the Special Tax applicable to a Parcel; and each developer, subdivider, or owner of property whose property is the subject of a Land Use Change shall be responsible for understanding the impact thereof on the Special Tax applicable to such property.

## *2. Partial Prepayments*

If a Parcel makes a partial prepayment pursuant to Section H below, the Administrator shall recalculate the Maximum Facilities Special Tax for the Parcel. In addition, the Administrator shall update Attachment 2 to reflect the prepayment and the revised Expected Maximum Facilities Special Tax Revenues for the CFD. Such update shall be maintained internally by the Administrator and shall not require recordation of an amended RMA. After the prepayment has been received, the application of Sections D, E, and H of this RMA shall be based on the adjusted Expected Maximum Facilities Special Tax Revenues after the prepayment.

## *3. Conversion of a Parcel of Public Property to Private Use*

If, in any Fiscal Year, a Parcel of Public Property is converted to private use, such Parcel shall be subject to the levy of the Special Taxes. The Maximum Special Taxes for each such Parcel shall be determined based on the applicable Base Facilities Special Tax and Maximum Services Special Tax for the Parcel, as determined by the Administrator.

# **E. METHOD OF LEVY OF THE SPECIAL TAXES**

## *1. Facilities Special Tax*

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

**Step 1:** In the first ten (10) Fiscal Years in which a Facilities Special Tax is levied within the CFD, the Maximum Facilities Special Tax shall be levied on each Parcel of Developed Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected during such Fiscal Years 1 through 10 that are determined by the Administrator to be Remainder Special Taxes shall be deposited into the Improvement Fund



to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Special Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the eleventh (11<sup>th</sup>) Fiscal Year in which a Facilities Special Tax is levied within the CFD and continuing until the Transition Year, the Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Facilities Special Tax Requirement. Any Remainder Taxes collected in and after the eleventh Fiscal Year shall be available to pay for Authorized Facilities and/or Authorized Services, as determined in the sole discretion of the City. After the Transition Event, the Facilities Special Tax shall no longer be levied.

- Step 2:** If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Final Map Property up to 100% of the Maximum Facilities Special Tax for Final Map Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Welfare Exemption Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Welfare Exemption Property for such Fiscal Year.
- Step 5:** If additional revenue is needed after Step 4, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Owners Association Property for such Fiscal Year.
- Step 6:** If additional revenue is needed after Step 5, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Public Property for such Fiscal Year.

## *2. Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

- Step 1:** The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.

- Step 2:** If additional revenue is needed after Step 1, the Services Special Tax shall be levied Proportionately on each Parcel of Final Map Property, up to 100% of the Maximum Services Special Tax for Final Map Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Services Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property, up to 100% of the Maximum Services Special Tax for Taxable Owners Association Property for such Fiscal Year.
- Step 5:** If additional revenue is needed after Step 4, the Services Special Tax shall be levied Proportionately on each Parcel of Taxable Public Property, up to 100% of the Maximum Services Special Tax for Taxable Public Property for such Fiscal Year.

**F. MANNER OF COLLECTION OF SPECIAL TAXES**

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section H below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Transition Year, or (ii) Fiscal Year 2066-67. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

**G. EXEMPTIONS**

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Public Property, except Taxable Public Property, (ii) Owners Association Property, except Taxable Owners Association Property, and (iii) Welfare Exemption Property except Taxable Welfare Exemption Property. No Services Special Tax shall be levied on the following:

(i) Public Property, except Taxable Public Property, (ii) Owners Association Property, except Taxable Owners Association Property, and (iii) Welfare Exemption Property including Taxable Welfare Exemption Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the First Bond Sale has not yet occurred, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

#### **H. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued prior to the date of prepayment.

**“Public Facilities Requirements”** means: (i) \$38,200,000 in fiscal year 2025-26 dollars, which amount shall, on July 1, 2026 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such other number as shall be determined by the City in coordination with the Administrator to be an appropriate estimate of the net construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of the CFD.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in the CFD, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with written notice of intent to prepay,

which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

Bond Redemption Amount	
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
less	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for the CFD in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 3 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the "Remaining Facilities Amount"*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the "Redemption Premium"*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or



will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.

- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (the *"Defeasance Requirement"*).
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (the *"Administrative Fees and Expenses"*).
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the *"Reserve Fund Credit"*).
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (the *"Prepayment Amount"*).
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

Notwithstanding the foregoing, if at any point in time the Administrator determines that the Maximum Facilities Special Tax revenue that could be collected from Taxable Property that remains subject to the Facilities Special Tax after the proposed prepayment would be less than Required Coverage on Bonds that will remain outstanding after defeasance or redemption of Bonds from proceeds of the estimated prepayment, the amount of the prepayment shall be increased until the amount of Bonds defeased or redeemed is sufficient to reduce remaining annual debt service to a point at which Required Coverage is maintained.

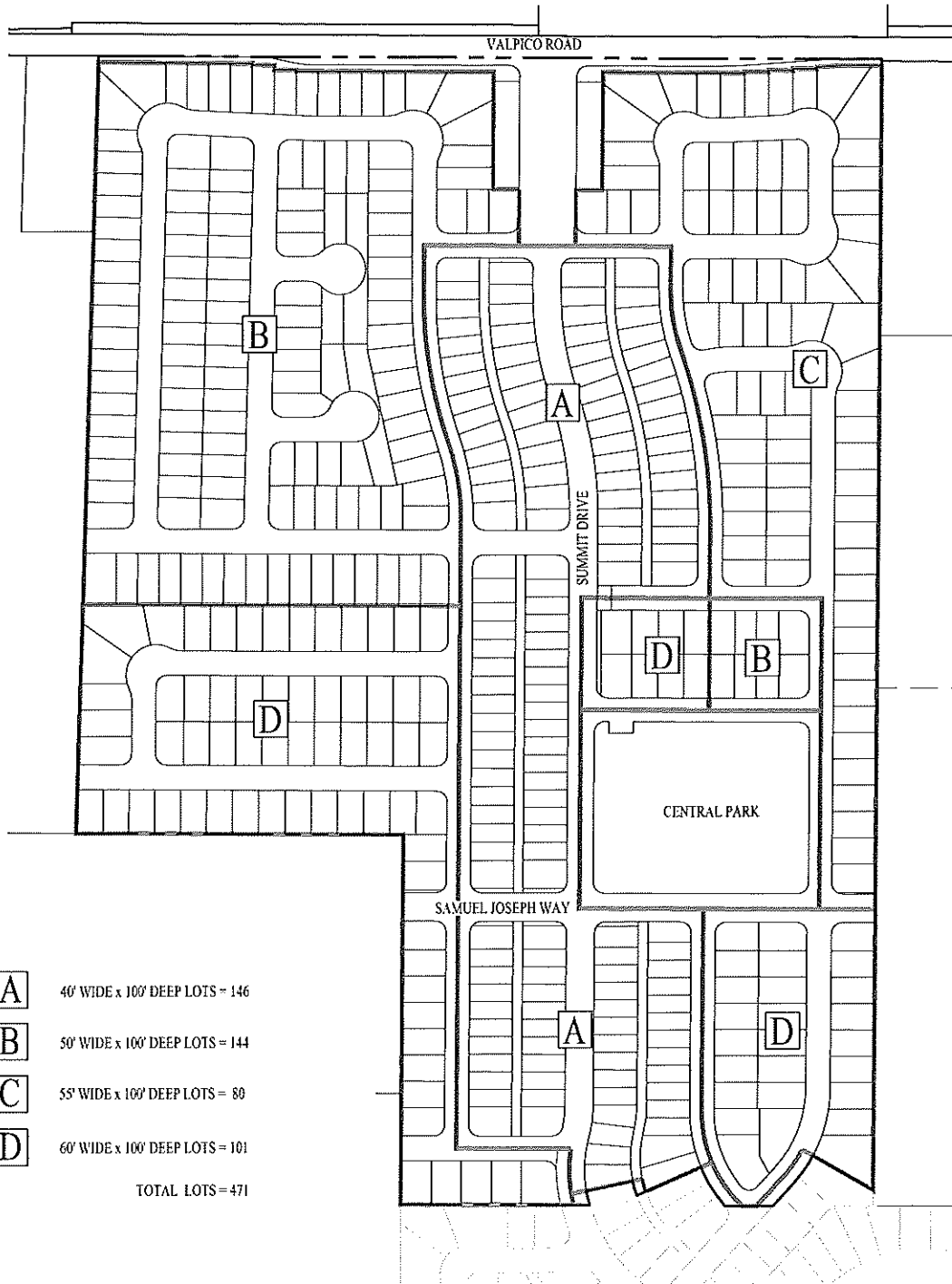
**I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

**ATTACHMENT 1**

**City of Tracy  
Community Facilities District No. 2025-1  
(The Avenues)**

**Identification of Proposed Lot Layout and Lot Category Assignments**

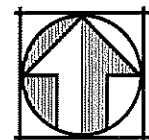


# ATTACHMENT 1

## CITY OF TRACY

### COMMUNITY FACILITIES DISTRICT No. 2025-1 (THE AVENUES)

#### 471 LOTS TOTAL





## ATTACHMENT 2

### City of Tracy Community Facilities District No. 2025-1 (The Avenues)

#### Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

Land Use Category And Lot Category	Number of Units/Acres	Base Facilities Special Tax Before Transition Year (FY 2025-26) *	Expected Maximum Facilities Special Tax Revenues (FY 2025-26) *
Single Family Detached Property, Lot Category A	146 units	\$4,714 per Residential Unit	\$688,244
Single Family Detached Property, Lot Category B	144 units	\$5,227 per Residential Unit	\$752,688
Single Family Detached Property, Lot Category C	80 units	\$5,598 per Residential Unit	\$447,840
Single Family Detached Property, Lot Category D	101 units	\$7,090 per Residential Unit	\$716,090
Other Property	0 Acres	\$56,909 per Acre	\$0
<b>Total Expected Maximum Facilities Special Tax Revenues</b>			<b>\$2,604,862</b>

\* On July 1, 2026 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.

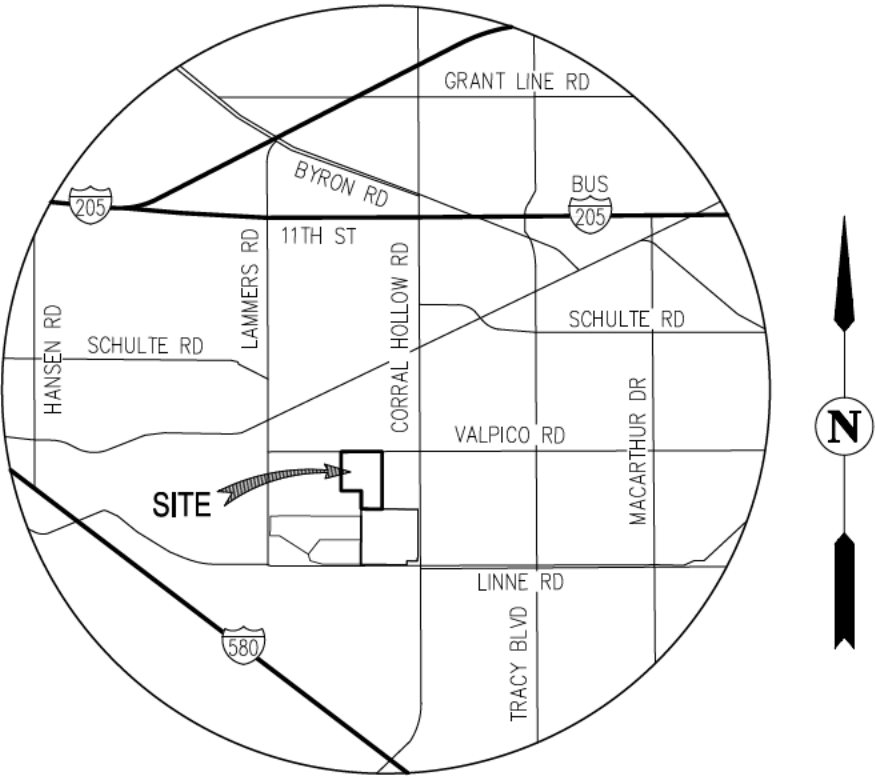
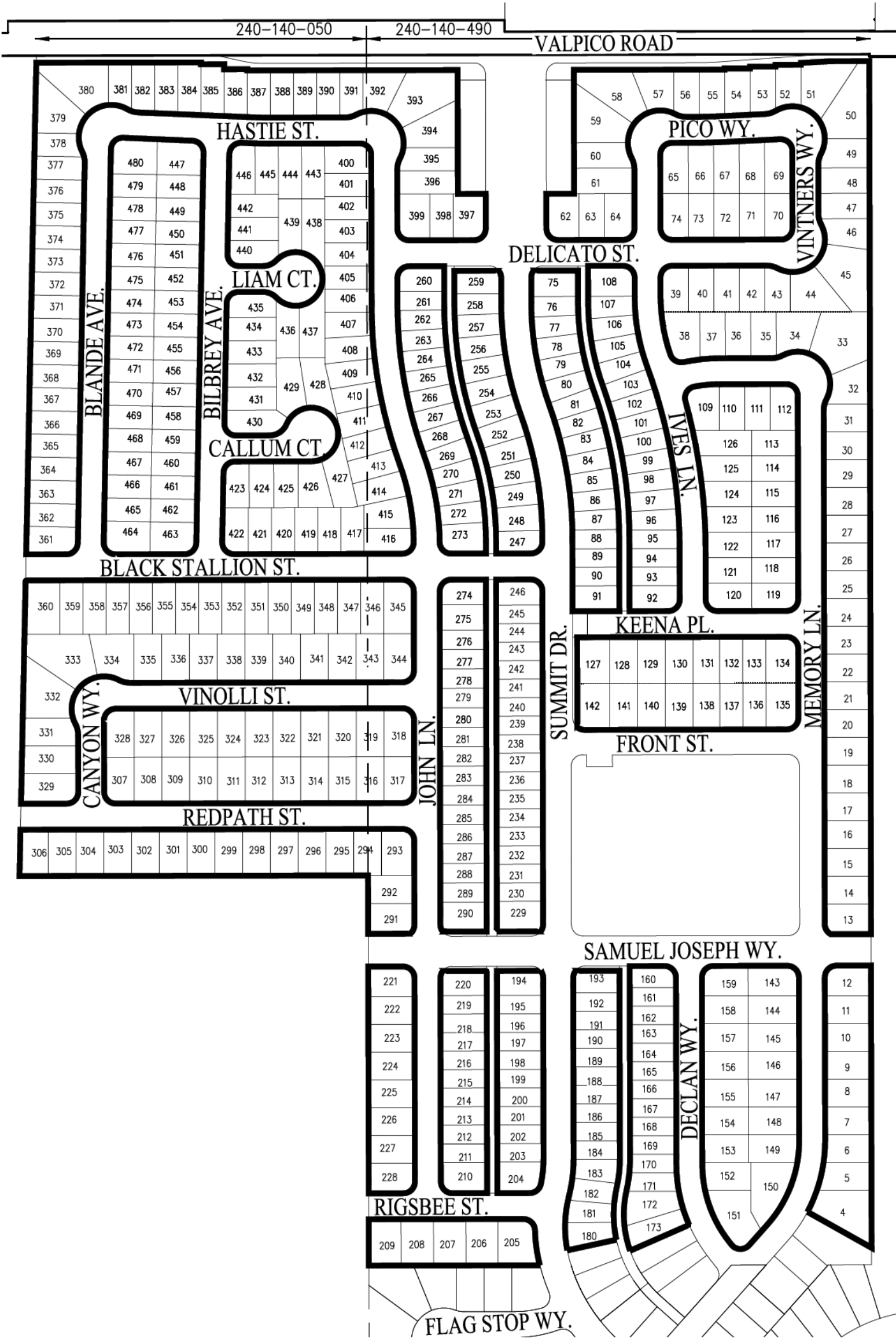
**EXHIBIT D**

**PARCELS INCLUDED IN THE CFD**

**City of Tracy  
Community Facilities District No. 2025-1  
(The Avenues)**

240-140-490  
240-140-050

PROPOSED BOUNDARIES OF  
CITY OF TRACY  
COMMUNITY FACILITIES DISTRICT NO. 2025-1  
(THE AVENUES)  
COUNTY OF SAN JOAQUIN  
STATE OF CALIFORNIA



VICINITY MAP  
NOT TO SCALE

RECORDER'S STATEMENT

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF TRACY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2025.

APRIL B.A. QUINTANILLA  
CITY CLERK  
CITY OF TRACY  
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES), COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF TRACY AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2025, BY ITS RESOLUTION NO. \_\_\_\_\_.

APRIL B.A. QUINTANILLA  
CITY CLERK  
CITY OF TRACY  
STATE OF CALIFORNIA

FILED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2025, AT THE HOUR OF \_\_\_\_ O'CLOCK \_\_\_\_ M. IN BOOK \_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE \_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

BY: STEVE J. BESTOLARIDES  
RECORDER / COUNTY CLERK  
COUNTY OF SAN JOAQUIN

BY: DEPUTY RECORDER

LEGEND:

CFD NO. 2025-1 (THE AVENUES) BOUNDARY  
REFERENCE LOT NUMBER, (471 LOTS TOTAL)

### ASSESSOR'S PARCEL NUMBERS

REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
4	240-140-490	54	240-140-490	104	240-140-490	154	240-140-490	210	240-140-490	260	240-140-490	309	240-140-050	355	240-140-050	402	240-140-050	437	240-140-050
5	240-140-490	55	240-140-490	105	240-140-490	155	240-140-490	211	240-140-490	261	240-140-490	310	240-140-050	356	240-140-050	403	240-140-490	438	240-140-050
6	240-140-490	56	240-140-490	106	240-140-490	156	240-140-490	212	240-140-490	262	240-140-490	311	240-140-050	357	240-140-050		240-140-050	439	240-140-050
7	240-140-490	57	240-140-490	107	240-140-490	157	240-140-490	213	240-140-490	263	240-140-490	312	240-140-050	358	240-140-050		240-140-490	440	240-140-050
8	240-140-490	58	240-140-490	108	240-140-490	158	240-140-490	214	240-140-490	264	240-140-490	313	240-140-050	359	240-140-050	404	240-140-050	441	240-140-050
9	240-140-490	59	240-140-490	109	240-140-490	159	240-140-490	215	240-140-490	265	240-140-490	314	240-140-050	360	240-140-050	405	240-140-490	442	240-140-050
10	240-140-490	60	240-140-490	110	240-140-490	160	240-140-490	216	240-140-490	266	240-140-490	315	240-140-050	361	240-140-050		240-140-050	443	240-140-050
11	240-140-490	61	240-140-490	111	240-140-490	161	240-140-490	217	240-140-490	267	240-140-490	316	240-140-050	362	240-140-050		240-140-490	444	240-140-050
12	240-140-490	62	240-140-490	112	240-140-490	162	240-140-490	218	240-140-490	268	240-140-490		240-140-490	363	240-140-050	406	240-140-050	445	240-140-050
13	240-140-490	63	240-140-490	113	240-140-490	163	240-140-490	219	240-140-490	269	240-140-490	317	240-140-490	364	240-140-050		240-140-490	446	240-140-050
14	240-140-490	64	240-140-490	114	240-140-490	164	240-140-490	220	240-140-490	270	240-140-490	318	240-140-490	365	240-140-050	407	240-140-050	447	240-140-050
15	240-140-490	65	240-140-490	115	240-140-490	165	240-140-490	221	240-140-490	271	240-140-490	319	240-140-050	366	240-140-050		240-140-490	448	240-140-050
16	240-140-490	66	240-140-490	116	240-140-490	166	240-140-490	222	240-140-490	272	240-140-490		240-140-490	367	240-140-050	408	240-140-050	449	240-140-050
17	240-140-490	67	240-140-490	117	240-140-490	167	240-140-490	223	240-140-490	273	240-140-490	320	240-140-050	368	240-140-050		240-140-490	450	240-140-050
18	240-140-490	68	240-140-490	118	240-140-490	168	240-140-490	224	240-140-490	274	240-140-490	321	240-140-050	369	240-140-050	409	240-140-050	451	240-140-050
19	240-140-490	69	240-140-490	119	240-140-490	169	240-140-490	225	240-140-490	275	240-140-490	322	240-140-050	370	240-140-050		240-140-490	452	240-140-050
20	240-140-490	70	240-140-490	120	240-140-490	170	240-140-490	226	240-140-490	276	240-140-490	323	240-140-050	371	240-140-050	410	240-140-050	453	240-140-050
21	240-140-490	71	240-140-490	121	240-140-490	171	240-140-490	227	240-140-490	277	240-140-490	324	240-140-050	372	240-140-050		240-140-490	454	240-140-050
22	240-140-490	72	240-140-490	122	240-140-490	172	240-140-490	228	240-140-490	278	240-140-490	325	240-140-050	373	240-140-050	411	240-140-050	455	240-140-050
23	240-140-490	73	240-140-490	123	240-140-490	173	240-140-490	229	240-140-490	279	240-140-490	326	240-140-050	374	240-140-050		240-140-490	456	240-140-050
24	240-140-490	74	240-140-490	124	240-140-490	180	240-140-490	230	240-140-490	280	240-140-490	327	240-140-050	375	240-140-050	412	240-140-050	457	240-140-050
25	240-140-490	75	240-140-490	125	240-140-490	181	240-140-490	231	240-140-490	281	240-140-490	328	240-140-050	376	240-140-050		240-140-490	458	240-140-050
26	240-140-490	76	240-140-490	126	240-140-490	182	240-140-490	232	240-140-490	282	240-140-490	329	240-140-050	377	240-140-050	413	240-140-050	459	240-140-050
27	240-140-490	77	240-140-490	127	240-140-490	183	240-140-490	233	240-140-490	283	240-140-490	330	240-140-050	378	240-140-050		240-140-490	460	240-140-050
28	240-140-490	78	240-140-490	128	240-140-490	184	240-140-490	234	240-140-490	284	240-140-490	331	240-140-050	379	240-140-050	414	240-140-050	461	240-140-050
29	240-140-490	79	240-140-490	129	240-140-490	185	240-140-490	235	240-140-490	285	240-140-490	332	240-140-050	380	240-140-050		240-140-490	462	240-140-050
30	240-140-490	80	240-140-490	130	240-140-490	186	240-140-490	236	240-140-490	286	240-140-490	333	240-140-050	381	240-140-050	415	240-140-050	463	240-140-050
31	240-140-490	81	240-140-490	131	240-140-490	187	240-140-490	237	240-140-490	287	240-140-490	334	240-140-050	382	240-140-050		240-140-490	464	240-140-050
32	240-140-490	82	240-140-490	132	240-140-490	188	240-140-490	238	240-140-490	288	240-140-490	335	240-140-050	383	240-140-050	416	240-140-050	465	240-140-050
33	240-140-490	83	240-140-490	133	240-140-490	189	240-140-490	239	240-140-490	289	240-140-490	336	240-140-050	384	240-140-050		240-140-490	466	240-140-050
34	240-140-490	84	240-140-490	134	240-140-490	190	240-140-490	240	240-140-490	290	240-140-490	337	240-140-050	385	240-140-050	417	240-140-050	467	240-140-050
35	240-140-490	85	240-140-490	135	240-140-490	191	240-140-490	241	240-140-490	291	240-140-490	338	240-140-050	386	240-140-050	418	240-140-050	468	240-140-050
36	240-140-490	86	240-140-490	136	240-140-490	192	240-140-490	242	240-140-490	292	240-140-490	339	240-140-050	387	240-140-050	419	240-140-050	469	240-140-050
37	240-140-490	87	240-140-490	137	240-140-490	193	240-140-490	243	240-140-490	293	240-140-490	340	240-140-050	388	240-140-050	420	240-140-050	470	240-140-050
38	240-140-490	88	240-140-490	138	240-140-490	194	240-140-490	244	240-140-490	294	240-140-490	341	240-140-050	389	240-140-050	421	240-140-050	471	240-140-050
39	240-140-490	89	240-140-490	139	240-140-490	195	240-140-490	245	240-140-490		240-140-050	342	240-140-050	390	240-140-050	422	240-140-050	472	240-140-050
40	240-140-490	90	240-140-490	140	240-140-490	196	240-140-490	246	240-140-490	295	240-140-050	343	240-140-050	391	240-140-050	423	240-140-050	473	240-140-050
41	240-140-490	91	240-140-490	141	240-140-490	197	240-140-490	247	240-140-490	296	240-140-050		240-140-490	392	240-140-050	424	240-140-050	474	240-140-050
42	240-140-490	92	240-140-490	142	240-140-490	198	240-140-490	248	240-140-490	297	240-140-050	344	240-140-490		240-140-490	425	240-140-050	475	240-140-050
43	240-140-490	93	240-140-490	143	240-140-490	199	240-140-490	249	240-140-490	298	240-140-050	345	240-140-490	393	240-140-490	426	240-140-050	476	240-140-050
44	240-140-490	94	240-140-490	144	240-140-490	200	240-140-490	250	240-140-490	299	240-140-050	346	240-140-050	394	240-140-490	427	240-140-050	477	240-140-050
45	240-140-490	95	240-140-490	145	240-140-490	201	240-140-490	251	240-140-490	300	240-140-050		240-140-490	395	240-140-490	428	240-140-050	478	240-140-050
46	240-140-490	96	240-140-490	146	240-140-490	202	240-140-490	252	240-140-490	301	240-140-050	347	240-140-050	396	240-140-490	429	240-140-050	479	240-140-050
47	240-140-490	97	240-140-490	147	240-140-490	203	240-140-490	253	240-140-490	302	240-140-050	348	240-140-050	397	240-140-490	430	240-140-050	480	240-140-050
48	240-140-490	98	240-140-490	148	240-140-490	204	240-140-490	254	240-140-490	303	240-140-050	349	240-140-050	398	240-140-490	431	240-140-050		
49	240-140-490	99	240-140-490	149	240-140-490	205	240-140-490	255	240-140-490	304	240-140-050	350	240-140-050	399	240-140-490	432	240-140-050		
50	240-140-490	100	240-140-490	150	240-140-490	206	240-140-490	256	240-140-490	305	240-140-050	351	240-140-050	400	240-140-050	433	240-140-050		
51	240-140-490	101	240-140-490	151	240-140-490	207	240-140-490	257	240-140-490	306	240-140-050	352	240-140-050		240-140-490	434	240-140-050		
52	240-140-490	102	240-140-490	152	240-140-490	208	240-140-490	258	240-140-490	307	240-140-050	353	240-140-050	401	240-140-050	435	240-140-050		
53	240-140-490	103	240-140-490	153	240-140-490	209	240-140-490	259	240-140-490	308	240-140-050	354	240-140-050		240-140-490	436	240-140-050		



## DEPOSIT AND REIMBURSEMENT AGREEMENT

### City of Tracy Community Facilities District No. 2025-1 (ACFD)

THIS DEPOSIT AND REIMBURSEMENT AGREEMENT (the "Agreement"), dated for convenience as of October 1, 2025, is by and between the City of Tracy (the "City") and Surland Communities LLC, a California limited liability company ("Master Developer").

#### RECITALS:

WHEREAS, Master Developer has asked the City to undertake proceedings to establish the CFD to finance the acquisition and construction of certain public capital facilities and finance certain public services, and to authorize the issuance of one or more series of bonds and other debt under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") secured by special taxes levied in the CFD (collectively, "Bonds");

WHEREAS, Section 53318 of the Act provides that if a petition signed by the owners of not less than 10% of the land within the territory proposed to be included in a community facilities district and not proposed to be exempt from the special tax, is filed with the legislative body requesting that formation proceedings be commenced, the legislative body shall upon the payment of a fee sufficient to compensate the local agency for all costs incurred in conducting the proceedings, adopt a resolution of intention to establish the community facilities district, subject to certain limitations set forth in the Act;

WHEREAS, WOODSIDE 05N, LP, a California limited partnership (the "Landowner"), has submitted a petition to the City Council to initiate formation of the CFD; and

WHEREAS, Master Developer is willing to advance funds to the City or to its agents and consultants as necessary to ensure payment of any and all costs of the City in connection with the proceedings and the issuance of Bonds, provided that any advances are reimbursed to Master Developer from the proceeds of any Bonds to the extent legally permissible, and the City and Master Developer now desire to specify the terms of the advances of funds and reimbursement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

#### AGREEMENT:

##### Section 1. The Advances.

(a) Master Developer has paid to the City, and the City hereby acknowledges receipt of, the amount of \$87,000 (the "Initial Advance"), to be used by the City to pay the "Initial Costs" (as defined below).

(b) Master Developer further agrees to advance any additional amounts (collectively with the Initial Advance, the "Advances") incurred or reasonably expected to be incurred by the

City, promptly upon written demand therefore by the City Manager of the City (the "City Manager"). Master Developer shall pay any additional Advances to the City or directly to a third party, by the date, and as otherwise specified by the City Manager in writing to Master Developer. The City shall use good faith efforts to provide Master Developer with prior notice whenever the City believes Initial Costs will exceed Advances made by Master Developer.

(c) If Master Developer fails or refuses to remit to the City any additional Advances required to be paid under this Agreement, then, as the sole remedy of the City hereunder, the following shall apply: all processing by the City of the proceedings for the formation of the CFD shall cease until such time as the additional Advance is made (at which time all process by the City of the proceedings for the formation of the CFD shall immediately resume) and the City shall be entitled to instruct all consultants to cease performance of their services related to the CFD until such time as the requested amounts are paid by Master Developer (at which time they shall be instructed to continue performance of their services related to the CFD); the City shall be entitled to all rights of indemnification under Section 8 hereof; and Master Developer shall remain obligated to pay any Initial Costs already incurred by the City or which the City is committed to pay.

(d) The Initial Costs include, but are not limited to:

(i) the fees and expenses of any consultants to the City employed in connection with the formation of the CFD and the issuance of Bonds (such as engineering, legal counsel, including special counsel to the City, financial advisory and special tax consultant), excluding the fees and expenses of such consultants that are payable on a contingent basis;

(ii) the costs of appraisals, absorption studies and other reports necessary or deemed advisable by City staff in connection with the formation of the CFD and the issuance of Bonds;

(iii) costs of publication of notices, preparation and mailing of ballots and other costs related to any election with respect to the CFD, the special tax to be levied therein or any Bonds;

(iv) the costs of any action prosecuted in the superior court to validate the CFD, the special tax to be levied therein or any Bonds;

(v) a reasonable charge, as determined by the City Manager in his sole discretion, for an allocable share of administrative expense with respect to City staff engaged in analyzing and participating in the CFD formation proceedings, special tax formulation, facilities acquisition and Bond issuance proceedings;

(vi) any costs incurred by the City in connection with discussions with or applications to bond rating agencies, if applicable; and

(vii) any and all other actual costs and expenses incurred by the City with respect to the formation of the CFD and issuance of the Bonds.



Section 2.     Reimbursement of Advances. The Advances are subject to reimbursement only as follows:

(a)     If Bonds are issued, the City shall, no later than 10 business days after the date the first series of Bonds is issued, (i) return any then-unexpended Advances to Master Developer, without interest, and (ii) reimburse the Master Developer for the remaining balance of the Advances, without interest, but solely from and only to the extent of available proceeds of the first series of Bonds and only to the extent permitted under the Act.

(b)     If the qualified electors of the CFD do not approve the levy of the special taxes within the CFD and the City determines to abandon the proceedings to form the CFD, the City shall, no later than 10 business days after the City Council confirms the election results, return any then-unexpended Advances to Master Developer, without interest, less an amount equal to any Initial Costs that have been incurred or committed by the City, but not yet paid by the City, from the Advances.

(c)     If the qualified electors of the CFD approve the levy of the special taxes within the CFD but the City determines for any reason to abandon the CFD before any Bonds are issued, the City shall, no later than 10 business days after the City Council adopts a resolution terminating the CFD, return any then-unexpended Advances to Master Developer, without interest, less an amount equal to any Initial Costs that have been incurred or committed by the City, but not yet paid by the City, from the Advances.

Section 3.     Reimbursement of Other Costs. Nothing contained herein shall prohibit reimbursement of other costs and expenses of Master Developer incurred in connection with the CFD from the proceeds of the Bonds. Any such reimbursement shall be made solely from the proceeds of the Bonds and only to the extent otherwise permitted under the Act and otherwise provided for in the formation proceedings and the issuance of the Bonds.

Section 4.     Agreement Not Debt or Liability of City. It is hereby acknowledged and agreed that this Agreement is not a debt or liability of the City. The City shall in no event be liable hereunder other than to return any unexpended and uncommitted portions of any Advances as provided in Section 2 above, to provide reimbursement to the Master Developer for Advances expended in the manner and from the sources set forth in Section 2 above, and to provide the monthly accounting under Section 7 below. The City shall not be obligated to advance any of its own funds for the reimbursement of Master Developer under this Agreement, with respect to the CFD formation proceedings or in connection with the issuance of the Bonds. No member of the City Council of the City or officer, employee or agent of the City shall to any extent be personally liable hereunder.

Section 5.     No Obligation to Complete Formation Proceedings or Issue the Bonds. The provisions of this Agreement shall in no way obligate the City to complete the CFD formation proceedings, issue the Bonds or to take any action with respect thereto.

Section 6.     Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

Section 7.     Accounting. The Advances may be commingled with other funds of the City for purposes of investment and safekeeping, but the City shall at all times maintain records of the expenditure of the Advances. The City shall provide Master Developer with a written accounting,

including copies of supporting invoices, of Advances expended pursuant to this Agreement on a monthly basis, and the cost of providing the accounting shall be considered an Initial Cost. Master Developer shall be deemed to have expressly waived its right to any further accounting and its right to challenge any disbursements made by City from the Advances 90 days following the earlier of either the City's reimbursement of unexpended Advances pursuant to Section 2 of this Agreement or the City sending notice that all Advances are expended and that no further Advances are required, whichever event first occurs.

Section 8. Indemnification. Master Developer hereby agrees to assume the defense of, indemnify and hold harmless the City, and each of its members, officers, employees and agents, from and against all actions, claims or proceedings of every type and description to which they or any of them may be subjected or put, by reason of, or arising out of, any acts or omissions of Master Developer or any of its members, officers, employees, contractors or agents in connection with the formation of the CFD and issuance of the Bonds. The City shall promptly notify Master Developer of any such claim, action or proceeding, and the City shall cooperate in the defense thereof. The obligations of Master Developer under this Section shall not apply to any claims, actions or proceedings arising through the negligence or willful misconduct of the City, its members, officers, employees or agents.

Section 9. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

Section 10. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Section 11. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.



\*\*\*\*\*

IN WITNESS THEREOF, the parties have executed this Agreement as of the day and year first written above.

**MASTER DEVELOPER:**

SURLAND COMMUNITIES LLC,  
A CALIFORNIA LIMITED LIABILITY  
COMPANY

By:  \_\_\_\_\_

Name: Sam Seron \_\_\_\_\_

Its: MNO mem \_\_\_\_\_

**CITY:**

CITY OF TRACY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



**SURLAND COMMUNITIES LLC**

1024 N CENTRAL AVE  
TRACY CA 95376-3915

Bank of America

1028

9/24/2025

PAY TO THE  
ORDER OF City of Tracy

\$\*\*87,000.00

Eighty-Seven Thousand and 00/100\*\*\*\*\*

DOLLARS

City of Tracy  
333 Civic Center Plaza  
Tracy, CA. 95376

MEMO

#3523 Deposit & Reimbursement Agreement- COT



AUTHORIZED SIGNATURE



Photo Safe Deposit®  
Details on Back

**SURLAND COMMUNITIES LLC**

1028

City of Tracy

9/24/2025

#3523 Deposit & Reimbursement Agreement- COT C

87,000.00

Surland Comm BA 4-8 #3523 Deposit & Reimbursement Agreement- C

87,000.00

**SURLAND COMMUNITIES LLC**

1028

City of Tracy

9/24/2025

#3523 Deposit & Reimbursement Agreement- COT C

87,000.00

Surland Comm BA 4-8 #3523 Deposit & Reimbursement Agreement- C

87,000.00

**JOINT COMMUNITY FACILITIES AGREEMENT**  
**City of Tracy**  
**Community Facilities District No. 2025-1 (The Avenues)**

This Joint Community Facilities Agreement (the “**Agreement**”), dated \_\_\_\_\_, 2025, is made and entered into by and among (i) the CITY OF TRACY, a California municipal corporation, (the “**City**”), for itself and on behalf of the CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES), a Mello-Roos community facilities district formed by the City (the “**CFD**”); (ii) the JEFFERSON SCHOOL DISTRICT, a California public-school district (the “**JSD**”); and (iii) SURLAND COMMUNITIES LLC, a California limited liability company (the “**Developer**”). The City (for itself and on behalf of the CFD), JSD and the Developer are all parties to this Agreement and may be collectively referred to herein as the “**Parties.**”

**Background**

- A. This Agreement is made under the authority of California Government Code Section 53316.2, part of the Mello-Roos Community Facilities Act of 1982, as amended (the “**Act**”).
- B. The City conducted proceedings under the Act to (1) form the CFD and (2) authorize the financing, through the CFD of certain public fees and facilities (collectively, the “**CFD Proceedings**”). The land within the CFD is described in the Proposed Boundaries of the CFD recorded on \_\_\_\_\_, 2025 with the San Joaquin County Clerk/Recorder as Document No. 2025-\_\_\_\_\_. The facilities authorized to be financed by the CFD are described in Exhibit A to Resolution of Formation (City Resolution No. \_\_\_\_\_) adopted by the Tracy City Council on \_\_\_\_\_, 2025 (the “**Authorized Improvements**”). The Authorized Improvements include facilities permitted under the Act that are required as conditions of development of the property in the Ellis Specific Plan (the “**Project**”) and any of the Authorized Improvements may be financed through the payment of fees for such Authorized Improvements. The Project includes both the property in the CFD as well as the property in the City of Tracy Community Facilities District No. 2016-2 (ECFD).
- C. The City, for itself and on behalf of the CFD, has previously entered into (1) a Master Acquisition Agreement Relating to: City of Tracy Community Facilities District No. 2025-1 (The Avenues), dated as of \_\_\_\_\_, 2025, by and between the City and the Developer (the “**Avenues Master Acquisition Agreement**”). The City, on behalf of itself and the CFD, and the Developer have determined that the Avenues Master Acquisition Agreement shall not govern the financing of the Mitigation Payments (as defined below).
- D. The Developer and JSD have notified the City that the property within the CFD is subject to the terms of the Ellis Project School Impact Mitigation Agreement, dated January 22, 2013, as recorded in Official Records of San Joaquin County as Document #2013-108602 (as it may be amended in the future, collectively, the “**Mitigation Agreement**”).
- E. The Developer and JSD have notified the City that JSD expects to acquire and develop a school site and construct, install and/or acquire various school facilities (permanent and interim facilities), including, but not limited to, support and administration facilities,



supporting infrastructure and improvements, and equipment that JSD will own and operate to serve, among others, the students residing in the Project or that are necessary to mitigate the impacts of, among others the students residing in the Project on JSD's school facilities pursuant to the Mitigation Agreement (collectively, the "**School Facilities**") and that all of the School Facilities constitute real or other tangible property with a useful life of five years or more. The Developer and JSD have notified the City that the Mitigation Agreement provides for the following obligations to mitigate the impacts of, among others, students residing in the Project on JSD (collectively, the "**Mitigation Payments**"): (i) a mitigation payment payable to JSD as a condition of receipt of a certificate of compliance ("**COC Payments**") from the owner of property in the Project seeking a certificate of compliance from JSD, which owner may be the Developer or a related or unrelated merchant builder (the landowners other than the Developer, herein the "**Landowners**"); (ii) Advance Payments (as defined in the Mitigation Agreement); and (iii) the provision to JSD of a school site to be acquired by JSD under the Mitigation Agreement ("**School Site Sale**") and the work necessary to make the school site ready for construction ("**Site Development Costs**"). The Developer and JSD have notified the City that JSD will acquire the school site and acquire, develop, and construct School Facilities with the proceeds of such Mitigation Payments. Notwithstanding the terms of the Mitigation Agreement, and other than the School Site Sale and the Site Development Costs, the Developer will not construct or install any School Facilities.

- F. The Developer and JSD have notified the City that to fund the capital costs of acquisition, development, or construction of School Facilities, the Mitigation Agreement requires, and the Developer or the Landowners have paid, or will pay in the future as development of the Project progresses, to JSD, one or more Mitigation Payments to fund School Facilities. The Mitigation Payments for the Project paid by the Developer or Landowners that JSD will use to pay for School Facilities may be financed through the CFD as set forth in this Agreement.
- G. The Developer and JSD have notified the City that the amounts and the time for payment of the Mitigation Payments to be paid by the Developer, or the applicable Landowners, to JSD that JSD has used, or will use, to fund School Facilities are governed by the terms of the Mitigation Agreement.
- H. The City may issue and sell bonds through or on behalf of the CFD from time to time and may use part of the bond proceeds to finance some or all of the School Facilities as set forth in this Agreement.
- I. JSD desires to cooperate with the City and the CFD in accomplishing such financing(s), through or on behalf of the CFD, of some or all of the School Facilities as set forth herein.
- J. The CFD is, or will be, authorized to finance the Authorized Improvements, including School Facilities.
- K. On November 4, 2025 the Council of the City adopted its Resolution No. \_\_\_\_\_, entitled "Resolution of Intention to Incur Bonded Indebtedness and Other Debt for City of Tracy Community Facilities District No. 2025-1 (The Avenues)" (the "**Reimbursement**

**Resolution**”), pursuant to which the City declared its intent to reimburse certain expenditures related to the Authorized Improvements, including the School Facilities, with the proceeds of bonded indebtedness and other debt issued by the City, or on behalf of, for the CFD.

*With these background facts in mind, the parties agree as follows:*

1. The foregoing Recitals and Background are true and correct and are hereby incorporated herein by this reference.
2. This Agreement constitutes a “joint community facilities agreement,” within the meaning of Section 53316.2 of the Act pursuant to which the CFD will be authorized to finance School Facilities as set forth herein.
3. The City, on behalf of itself and the CFD, has concluded that this Agreement is beneficial to the residents of the City and the current and future residents within the CFD.
4. JSD has concluded that this Agreement is beneficial to the residents of JSD and the current and future residents within the CFD.
5. The City shall administer the CFD. For purposes of this Agreement, administration of the CFD includes the following: employing and paying all consultants related to formation and administration of the CFD, levying and collecting the special tax(es), issuance of the Bonds of the CFD, paying debt service on the bonds from special taxes levied in the CFD, and otherwise administering the CFD and issued bonds of the CFD, and complying with all California and federal requirements concerning the CFD Proceedings or the bonds, including, but not limited to, those of the United States Internal Revenue Code of 1986, as amended (the “**Code**”). JSD is not, and shall not be, responsible for such administration, issuance of bonds of the CFD and will not participate in, or be considered a participant in, the CFD Proceedings other than as a party to this Agreement.
6. If, in its sole discretion, the City issues bonds for, or on behalf of, the CFD, and if, in the City’s sole discretion, the proceeds of such bonds (“**Bond Proceeds**”) are made available to finance School Facilities, then JSD shall accept such Bond Proceeds when and if paid to it by the City or the CFD, to the extent of the money received, as payment(s) to be credited against the obligation to fund School Facilities under the Mitigation Agreement as applicable to territory within the Project at the time such funds are received by JSD as set out herein. JSD and the Developer expressly acknowledge and agree that, to the extent not funded from CFD bond proceeds (as described herein), the Developer shall be and remain responsible for compliance with its obligations and responsibilities under the terms of the Mitigation Agreement. The City and the CFD shall not be responsible, or liable, for funding of School Facilities from any source of funds other than bond proceeds allocated and deposited for such purpose as set forth herein.
7. JSD agrees to treat any Bond Proceeds received from the City, or the CFD, under the terms of this Agreement as if that money had been paid to JSD by the property owners within the Project. This Agreement grants to the City no power to direct how, where, or when JSD

spends provided Bond Proceeds so long as JSD spends the Bond Proceeds on capital expenditures for the School Facilities identified in Schedule 1 to the Tax Certificate described in Section 8 below. Likewise, JSD cannot compel the City to use or provide the Bond Proceeds to finance all or any part of the School Facilities.

8. Not less than sixty (60) days before the City/CFD issues any bonds, or series of bonds by or on behalf of the CFD, the Bond Proceeds of which may be made available to finance School Facilities, either the City or the Developer shall inform JSD, in writing, of the amount of Bond Proceeds that are expected to be provided to JSD, and within twenty (20) days following such notice, JSD shall sign and deliver to the City a tax certificate for such bonds that is substantially in the form set forth in Exhibit A to this Agreement (the “**Tax Certificate**”) so that bond counsel can determine whether interest on such bonds will be excluded from gross income for federal tax purposes under Section 103 of the Code. If the City issues bonds for and on behalf of the CFD, and if JSD has delivered such signed Tax Certificate to the City, then the City shall make Bond Proceeds available to JSD for JSD to utilize and apply in accordance with such Tax Certificate. Upon receipt of such Bond Proceeds, JSD will maintain books and records which facilitates tracing the disbursement of the Bond Proceeds to designated capital facilities costs.
9. In addition to the foregoing, JSD shall provide to the City all documentation the City reasonably requires to comply with its records-retention policy and, if applicable, to monitor arbitrage liability in accordance with the terms applicable to the bonds, as issued, and the City’s post-issuance debt procedures. Such documentation may include, but is not limited to, invoices, payment applications, warrants and fiscal reports associated with the School Facilities financed with Bond Proceeds. JSD shall with reasonable diligence, upon request by the City to include a list of requested documents, e-mail all documentation to the following persons:

Finance Director, City of Tracy  
City Attorney, City of Tracy

[finance@cityoftracy.org](mailto:finance@cityoftracy.org)  
[attorney@cityoftracy.org](mailto:attorney@cityoftracy.org)

10. The City shall indemnify, defend, protect, and hold harmless JSD and JSD’s officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including, but not limited to, reasonable attorneys’ fees and litigation costs through final appeal) that arise out of any of the following:
  - a) the CFD Proceedings;
  - b) the authorization for, and implementation of, the levy, collection, and enforcement of the CFD’s special taxes levied in the CFD;
  - c) the authorization by the City for, and initial disclosure by the City with respect to, the issuance, sale, and administration of the bonds of the CFD, except to the extent that such disclosure is based on information provided by JSD or the Developer;

- d) any continuing disclosure obligations of the City relating to any bonds of the CFD, except to the extent that any such continuing disclosure is based on information provided by JSD or the Developer; or
  - e) any arbitrage or rebate issues under federal tax law that concern the bonds of the CFD, except to the extent that such issues relate to actions or omissions of JSD or the Developer or representations that rely on information from JSD or the Developer in the Tax Certificate or to JSD's failure to provide complete and accurate documentation in accordance with Section 9 above.
11. JSD shall administer and take full governmental responsibility for the following, for which the City has no responsibility: any arbitrage or rebate issues under federal tax law that relate to Bond Proceeds held by JSD or other acts or omissions of JSD; the construction or acquisition of School Facilities, which includes conducting environmental review; approving plans and specifications, bid requirements, performance and payment-bond requirements, and insurance requirements; administering construction contracts and construction work; staking and inspection; acquiring necessary property interests in real or personal property; holding back and administering retention payments; and administering the punch list. JSD shall indemnify, defend, protect, and hold harmless the City and the City's officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final appeal) that arise out of the design, engineering, construction, or installation of the School Facilities.
  12. JSD will have ownership of, and acquisition, construction, development, and maintenance responsibility for, all of the School Facilities. JSD shall indemnify, defend, protect, and hold harmless the City and the City's officers, employees, and agents as well as the CFD and its officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final appeal) that arise out of the construction, use, or maintenance of the School Facilities.
  13. JSD shall take actions concerning the School Facilities financed by bonds consistent with the terms of the Tax Certificate. JSD shall indemnify, defend, protect, and hold harmless the City and the City's officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final appeal) that arise out of the failure of the bonds to satisfy the private business tests of Section 141(b) of the Code, or the private loan financing test of Section 141(c) of the Code as a result of JSD's use of the School Facilities.
  14. JSD shall indemnify, defend, protect, and hold harmless the City and the City's officers, employees, and agents as well as the CFD and its officers, employees, and agents from and against all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final appeal) that arise out of any representations made by JSD to the City with respect to its use of Bond Proceeds.



15. To the extent that JSD wishes to lease, sell or convey any School Facilities financed by bonds of the CFD to an entity that is not a state or local government, JSD will seek the advice and approval of bond counsel to the City prior to any such sale or lease.
16. The City may take every step that is required or suitable for completing the CFD Proceedings; the levy, collection and enforcement of the special taxes; and the issuance, sale, delivery and administration of the bonds of the CFD. The City is not liable for its failure to conduct and complete the CFD Proceedings, levy, collect and enforce the special taxes or issue, sell, delivery and administer the bonds, including its decision for any reason not to finance through the CFD all, or any part of, the Mitigation Payments owed by the Developer (or the Landowners) under the terms of the Mitigation Agreement that JSD will use to pay for School Facilities.
17. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.
18. Developer may assign their respective rights pursuant to this Agreement to a purchaser/developer of the property (such as a Landowner), or any portion thereof, and such purchaser and assignee shall expressly assume the obligations of Developer pursuant to this Agreement and to be bound thereby. No such assignment by the Developer shall be valid or binding on any other Party unless and until written notice of the assignment and assumption has been provided to all Parties. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. In the absence of a valid assignment, the Developer shall be entitled to any reimbursements of Mitigation Payments from the proceeds of Bonds, regardless of whether the Mitigation Payments were initially paid by the Landowners.
19. Any notice, payment, or instrument required or permitted by this Agreement to be given or delivered to any Party shall be deemed to have been received only upon actual receipt by that Party. Such notices, payments, or instruments may be delivered by: (i) personal delivery, delivery charges prepaid and signature on delivery receipt requested; (ii) registered or certified U.S. Mail, postage prepaid and return receipt requested; or (iii) FedEx, UPS, or other reliable private delivery service, delivery charges prepaid and signature on electronic or other delivery receipt requested. A copy of each notice and other instrument sent to the City shall be sent to the City's legal counsel, and a copy of each notice and other instrument sent to JSD shall be sent to JSD's legal counsel. No Party may unreasonably refuse to accept delivery of any communications sent in accordance with this Section in an attempt to avoid the giving or service of the communication, and any such refusal by a Party shall be deemed and construed as a material breach of such Party's obligations pursuant to this Agreement. For avoidance of doubt, this Section shall not be deemed or construed to apply to service of process in accordance with any applicable law or rule of court. Subject to the foregoing, written communications shall, as applicable, be addressed as follows:

City:

333 Civic Center Plaza  
Tracy, CA 95376

Attn: City Manager

City Legal Counsel:

333 Civic Center Plaza  
Tracy, CA 95376  
Attn: City Attorney

JSD:

1219 Whispering Wind Drive  
Tracy, CA 95377  
Attn: Superintendent

JSD Legal Counsel:

Atkinson, Andelson, Loya, Ruud & Romo  
 20 Pacifica, Suite 1100  
 Irvine, CA 92618  
 Attn: Wendy Wiles

Each Party can change its address for delivery of notice by delivering written notice of such change of address to the other Parties. A Party that incurs a change of address shall endeavor to provide such notice within ten (10) calendar days prior to the change taking effect.

20. Notwithstanding any conflict-of-law, choice-of-law, or other provision of any federal or state law, this Agreement shall be governed by, and construed in accordance with, the laws of the State applicable to contracts made and performed in said State. Each and every claim, demand, action, arbitration (if the affected Parties agree to arbitrate), and other proceeding arising from this Agreement shall be initiated and conducted solely in the County of San Joaquin, California; provided that a court of competent jurisdiction in its discretion may determine that it is necessary, in order to ensure fundamental fairness, that venue be located outside the boundaries of the City.
21. This Agreement may be amended by another written agreement signed by the parties, except that an amendment may not be made after issuance of any bonds for the CFD if it would be detrimental to the interests of the bondholders unless all of the bondholder-consent provisions for amendment of the bond resolutions, bond indentures, or similar instruments governing the issuance, delivery, and administration of the applicable CFD's outstanding bonds have been satisfied.
22. This Agreement is solely for the benefit of the Parties and their successors and assigns. It is not intended to benefit any other third parties.
23. The failure of any Party hereto to insist on compliance within any of the terms, covenants or conditions of this Agreement by any other Party hereto shall not be deemed to constitute a waiver of such terms, covenants or conditions of this Agreement by the failing Party. In order to be valid and binding, a waiver must be set forth in writing and must be signed by the authorized representative of the waiving Party. Except as expressly set forth in a written waiver, no waiver shall constitute a relinquishment of any other right or power for all or any other times.
24. Each Party agrees to complete and execute any further or additional documents that reasonably are necessary to complete the terms of, or secure the express benefits to another Party of, this Agreement.
25. The following exhibit(s) attached hereto are incorporated into this Agreement by reference.

Exhibit  
 "A"

Description  
 Tax Certificate Form

26. This Agreement shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against a Party solely because it or its attorney(s) were primarily responsible for drafting this Agreement or any particular provision herein.
27. The provisions of this Agreement shall not be affected by: (i) any change to applicable law that occurs on or after the Effective Date; (ii) any legislation enacted, whether through the legislative or initiative process, on or after the Effective Date; or (iii) any judicial decisions issued on or after the Effective Date that otherwise would affect the matters addressed in this Agreement, except for decisions specifically pertaining to this Agreement.
28. Each person who has signed this Agreement on behalf of a Party thereby represents and warrants that he, she, or they has been appropriately authorized that Party to sign, and thereby bind such Party to, this Agreement.
29. The parties may sign this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.
30. This Agreement will remain in force until all of the bonds have been retired and the authority to levy the special taxes conferred by the CFD Proceedings has ended or is otherwise terminated.

[Remainder of this page intentionally left blank]



CITY OF TRACY, acting on behalf of itself and  
CITY OF TRACY COMMUNITY  
FACILITIES DISTRICT NO. 2025-1 (THE  
AVENUES)

By: \_\_\_\_\_

\_\_\_\_\_, \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

Attest:

By: \_\_\_\_\_

\_\_\_\_\_, City Clerk

Approved as to Form  
Tracy City Attorney

Agenda Date: \_\_\_\_\_, 20\_\_\_\_

Item Number: \_\_\_\_\_

By: \_\_\_\_\_

Resolution No. \_\_\_\_\_

JEFFERSON SCHOOL DISTRICT

By: \_\_\_\_\_

\_\_\_\_\_, President

Date: \_\_\_\_\_, 20\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Reviewed by JSD Legal Counsel

By: \_\_\_\_\_

DEVELOPER:

SURLAND COMMUNITIES LLC,  
A California limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**TAX CERTIFICATE OF JEFFERSON SCHOOL DISTRICT**

**CITY OF TRACY**  
**COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES)**  
**SERIES \_\_\_\_\_ SPECIAL TAX BONDS**

**CERTIFICATE CONCERNING USE OF BOND PROCEEDS**

I, the undersigned, hereby certify that I am a duly authorized officer of the Jefferson School District (“School District”), and am authorized to sign this Certificate Concerning Use of Bond Proceeds (“Certificate”) on behalf of the School District in connection with the issuance of the above-captioned Series \_\_\_\_\_ Special Tax Bonds (“Bonds”). All capitalized terms used herein and not otherwise defined shall have the meanings given such terms in the Joint Community Facilities Agreement by and among the Jefferson School District (“School District”), Surland Communities LLC, and the City of Tracy (for itself and on behalf of the City of Tracy Community Facilities District No. 2025-1 (The Avenues), dated \_\_\_\_\_, 20\_\_ (“JCFA”).

I further certify on behalf of the School District that:

1. School District provides, public school services within its boundaries.
2. School District has been informed by the City of Tracy and City of Tracy CFD No. 2025-1 (The Avenues) that they are in the process of issuing the Bonds for City of Tracy CFD No. 2025-1 (The Avenues).
3. School District is informed that a portion of the net Bond Proceeds are being allocated in order to finance the costs of certain facilities to be owned and operated by the School District, as further described in Attachment “1” attached herein (“School District Facilities”).
4. The financing of the School District Facilities is in satisfaction of the requirements of the School District to provide educational services to the property within the boundaries of the Ellis Specific Plan (including the City of Tracy CFD No. 2025-1 (The Avenues)).

The School District will (i) maintain adequate records to show what School District Facilities have been financed with the proceeds of the Bonds, and (ii) will not use the School District Facilities so as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Internal Revenue Code (26 U.S.C. § 141) (the “Code”), or the private loan financing test of

Section 141(c) of the Code. The School District reasonably expects to expend the Bond Proceeds on the School District Facilities within 3 years from the date of issuance of the Bonds.

This Certificate may be relied upon by the School District, City of Tracy, and City of Tracy CFD No. 2025-1 (The Avenues), and bond counsel in reaching its terms of confirmation of the federal tax-exempt status of the Bonds.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date set forth below.

Dated: \_\_\_\_\_, 20\_\_

JEFFERSON SCHOOL DISTRICT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Received and accepted by:

CITY OF TRACY

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_



## SCHEDULE 1

### LIST OF PROJECTS

The types of facilities to be owned and operated by the School District and financed by City of Tracy CFD No. 2025-1 (The Avenues) are:

**“School Facilities”** consist of \_\_\_\_\_.

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_**

---

**RESOLUTION DECLARING THE INTENTION TO ESTABLISH CITY OF  
TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES) AND  
APPROVING RELATED DOCUMENTS AND ACTIONS**

**RESOLVED**, by the City Council (the "Council") of the City of Tracy (the "City"), State of California that:

**WHEREAS**, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code, this Council is authorized to establish a community facilities district and to act as the legislative body for a community facilities district;

**WHEREAS**, Surland Communities, LLC is the master developer of the residential development project known as The Avenues ("Master Developer"), and Woodside 05N, LP, a California limited partnership (the "Developer"), is the home builder and owner of the lots in The Avenues ("Woodside"); and

**WHEREAS**, this Council, having received a petition from Woodside proposing that such land be included in a community facilities district, now desires to proceed with the establishment of a community facilities district in order to finance costs of public infrastructure and certain public services necessary or incident to development within the Ellis Specific Plan Area, of which the proposed boundaries of the proposed community facilities district are a part;

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. Recitals Correct. The foregoing recitals are true and correct.
2. Authority. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.
3. Name of CFD. The name proposed for the community facilities district is City of Tracy Community Facilities District No. 2025-1 (The Avenues) (the "CFD").
4. Boundaries Described. The proposed boundaries of the CFD are as shown on the map of it on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to

record, or cause to be recorded, the map of the boundaries of the CFD in the office of the Recorder of San Joaquin County within 15 days of the date of adoption of this Resolution.

5. Facilities and Services. The type of public facilities proposed to be financed by the CFD and pursuant to the Act shall consist of those described on Exhibit A hereto and hereby incorporated herein (the "Facilities"). The Council hereby determines that the Facilities are necessary to meet increased demands placed upon local agencies as the result of development occurring within the CFD. The Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act. Notwithstanding the foregoing, the Council, on behalf of CFD, may enter into one or more contracts directly with any of the property owners with respect to the construction and/or acquisition of the any portion of the Facilities.

The City Manager is hereby authorized and directed to execute on behalf of the City one or more joint community facilities agreements with any entity that will own or operate any of the Facilities, as may be necessary to comply with the provisions of Section 53316.2(a) and (b) of the Act. The Council hereby declares that such joint agreements will be beneficial to owners of property in the area of the CFD. The Master Developer has notified the City Council that it intends to propose a joint community facilities agreement with Jefferson School District in substantially the form on file with the City Clerk.

The type of services proposed to be financed by the CFD and pursuant to the Act shall consist of those listed in Exhibit A hereto and hereby incorporated herein (the "Services"). The Council hereby determines that the Services are necessary to meet increased demands for such services placed upon local agencies as the result of development occurring within the area of the CFD. The Services are in addition to those provided in the territory of the CFD as of the date hereof and will not supplant services already available within the territory of the CFD as of the date hereof.

6. Special Tax. Except to the extent that funds are otherwise available, the City will levy a special tax (the "Special Tax") to pay directly for the Facilities, pay the principal and interest on bonds and other debt (as defined in the Act) of the City issued to finance the Facilities and to pay for the Services. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and hereby incorporated herein (the "Rate and Method").

The Facilities Special Tax specified in the Rate and Method shall not be levied in the CFD after fiscal year 2066-67 except that a Special Tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall such Facilities Special Tax levied against any parcel in the CFD used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the CFD by more than 10 percent.

This Council hereby finds that the provisions of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

7. Exempt Property. Except as may otherwise be provided by law or by the rate and method of apportionment of the Special Tax for the CFD, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax to be made to cover the costs and expenses of the Facilities, the Services and the CFD. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD which is not exempt in order to yield the required debt service payments and other annual expenses of the CFD, if any, subject to the provisions of the rate and method of apportionment of the Special Tax.

8. Election. The levy of the Special Tax, the authorization of bonded and other debt for the CFD and an appropriations limit for the CFD shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD.

9. Special Tax Bonds and Other Debt. It is the intention of this Council, acting as the legislative body with respect to the CFD, to cause bonds and other debt (as defined in the Act) of the City to be issued for the CFD pursuant to the Act to finance in whole or in part the construction and/or acquisition of the Facilities. The bonds shall be issued in such series and bear interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds or other debt and shall mature not to exceed 40 years from the date of the issuance thereof. The bonds shall be in the aggregate principal amount of not to exceed \$60,000,000. The amount of debt other than bonds that may be issued by the City for the CFD shall not be subject to such limit.

10. CFD Report. The City's City Engineer, as the officer having charge and control of the Facilities and the Services in and for the CFD, or the designee of such officer, is hereby directed to study said proposed Facilities and to make, or cause to be made, and file with the City Clerk a report in writing, (the "CFD Report") presenting the following:

(a) A description of the Facilities and the Services by type which will be required to adequately meet the needs of the CFD.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Act.

(c) An estimate of the fair and reasonable cost of the Services and incidental expenses in connection therewith, and all other related costs.

The CFD Report shall be made a part of the record of the public hearing specified below.

11. Public Hearing. Tuesday, December 16, 2025 at 7:00 p.m., or as soon as possible thereafter, in the Council Chambers, 333 Civic Center Plaza, Tracy, California 95376 (or by teleconference as required by State or County emergency health orders), be, and the same are



hereby appointed and fixed as the time and place when and where this Council, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of the Special Tax.

At any time prior to the date of the public hearing, any interested person may file a written protest with the City Clerk against the establishment of the proposed CFD, the extent of the proposed CFD, or the furnishing of specified types of public facilities within the proposed CFD, or pertaining to the regularity or sufficiency of the proceedings

12. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing specified above. Such mailing shall be completed not less than 15 days before the date of the public hearing. Each of the notices shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

13. Deposit and Reimbursement Agreement. The Master Developer has submitted a Deposit and Reimbursement Agreement (the "Deposit Agreement"), to be executed by the Master Developer and the City. The Deposit Agreement, in the form on file with the City Clerk, is hereby approved. The Finance Director of the City is hereby authorized and directed to accept from the Master Developer the Initial Advance described in the Deposit Agreement and to request subsequent Advances from the Master Developer to pay Initial Costs, as such terms are defined in the Deposit Agreement, and to use the Advances in the manner contemplated by the Deposit Agreement. The Finance Director is hereby authorized and directed to execute the Deposit Agreement for and on behalf of the City, and to take all actions necessary to implement the Deposit Agreement.

14. Acquisition Agreement. Section 53314.9 of the Act provides that, either before or after formation of the CFD, the School District may accept advances of funds and may provide, by resolution, for the use of those funds, including but not limited to pay any cost incurred by the local agency in creating the CFD, and may agree to reimburse the advances under all of the following conditions: (1) the proposal to repay the advances is included both in the resolution of intention and the resolution of formation to establish the CFD; and (2) any proposed special tax is approved by the qualified electors of the CFD and, if the qualified electors of the CFD do not approve the proposed special tax, the School District shall return any funds which have not been committed for any authorized purpose by the time of the election.

The City anticipates entering into an acquisition and reimbursement agreement in compliance with Section 53314.9 and Section 53313.51 with the Master Developer.

15. Tender. The City Council reserves to itself the right and authority set forth in Section 53344.1 of the Act, subject to any limitations set forth in any bond resolution or trust indenture related to the issuance of bonds.

16. Approval of Professional Services Related to the CFD.

(a) Approval of Underwriter. The firm of Piper Sandler is hereby designated as underwriter to the City for any bonds to be issued for the CFD. Any and all compensation of such firm shall be contingent upon the issuance of bonds of the City for the CFD, and

shall be payable from the proceeds of such bonds or by means of a discount upon the purchase of the bonds.

(b) Special Tax Consultant. The firm of Goodwin Consulting Group is hereby designated as Special Tax Consultant to the City for the CFD. The Finance Director of the City is hereby authorized and directed to execute an agreement with said firm for its services in connection with the CFD, in the form on file with the City Clerk; provided that all compensation to such firm shall be payable solely from Advances pursuant to the Agreement or the proceeds of bonds issued by the City for the CFD.

(c) Bond Counsel and Disclosure Counsel. The firm of Jones Hall LLP is hereby designated as Bond Counsel and Disclosure Counsel to the City for the CFD. The City Attorney of the City is hereby authorized and directed to execute a supplement to the Master Legal Services Agreement with said firm for its services in connection with the CFD; provided that all compensation to such firm shall be payable solely from Advances pursuant to the Agreement or the proceeds of bonds issued by the City for the CFD

(d) Municipal Advisor. The firm of CSG Advisors, Inc. is hereby designated as Municipal Advisor to the City for the CFD. The Finance Director of the City is hereby authorized and directed to execute an agreement with said firm for its services in connection with the CFD, in the form on file with the City Clerk; provided that all compensation to such firm shall be payable solely from Advances pursuant to the Agreement or the proceeds of bonds issued by the City for the CFD.

(e) Trustee or Fiscal Agent; Appraiser; Absorption Consultant. An Authorized Representative is hereby authorized and directed to select a trustee or fiscal agent for any bonds issued for the CFD and, if required by the underwriter, an appraiser and/or an absorption consultant, in each case, on such terms as are acceptable to an Authorized Representative; provided that all compensation to any firms so selected shall be payable solely from money advanced pursuant to the Deposit Agreement or the proceeds of bonds issued by the City for the CFD.

17. Further Action. The Authorized Representatives, the City Clerk and all other officers and agents of the City are hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

18. No Obligation. This Resolution shall in no way obligate the City Council of the City to form the CFD. The formation of the CFD shall be subject to the approval of this Council by resolution following the holding of the public hearing referred to above.

19. Effective Date. This resolution shall take effect upon its adoption.

\* \* \* \* \*

Resolution \_\_\_\_\_

Page 6

The foregoing Resolution 2025-\_\_\_\_ was adopted by the Tracy City Council on the 4th day of November, 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: \_\_\_\_\_  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

EXHIBITS:

Exhibit A - Description of Facilities and Services to be Financed by the CFD  
Exhibit B - The Avenues RMA

## **EXHIBIT A**

### **CITY OF TRACY Community Facilities District No. 2025-1 (The Avenues)**

#### **DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE CFD**

##### **FACILITIES**

The CFD shall be authorized to finance all or a portion of the costs of the acquisition, construction and improvement of facilities permitted under the Mello-Roos Act and that are required as conditions of development of the property within the Ellis Specific Plan Area, including, but not limited to, the following:

1. Public Buildings and Facilities (excluding Aquatic or Swim Center).
2. Wastewater Treatment Plant Improvements and Facilities.
3. Wastewater Collection Pipeline Improvements and Facilities.
4. Drainage Improvements and Facilities.
5. Water Improvements and Facilities.
6. Roadway Improvements and Facilities, including street lights, traffic signals, landscaped parkways, landscaped medians, curb, gutter, sidewalk, and pavement.
7. Public Parks and Facilities (excluding Aquatic or Swim Center), including trails and bike paths.
8. Ancillary Improvements and Facilities such as, publicly-owned masonry walls and fences.
9. School facilities and equipment to be owned and operated by the Jefferson School District.

Any facility authorized to be financed by the CFD may be financed through the construction and acquisition of the facility or through the payment of fees for such facility.

The facilities constructed or acquired may be located within or outside the CFD.

The facilities to be financed shall include all hard and soft costs associated with the facilities, including the costs of the acquisition of land and rights-of-way, the costs of design, engineering and planning, the costs of any environmental or traffic studies, surveys or other reports, costs related to landscaping and irrigation, soils testing, permits, plan check, and inspection fees, insurance, legal and related overhead costs, coordination and supervision and

any other costs or appurtenances related to any of the foregoing as further defined in one or more acquisition agreements with the developer of the Property in the CFD.

### SERVICES

Special taxes collected in the CFD may finance, in whole or in part, the following services ("services" and "maintenance" shall have the meaning given those terms in the Mello-Roos Community Facilities Act of 1982):

1. Costs of operation, maintenance, repair, and replacement for the streetlights and street sweeping within the CFD (including all costs required by Pacific Gas & Electric), as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.
2. Costs of providing Police and Public Works services for the property in the CFD, as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.
3. Costs of maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance, operations, repair, and replacement costs associated with the adjacent landscape frontage on Valpico Road, as more fully described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.
4. Costs of operation, maintenance, repair, and replacement for the property within the CFD's fair share of storm drain basin or any other systems designed to meet the requirements of the City's Stormwater Standards Manual, as more specifically described in the Conditions of Approval in Vesting Tentative Subdivision Map 3883.

### OTHER

The CFD may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to the CFD and the Bonds.
3. Reimbursement of costs related to the formation of the CFD advanced by the City, the Master Developer, the landowner(s) in the CFD, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the Master Developer, the landowner(s) in the CFD or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the CFD.

Special Taxes may be collected and set-aside in designated funds and collected over several years, and used to fund Facilities or Services authorized to be financed by the CFD.



**CITY OF TRACY  
COMMUNITY FACILITIES DISTRICT NO. 2025-1  
(THE AVENUES)**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES**

---

Special Taxes applicable to each Assessor's Parcel in the City of Tracy Community Facilities District No. 2025-1 (The Avenues) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into the CFD.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Accessory Unit"** means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

**"Acquisition Agreement"** means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

**"Acre" or "Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this RMA.

**“Assessor’s Parcel” or “Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

**“Assessor’s Parcel Map”** means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

**“Authorized Facilities”** means the public facilities authorized to be financed, in whole or in part, by the CFD.

**“Authorized Services”** means the public services authorized to be funded, in whole or in part, by the CFD.

**“Base Facilities Special Tax”** means, for any Land Use Category and Lot Category, the applicable Facilities Special Tax initially identified in Table 1 of Section C, as may be adjusted pursuant to Sections D and H herein.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by the CFD to fund Authorized Facilities.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay interest on Bonds.

**“CFD”** means the City of Tracy Community Facilities District No. 2025-1 (The Avenues).

**“CFD Formation”** means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

**“City”** means the City of Tracy.

**“City Council”** means the City Council of the City of Tracy.

**“County”** means the County of San Joaquin.

**“Developed Property”** means, in any Fiscal Year, all Parcels of Taxable Property that are not Taxable Owners Association Property, Taxable Welfare Exemption Property, or Taxable Public Property for which a building permit was issued prior to June 1 of the preceding Fiscal Year.

**“Development Class”** means, individually, Developed Property, Final Map Property, Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property.

**“Escalation Factor”** means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2025 to April 2026.

**“Expected Land Uses”** means the number of and Lot Category assignment for Residential Units and the acreage of Other Property expected within the CFD at CFD Formation, as identified in Attachments 1 and 2 of this RMA. Pursuant to Section D herein, the Administrator shall update

Attachment 2 each time there is a Land Use Change. Updates to Attachments 1 and 2 shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

**“Expected Maximum Facilities Special Tax Revenues”** means the amount of annual revenue that would be available from Taxable Property in the CFD if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues at CFD Formation are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within the CFD prepay a portion of the Facilities Special Tax obligation. Updates to Attachments 1 and 2 shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

**“Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

**“Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities or Authorized Services to be funded directly from Facilities Special Tax proceeds (in the manner set forth in Step 1 of Section E.1 herein) to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“Final Map”** means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

**“Final Map Property”** means, in any Fiscal Year, all SFD Lots created within Final Maps that had recorded prior to June 1 of the preceding Fiscal Year and which have not yet become Developed Property.

**“First Bond Sale”** means issuance of the first series of Bonds secured, in whole or in part, by Special Taxes levied and collected from Parcels in the CFD.

**“Fiscal Year”** means the period starting July 1 and ending on the following June 30.

**“Improvement Fund”** means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.

**“Indenture”** means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“Index”** means the Consumer Price Index of the San Francisco-Oakland-Hayward area for all urban consumers.

**“Land Use Category”** means the categories of land use identified in Tables 1 and 2 in Section C below.

**“Land Use Change”** means a proposed or approved change to the Expected Land Uses within the CFD after CFD Formation, including changes to the Lot Category designation for SFD Lots.

**“Lot Category”** means, individually, Lot Category A, Lot Category B, Lot Category C, and Lot Category D.

**“Lot Category A”** includes SFD Lots that are designated as Lot Category A in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category B”** includes SFD Lots that are designated as Lot Category B in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category C”** includes SFD Lots that are designated as Lot Category C in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Lot Category D”** includes SFD Lots that are designated as Lot Category D in Attachment 1 to this RMA. Changes to such designation shall be considered a Land Use Change, and the Administrator shall apply Section D herein each time such a Land Use Change occurs.

**“Maximum Facilities Special Tax”** means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and H below.

**“Maximum Services Special Tax”** means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

**“Other Property”** means, in any Fiscal Year, all Parcels of Developed Property within the CFD that are not Single Family Detached Property

**“Owners Association”** means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within the CFD.

**“Owners Association Property”** means any property within the CFD that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

**“Proportionately”** means, for each Development Class, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all parcels assigned to the Development Class.

**“Public Property”** means any property within the boundaries of the CFD that is owned by the federal government, State of California or other local governments or public agencies.

**“Remainder Special Taxes”** means, as calculated between September 1<sup>st</sup> and December 31<sup>st</sup> of any Fiscal Year, any Facilities Special Tax revenues that were collected in the prior Fiscal Year and were not needed to: (i) pay debt service on the Bonds that was due in the calendar year in which the Remainder Special Taxes are being calculated; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement, liquidity support and rebate payments on the Bonds; (iii) replenish reserve funds created for the Bonds under the Indenture; (iv) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected; or (v) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

**“Required Coverage”** means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

**“Residential Unit”** means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

**“RMA”** means this Rate and Method of Apportionment of Special Taxes.

**“Services Special Tax”** means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

**“Services Special Tax Requirement”** means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year or are expected to occur in the Fiscal Year in which the tax will be collected. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

**“SFD Lot”** means an individual residential lot, identified and numbered on a recorded Final Map, on which a building permit was or is permitted to be issued for construction of a single family



detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels for which a building permit was issued for construction of a Residential Unit.

**“Special Taxes”** means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

**“Taxable Owners Association Property”** means, in any Fiscal Year after the First Bond Sale, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and H below), the Parcel was not anticipated to be Owners Association Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Taxable Property”** means all Parcels within the boundaries of the CFD that are not exempt from the Special Taxes pursuant to law or Section G below.

**“Taxable Public Property”** means in any Fiscal Year after the First Bond Sale, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and H herein), the Parcel was not anticipated to be Public Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Taxable Welfare Exemption Property”** means in any Fiscal Year after the First Bond Sale, any Parcel of Welfare Exemption Property that satisfies all three of the following conditions: (i) the Parcel had not been Welfare Exemption Property on the date of issuance of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Section D herein), the Parcel was not anticipated to be Welfare Exemption Property based on the Expected Land Uses, as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Special Tax because it has become Welfare Exemption Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

**“Transition Event”** shall be deemed to have occurred when the Administrator determines that the following events have occurred: (i) all Bonds secured by the levy and collection of Facilities Special Taxes in the CFD have been fully repaid or there are sufficient revenues available to fully repay the Bonds in funds and accounts that, pursuant to the Indenture, will require such revenues to be applied to repay the Bonds; (ii) all Administrative Expenses from prior Fiscal Years have been paid or reimbursed to the City; and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds or Facilities Special Taxes.

**“Transition Year”** means the first Fiscal Year in which the Administrator determines that the Transition Event occurred in the prior Fiscal Year.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Final Map Property, Taxable Public Property, Taxable Owners Association Property, or Taxable Welfare Exemption Property as defined herein.

**“Welfare Exemption Property”** means, in any Fiscal Year, any Parcels in the CFD that have received a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code and for which such welfare exemption is still in place.

## **B. DATA FOR ADMINISTRATION OF SPECIAL TAXES**

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Final Map Property, Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, or Taxable Welfare Exemption Property; (ii) for Developed Property, categorize each Parcel as Single Family Detached Property or Other Property, (iii) for Single Family Detached Property and Final Map Property, determine the Lot Category for each Parcel; (iv) for Other Property, determine the Acreage of each Parcel; (v) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year; and (vi) determine if the Transition Event occurred in the prior Fiscal Year. In addition, the Administrator shall, on an ongoing basis, monitor Final Maps and building permits to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D herein.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in the CFD was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

## **C. MAXIMUM SPECIAL TAXES**

### *1. Developed Property and Final Map Property*

#### **a. Facilities Special Tax**

The Maximum Facilities Special Tax for a Parcel of Developed Property or Final Map Property is the greater of: (i) the Base Facilities Special Tax set forth in Table 1 below, or (ii) the Maximum Facilities Special Tax determined pursuant to Section D.

**Table 1**  
**Base Facilities Special Tax**  
**Developed Property and Final Map Property**

<b>Land Use Category</b>	<b>Lot Category</b>	<b>Base Facilities Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*</b>	<b>Base Facilities Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*</b>
Single Family Detached Property and Final Map Property	Lot Category A	\$4,714 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$5,227 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$5,598 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$7,090 per Residential Unit or SFD Lot	\$0 per Residential Unit or SFD Lot
Other Property	N/A	\$56,909 per Acre	\$0 per Acre

**\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

Once a Facilities Special Tax has been levied on a Parcel of Developed Property or Final Map Property, the Maximum Facilities Special Tax applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except in the event of a partial prepayment pursuant to Section H herein.

**b. Services Special Tax**

Table 2 below identifies the Maximum Services Special Tax for Developed Property and Final Map Property in the CFD.

**Table 2**  
**Maximum Services Special Tax**  
**Developed Property and Final Map Property**

<b>Land Use Category</b>	<b>Lot Category</b>	<b>Maximum Services Special Tax Before Transition Year (Fiscal Year 2025-26 \$)*</b>	<b>Maximum Services Special Tax In and After Transition Year (Fiscal Year 2025-26 \$)*</b>
Single Family Detached Property and Final Map Property	Lot Category A	\$920 per Residential Unit or SFD Lot	\$1,863 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category B	\$920 per Residential Unit or SFD Lot	\$1,965 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category C	\$920 per Residential Unit or SFD Lot	\$2,040 per Residential Unit or SFD Lot
Single Family Detached Property and Final Map Property	Lot Category D	\$920 per Residential Unit or SFD Lot	\$2,338 per Residential Unit or SFD Lot
Other Property	N/A	\$9,467 per Acre	\$20,849 per Acre

**\* On July 1, 2026 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.**

2. *Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property*

**a. Facilities Special Tax**

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property prior to the Transition Year is \$56,909 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. In and after the Transition Year, the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, Taxable Public Property, and Taxable Welfare Exemption Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

**b. Services Special Tax**

The Maximum Services Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Transition Year is \$9,467 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by the Escalation Factor. In and after the Transition Year, the Maximum Services Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$20,849 per Acre for Fiscal Year 2025-26, which amount shall increase on July 1, 2026 and each July 1 thereafter by the Escalation Factor.

**D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX**

*1. Land Use Changes*

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were originally calculated based on the Expected Land Uses at CFD Formation. Attachment 2 is subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

**Prior to the First Bond Sale**, if a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

**After the First Bond Sale**, if a Land Use Change is proposed or identified, Steps 1 through 3 below must be applied:

**Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D or a partial

prepayment has been made), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues prior to the Land Use Change.

**Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in the CFD after the Land Use Change based on application of the Base Facilities Special Taxes from Table 1.

**Step 3:** If the revenues calculated in Step 2 are (i) higher than those determined in Step 1 or (ii) less than those calculated in Step 1, but the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below Required Coverage, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below Required Coverage, one of the following shall occur:

**3.a.** The landowner requesting the Land Use Change (the “Requesting Landowner”) may make a prepayment in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage, as determined pursuant to Section H below. If the Requesting Landowner notifies the Administrator that he/she would like to remedy the reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment estimate or (ii) the date of issuance of any building permits for any Parcel owned by the Requesting Landowner that was Final Map Property or Undeveloped Property at the time the Administrator prepared the prepayment estimate, **or**

**3.b.** If a prepayment is not received by the due date specified above, the Base Facilities Special Tax used to determine the Maximum Facilities Special Tax for each Parcel of Taxable Property in the area affected by the Land Use Change shall be increased proportionately until the Expected Maximum Facilities Special Tax Revenues are sufficient to maintain Required Coverage.

Pursuant to this Section D.1, the Administrator may from time to time update Attachment 2 to reflect revised Expected Maximum Facilities Special Tax Revenues. Such update shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

If multiple Land Use Changes are proposed simultaneously by a single landowner (which may include approval of multiple Final Maps at one time), and the landowner requests that the impact of two or more of the Land Use Changes be considered together, the Administrator shall consider the combined effect of the Land Use Changes to determine if there is a reduction in Expected Maximum Facilities Special Tax Revenues. If there is a reduction that would reduce debt service coverage below Required Coverage, and no prepayment has been received, then the Base Facilities Special Tax used to determine the Maximum Facilities Special Tax for each Parcel of Taxable Property in the areas affected by the Land Use Changes shall be increased proportionately until



the aggregate amount that can be levied within such areas is equal to the amount that could have been levied prior to the proposed Land Use Changes. If Land Use Changes are proposed simultaneously by multiple landowners, or if an individual landowner proposing multiple Land Use Changes does not request that such Land Use Changes be considered together, the Administrator shall consider the proposed Land Use Changes individually.

Notwithstanding the foregoing, once a certificate of occupancy has been issued for a Residential Unit on a Parcel, the Maximum Facilities Special Tax for the Parcel cannot be increased because of subsequent Land Use Changes that may occur within the area in which the Parcel is located.

The duties imposed on the Administrator pursuant to this Section D to review Land Use Changes, and to review Final Maps and make certain calculations, are intended only to facilitate the administration of the Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider, or owner of property the right to receive notice of the potential impact of Land Use Changes on the Special Tax applicable to a Parcel; and each developer, subdivider, or owner of property whose property is the subject of a Land Use Change shall be responsible for understanding the impact thereof on the Special Tax applicable to such property.

## *2. Partial Prepayments*

If a Parcel makes a partial prepayment pursuant to Section H below, the Administrator shall recalculate the Maximum Facilities Special Tax for the Parcel. In addition, the Administrator shall update Attachment 2 to reflect the prepayment and the revised Expected Maximum Facilities Special Tax Revenues for the CFD. Such update shall be maintained internally by the Administrator and shall not require recordation of an amended RMA. After the prepayment has been received, the application of Sections D, E, and H of this RMA shall be based on the adjusted Expected Maximum Facilities Special Tax Revenues after the prepayment.

## *3. Conversion of a Parcel of Public Property to Private Use*

If, in any Fiscal Year, a Parcel of Public Property is converted to private use, such Parcel shall be subject to the levy of the Special Taxes. The Maximum Special Taxes for each such Parcel shall be determined based on the applicable Base Facilities Special Tax and Maximum Services Special Tax for the Parcel, as determined by the Administrator.

# **E. METHOD OF LEVY OF THE SPECIAL TAXES**

## *1. Facilities Special Tax*

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

- Step 1:** In the first ten (10) Fiscal Years in which a Facilities Special Tax is levied within the CFD, the Maximum Facilities Special Tax shall be levied on each Parcel of Developed Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected during such Fiscal Years 1 through 10 that are determined by the Administrator to be Remainder Special Taxes shall be deposited into the Improvement Fund

to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Special Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the eleventh (11<sup>th</sup>) Fiscal Year in which a Facilities Special Tax is levied within the CFD and continuing until the Transition Year, the Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Facilities Special Tax Requirement. Any Remainder Taxes collected in and after the eleventh Fiscal Year shall be available to pay for Authorized Facilities and/or Authorized Services, as determined in the sole discretion of the City. After the Transition Event, the Facilities Special Tax shall no longer be levied.

- Step 2:** If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Final Map Property up to 100% of the Maximum Facilities Special Tax for Final Map Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Welfare Exemption Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Welfare Exemption Property for such Fiscal Year.
- Step 5:** If additional revenue is needed after Step 4, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Owners Association Property for such Fiscal Year.
- Step 6:** If additional revenue is needed after Step 5, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Public Property for such Fiscal Year.

## *2. Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

- Step 1:** The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.

- Step 2:** If additional revenue is needed after Step 1, the Services Special Tax shall be levied Proportionately on each Parcel of Final Map Property, up to 100% of the Maximum Services Special Tax for Final Map Property for such Fiscal Year.
- Step 3:** If additional revenue is needed after Step 2, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.
- Step 4:** If additional revenue is needed after Step 3, the Services Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property, up to 100% of the Maximum Services Special Tax for Taxable Owners Association Property for such Fiscal Year.
- Step 5:** If additional revenue is needed after Step 4, the Services Special Tax shall be levied Proportionately on each Parcel of Taxable Public Property, up to 100% of the Maximum Services Special Tax for Taxable Public Property for such Fiscal Year.

#### **F. MANNER OF COLLECTION OF SPECIAL TAXES**

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section H below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Transition Year, or (ii) Fiscal Year 2066-67. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Public Property, except Taxable Public Property, (ii) Owners Association Property, except Taxable Owners Association Property, and (iii) Welfare Exemption Property except Taxable Welfare Exemption Property. No Services Special Tax shall be levied on the following:

(i) Public Property, except Taxable Public Property, (ii) Owners Association Property, except Taxable Owners Association Property, and (iii) Welfare Exemption Property including Taxable Welfare Exemption Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the First Bond Sale has not yet occurred, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

## **H. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued prior to the date of prepayment.

**“Public Facilities Requirements”** means: (i) \$38,200,000 in fiscal year 2025-26 dollars, which amount shall, on July 1, 2026 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such other number as shall be determined by the City in coordination with the Administrator to be an appropriate estimate of the net construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of the CFD.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in the CFD, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with written notice of intent to prepay,

which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
less	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for the CFD in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).
- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 3 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the “Remaining Facilities Amount”*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the “Redemption Premium”*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or



will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.

- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (the *“Defeasance Requirement”*).
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (the *“Administrative Fees and Expenses”*).
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the *“Reserve Fund Credit”*).
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (the *“Prepayment Amount”*).
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

Notwithstanding the foregoing, if at any point in time the Administrator determines that the Maximum Facilities Special Tax revenue that could be collected from Taxable Property that remains subject to the Facilities Special Tax after the proposed prepayment would be less than Required Coverage on Bonds that will remain outstanding after defeasance or redemption of Bonds from proceeds of the estimated prepayment, the amount of the prepayment shall be increased until the amount of Bonds defeased or redeemed is sufficient to reduce remaining annual debt service to a point at which Required Coverage is maintained.

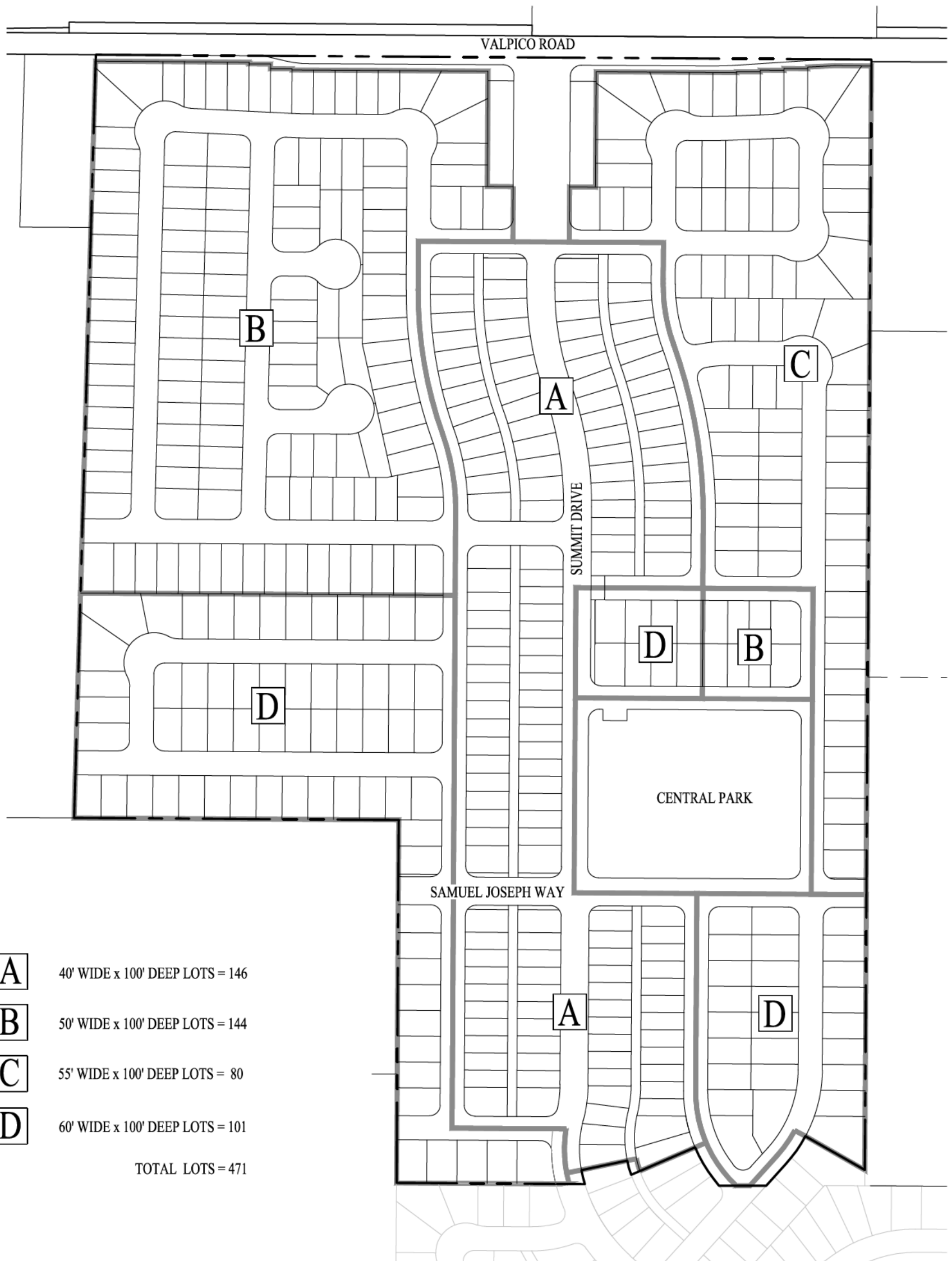
**I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

**ATTACHMENT 1**

**City of Tracy  
Community Facilities District No. 2025-1  
(The Avenues)**

**Identification of Proposed Lot Layout and Lot Category Assignments**

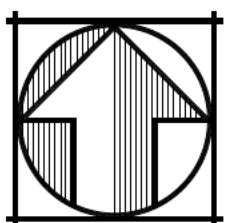


# ATTACHMENT 1

## CITY OF TRACY

### COMMUNITY FACILITIES DISTRICT No. 2025-1 (THE AVENUES)

#### 471 LOTS TOTAL



## ATTACHMENT 2

### City of Tracy Community Facilities District No. 2025-1 (The Avenues)

#### Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

<b>Land Use Category And Lot Category</b>	<b>Number of Units/Acres</b>	<b>Base Facilities Special Tax Before Transition Year (FY 2025-26) *</b>	<b>Expected Maximum Facilities Special Tax Revenues (FY 2025-26) *</b>
Single Family Detached Property, Lot Category A	146 units	\$4,714 per Residential Unit	\$688,244
Single Family Detached Property, Lot Category B	144 units	\$5,227 per Residential Unit	\$752,688
Single Family Detached Property, Lot Category C	80 units	\$5,598 per Residential Unit	\$447,840
Single Family Detached Property, Lot Category D	101 units	\$7,090 per Residential Unit	\$716,090
Other Property	0 Acres	\$56,909 per Acre	\$0
<b>Total Expected Maximum Facilities Special Tax Revenues</b>			<b>\$2,604,862</b>

**\* On July 1, 2026 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**



APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_**

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**RESOLUTION OF INTENTION TO INCUR BONDED INDEBTEDNESS AND OTHER DEBT  
FOR CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2025-1 (THE AVENUES)**

**RESOLVED**, by the City Council (the "Council") of the City of Tracy (the "City"), State of California that:

**WHEREAS**, this Council has this date adopted its "Resolution Declaring the Intention to Establish City of Tracy Community Facilities District No. 2025-1 (The Avenues) and Approving Related Documents and Actions", stating its intention to form the "City of Tracy Community Facilities District No. 2025-1 (The Avenues)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act"), for the purpose of financing certain public improvements (the "Facilities") as further provided in that Resolution; and

**WHEREAS**, this Council estimates the amount required for the financing of the costs of the Facilities to be the sum of not to exceed \$60,000,000; and

**WHEREAS**, in order to finance the costs of the Facilities it is necessary to incur bonded indebtedness in the amount of not to exceed \$60,000,000 on behalf of the CFD; and

**WHEREAS**, in order to finance the costs of the Facilities it is further necessary to incur debt (as defined in the Act), although any such debt shall not be subject to the limitations on bonded indebtedness set forth above; and

**WHEREAS**, United States Income Tax Regulations section 1.150-2 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, one of which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer declares an intention to reimburse such expenditure; and

**WHEREAS**, it is in the public interest and for the public benefit that the City declares its official intent to reimburse the expenditures referenced herein.

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1. Recitals Correct. The foregoing recitals are true and correct.

2. Bonded Debt and Other Debt. In order to finance the costs of the Facilities, it is necessary for the City to incur, and the City Council hereby declares its intent to incur, bonded indebtedness on behalf of the proposed CFD in the maximum principal amount not to exceed \$60,000,000.

It is further necessary to incur, and the City Council hereby declares its intent to incur, debt (as defined in the Act) on behalf of the CFD, in one or more series, although any such debt shall not be subject to the limitations on bonded indebtedness set forth above.

3. Purposes of Bonded Debt and Other Debt. The bonded indebtedness and other debt are proposed to be incurred for the purpose of financing the costs of the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of said purposes and of the financing thereof, as permitted by Section 53345.3 of the Act.

The City hereby declares that it reasonably expects (i) to pay certain costs of the Facilities prior to the date of issuance of the bonded indebtedness and other debt and (ii) to use a portion of the proceeds of the bonded indebtedness and other debt for reimbursement of expenditures for the Facilities that are paid before the date of issuance of the bonded indebtedness and other debt.

4. Terms of Bonds and Other Debt. This Council, acting as legislative body for the CFD intends to authorize the issuance and sale of bonds in one or more series in the maximum aggregate principal amount of not to exceed \$60,000,000 bearing interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds, and maturing not to exceed 40 years from the date of the issuance of the bonds.

This Council, acting as legislative body for the CFD, further intends to authorize the issuance and sale of debt in one or more series in the amounts and bearing interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such debt.

5. Public Hearing. Tuesday, December 16, 2025 at 7:00 p.m. or as soon as possible thereafter, in the Council Chambers, 333 Civic Center Plaza, Tracy, California, Tracy, California, be, and the same are hereby appointed and fixed as the time and place when and where this Council, as legislative body for the CFD, will conduct a public hearing on the proposed debt issue and consider and finally determine whether the public interest, convenience and necessity require the issuance of bonds and other debt of the of the City on behalf of the CFD.

6. Notices of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper of general circulation circulated within the CFD. The publication of the notice shall be completed at least 7 days before the date specified above for the public hearing. The City Clerk may also cause notice of the hearing to be given to

each property owner within the CFD by first class mail, postage prepaid, to each such owner's addresses as it appears on the most recent tax records of San Joaquin County or as otherwise known to the City Clerk to be correct. Such mailing shall be completed not less than 15 days before the date of the hearing. Each of the notices shall be substantially in the form specified in Section 53346 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

7. No Obligation. This Resolution shall in no way obligate the City Council of the City to form the CFD or to issue bonds or other debt for the CFD. The authorization to issue bonds and other debt shall be subject to the approval of this City Council by resolution following the holding of the public hearing referred to above.

8. Effective Date. This resolution shall take effect upon its adoption.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council the 4th day of November, 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: \_\_\_\_\_  
APRIL B. A. QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Agenda Item 4.D

**RECOMMENDATION**

**Staff recommends that City Council provide direction on:**

- 1. Establish a General Plan Advisory Committee (GPAC) with the membership described above, or as modified by Council; and**
- 2. Include the update to the Zoning Ordinance concurrently with the General Plan update.**

**EXECUTIVE SUMMARY**

This agenda item provides an update on the Tracy General Plan update and seeks direction on 1. the assembly and composition of a Tracy General Plan Advisory Committee, overview of general plans and 2. seeks direction for the initiation of a comprehensive update to the Tracy General Plan.

**BACKGROUND AND LEGISLATIVE HISTORY**

California Government Code Section 6300 states “Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries which in the planning agency’s judgment bear relation to its planning.”

The current Tracy General Plan was initially adopted by City Council on July 20, 2006. Adoption of the ordinance was complicated by changing policies at the San Joaquin County Local Agency Formation Commission (LAFCo), which called for smaller planning windows and a reduced Sphere of Influence (SOI). As a result, the adopted General Plan was amended to reflect the reduced SOI. The current Tracy General Plan was adopted on February 1, 2011.

On September 2, 2025, the City Council provided direction to staff to initiate the comprehensive update and to return with a developed timeline, budget and scope of services required to undertake the update.

**ANALYSIS**

A comprehensive update to the General Plan requires extensive coordination, deliberate management, broad public engagement, strong consultant support, and ongoing budget resources.

**General Plan Advisory Committee (GPAC)**

The City Council may elect to create a General Plan Advisory Committee (GPAC) to guide policy development, offer feedback, and provide general direction and recommendations on a variety of subject matters. An effective GPAC provides diverse perspective and representation to ensure a well-informed and responsive General Plan.

If Council elects to form a GPAC, its composition should reflect a variety of perspectives. Staff recommends the following composition:

- One member of the Planning Commission
- One member of the Parks & Community Services Commission
- One member of the Transportation Advisory Commission
- One member of the Environmental Sustainability Commission
- Three City of Tracy residents, selected at large

Staff recommends the following standards for a GPAC:

1. Members would serve six-month terms to ensure balanced participation and contribution
2. Members would be appointed by the Council and serve at the Council's pleasure
3. Meetings would be held at City Hall and will be open to the public, including the Council, for observation and comment.
4. Members would be present at broader public workshops, serving as ambassadors to the effort and helping to engage and inform residents about the update process.
5. GPAC meetings would be hosted by Planning staff, minutes would be kept, and agendas published.

Council is asked to either affirm the above recommendations or offer modifications.

An early assignment of the GPAC would be to contribute to the Request for Proposal (RFP) process for the consultant services for the General Plan Update, eventually reviewing the received proposals and offering a recommendation to the City Council.

City staff will also be forming a separate technical advisory committee, consisting of staff from various City departments and regional agencies, including the South San Joaquin County Fire Authority (SSJCFA) and school districts. This group will provide technical assistance and guidance to the GPAC and support the broader effort as needed.

#### Scope of General Plan Update / Zoning Ordinance

Staff recommends that the City concurrently update Title 10 – Planning and Zoning of the Tracy Municipal Code, commonly known as the Zoning Ordinance. The current Zoning Ordinance has never been comprehensively updated and includes many outdated, unenforceable, or conflicting provisions. The Zoning Ordinance is required by State law to be wholly consistent with the General Plan and is considered its primary implementation tool. In the past, the City elected not to fully update the Zoning Ordinance to reflect the current 2006 General Plan. As a result, there are numerous conflicts that complicate the application of the Zoning Ordinance.

By concurrently updating the Zoning Ordinance, the City's development regulations would be updated to reflect current priorities and policies, providing a simplified and clearer path forward for new development. New policies that favor infill, for example, might be expressed through new streamlined provisions in the Zoning Ordinance.

As such, staff is recommending that a Zoning Ordinance update be included with the General Plan Update to create one consistent development regulatory framework. If Council affirms this additional work, the RFP for the General Plan update will also include the Zoning Ordinance update.



### Timeframe & Next Steps

Staff anticipates that the process to update the General Plan will be 2-5 years. The ultimate timeline will depend on a variety of factors. While all efforts will be made to streamline the process, areas of controversy may require additional outreach, public meetings and consideration.

With Council direction, staff will solicit applications to participate on the GPAC. Each commission will be contacted and asked to nominate a member. In addition, staff will use City social media and outreach resources to solicit applications for the three members at large. The list of nominated commissioners and at-large applications will be forwarded to the City Council for appointment. It is staff's goal to deliver this to the City Council in December 2025.

In addition, staff will be working to develop a dedicated webpage to communicate updates and provide resources to the community.

### Additional Resources

The following links provide additional supportive information:

- City of Tracy General Plan: <https://www.cityoftracy.org/our-city/about-us/general-plan>
- Governor's Office of Land Use and Climate Innovation, General Plan Guidelines: <https://lci.ca.gov/planning/general-plan/guidelines.html>
- San Joaquin LAFCo: <https://www.sjlafco.org/>
- City of Tracy SOI Map: [https://www.sjlafco.org/files/5e1df2dcb/Tracy\\_Sphere\\_2023.pdf](https://www.sjlafco.org/files/5e1df2dcb/Tracy_Sphere_2023.pdf)
- City Council Meeting, 9/2/2025: <https://www.cityoftracy.org/home/showpublisheddocument/21228/638920018347670000>

### CEQA DETERMINATION

The proposed action is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately.

### FISCAL IMPACT

The General Plan update is funded by a one-time allocation of \$3.5 million made in 2023. The requested direction would not directly spend or obligate these funds.

### STRATEGIC PRIORITY

The proposed action supports the following Strategic Priorities:

- Governance 1) Model good governance, teamwork, and transparency.
- Quality of Life 1) Advance green and roadway infrastructure projects that improve connectivity, reduce climate impacts, and improve the appearance of the City.
- Quality of Life 4) Increase local affordable housing supply.
- Economic Development Goal 5) Develop policies to target innovation industry jobs.
- Public Safety 4) Expand public safety facilities to reflect population growth and community demand.

ACTION REQUESTED OF THE CITY COUNCIL

Staff is requesting direction from the City Council to:

1. Establish a General Plan Advisory Committee (GPAC) with the membership described above, or as modified by Council; and
2. Include the update to the Zoning Ordinance concurrently with the General Plan update.

Prepared By: Forrest Ebbs, Director of Community and Economic Development

Reviewed by: Sara Castro, Director of Finance  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

Agenda Item 4.E

RECOMMENDATION

**Staff recommends that the City Council:**

- (1) adopt a resolution to implement a Medical Respite program; and**
- (2) adopt a resolution approving policies and procedures drafted for the Health Plan of San Joaquin contracting process and authorizing the City Manager or her designee to execute additional ancillary documents related to the City becoming a Cal Aim provider.**

EXECUTIVE SUMMARY

In February 2025, City staff provided a workshop regarding the Phase II Navigation Center site plan overview to share updates on the current site program model, new opportunities for expansion of services to align with best practices, and the need for direction regarding the additional Navigation Center, and programming for the Phase II expansion of the project site. At that time, direction was provided to staff to bring back additional information on the potential programs that could be developed with partners on the Phase III (leased modular units) and Phase IV (container units) sites. In addition, Council members requested information on comparable city data relative to the capacity and services the city of Tracy is providing to our unhoused residents. This report seeks to provide an update to the February workshop and requests Council direction on next steps.

BACKGROUND AND LEGISLATIVE HISTORY

The 2024 San Joaquin Continuum of Care Point in Time (PIT) Count of Sheltered and Unsheltered Homeless individuals reflects 200 sheltered/unsheltered homeless individuals living within Tracy's city limits, with 98 of these currently sheltered. 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 to both build and operate a temporary emergency housing facility to address the impacts of homelessness within the community. Staff oversight of shelter operations has included staff coordinating 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 Temporary Emergency Housing Facility, CIP 71112. City staff have worked vigorously to balance the circumstances of the unsheltered, as well as the needs of the community.

Pursuant to the 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. This effort not only focuses on housing and support but also prepares 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 at the 370 Arbor Avenue, Tracy location.

Staff have worked through multiple barriers to reach this point in the process. In February of 2025, the City Council held a workshop regarding the possible future of the TEHF site, including the potential programs and services that could be conducted on site by partners to provide wrap around services to our unhoused. The Council provided broad support and general consensus direction for staff to continue to pursue grant funding and opportunities for partners to operate programs on site that would help offset the cost of maintaining the shelter site. A key component to offsetting the City's costs will be the City's ability to participate in the CalAIM Initiative program, a Medi-Cal program which allows for providers to be reimbursed for certain eligible services. Since that February workshop staff have worked closely with the vendor, Health Management Associates, on applying for the PATH CITED grant, visiting other programs in California both locally and within the Kaiser Cohort, meeting with health plans to draft policies and procedures and applying for additional financial support through Department of Health Care Services for Technical Assistance to begin providing CalAIM billable services. In recent months, staff have worked with Behavioral Health Services to outline the terms of leasing a portion of the site. That process has been paused as staff will need to return to Council for direction on the terms and proposal. Staff will schedule an item in the future for Council consideration. At this critical juncture in the development of the programs and services outlined at the Council workshop and with the Navigation Center projected to open by the end of the year staff is seeking the Council's guidance on next steps.

### ANALYSIS

The current site plan includes Phase III, which consists of 48 beds within the modular units and an administration building used to serve meals and provide case management, as well as Phase IV, which consists of 39 custom container units with temporary restrooms and showers currently operated by the Salvation Army Stockton Corps.

With the addition of the Sprung Structure and auxiliary buildings, the site will have the capacity to serve more than 150 individuals. This includes the Navigation Center, which can provide up to 70 additional congregate beds. Final capacity will depend on maintaining adequate low-barrier accommodations, including space for pets, partners, and personal belongings.

At present, the Temporary Emergency Housing Facility (TEHF) provides a total of 86 non-congregate beds for adults, operating under a low-barrier, housing-first model. This interim shelter—comprising Phases III and IV—has been in operation for three years while the Navigation Center and auxiliary buildings are brought online. These auxiliary facilities will include a kitchen, main administrative building, restrooms, showers, laundry, and storage. Interim operations have relied on additional contracts to provide these essential support services.

With the addition of the Navigation Center, kitchen, office spaces, restrooms, laundry, storage, and administration building, there is a need to discuss a sustainable future plan for the site. The City's current shelter operator has a contract in place through April 30, 2026. This only includes the non-congregate units that consist of Phase III and Phase IV. This contract is currently at an NTE of \$1,486,642 dollars for 6 months. Staff negotiated a short 6-month term agreement for The Salvation Army to continue managing the site until the CIP is completed and City staff can finalize the current RFP process. The extension was approved at the October 21, 2025, Council meeting under the consent agenda. The RFP process will need to be finalized subject to decisions and considerations made by the Council pursuant to this item.

The soon to be complete Phase II will bring the Navigation Center and additional auxiliary buildings online, tentatively by the end of 2025, which will increase the site's capacity and operations costs. Staff recommends that the Council consider alternative programming options that could support the increased shelter capacity through external revenue sources. At the workshop Council had already provided broad support for Staff to support grants and offsetting revenue sources, which as discussed above Staff has done. These sources include partnerships with the CalAIM Initiative through the County Managed Care Plans. Currently the County Managed Care plans are implementing additional services to the unhoused space through the Department of Health Care Services (DHCS). Their Initiative provides a benefit for intensive care coordination for members with the most complex needs and allows service providers to be reimbursed for the services provided to the members. Currently the shelter site is supporting clients with complex needs as best they can without the added resources or staffing. The City of Tracy secured a Kaiser Medical Respite Implementation grant that has supported the planning of a medical respite program at the shelter site. Once the program has the capacity to launch, the City will be able to begin CalAIM billable services. This will allow for the City to be reimbursed for services it is currently providing to clients with complex needs.

Staff has pursued opportunities to implement Council recommendations and returned directly to Council as grants and program opportunities have arisen. However, now these opportunities require that Council adopt and implement policies and program components that affirmatively state the City's intention to participate in the CalAIM initiative. Staff is requesting Council approval of the policies and program components that would allow for staff to move forward with the medical respite program. Some of these additional components are related to policies and procedures, subrecipient agreements, and additional approval of scopes of work for technical assistance through the Department of Health Care Services. Staff will need to work with the managed care plans on additional policies and procedures, the contracting process, and additional infrastructure to implement the CalAIM program. Staff has applied for grants to assist the city in this process.

Through the CalAIM Initiative the City could develop programs and initiatives that provide for Medical Respite Care, an Umbrella term often used to include providing short-term post-hospitalization services, and recuperative care. Currently these are the programs that staff is focused on building and partnering with Managed Care Plans to build in the Phase III Modular Area of the site as directed by Council at the February workshop. The CalAIM initiative will allow the city to be reimbursed for those Medical Respite Services that may be provided. In the interim, Staff is focused on implementing an effective and functioning CalAIM Medical Respite Care reimbursement program.

In May of 2025, the city applied for Technical Assistance through the DHCS during the drafting of the PATH CITED Round 4 grant application, which was submitted in early May to assist the city in developing a Medical Respite program. This process was initiated by the Consultant, Health Management Associates, funded through the Kaiser Medical Respite Planning grant. While awaiting approval from the state (DHCS), the city has worked with the Consultant to draft policies and procedures and work on program development for the Medical Respite program implementation.

On July 11, 2025, the Technical Assistance application was approved by DHCS. Upon receiving the notice of approval from DHCS, the Consultant drafted a Scope of Work and a budget to assist the City in program development. Some of the project services outlined in the Scope of Work are as follows: Community Supports and Workplan Development that includes a gap



analysis, Program Design and Coaching, Financial Modeling Assessment and Training, and Documentation Development.

City staff is also working through policies and procedures required for the Health Plan of San Joaquin readiness approval to move forward in the contracting process. This includes the subrecipient agreement with Independent Living Systems, LLC, a Managed Care plan that will assist the City in the reimbursement process for CalAIM-eligible services and additional items that will be required now that the TA Marketplace Scope of Work has been approved and city staff can continue to move forward with the contracting process.

In addition to CalAIM support, the city has an opportunity to partner with San Joaquin County Behavioral Health Services (BHS). This opportunity would be an addition to the footprint scope of work, which would allow the city to subsidize shelter operations costs. A portion of the shelter residents are currently receiving behavioral health services, and this partnership would provide the opportunity for them to receive shelter beds coupled with their services that are paid for through BHS. While the city has been in conversations with BHS over the last several months, city staff have asked for an extension on this process. There are some requirements under the Behavioral Health Bridge Housing (BHBH) supports funding that require the city to be in direct opposition to the current program model. Though the city does want to serve vulnerable residents, the city wants to ensure that it can be done safely. The city is asking for more time to research best practices, consult with the City Council, complete construction of the site, and complete the RFP process before moving forward with a contract.

The Medical Respite Program will be housed on the Phase III site of the TEHF, which is comprised of 5 leased mobile modulars. The city has options regarding the Modular units currently utilized as Phase III. The units can continue to be leased for an additional 2 years or can be purchased. Attachment C- Mobile Modular Summary Options shows the cost to date of leasing the modulars, returning the modulars and terminating the contract, or purchasing the modulars for permanent use. Currently, the City is 36 months into the contract. The contract required the City to lease the units for a minimum of 24 months and can terminate with a fee after the 24 months are over, continue the extent of the lease or purchase the units. There is no decreased cost or discount to the city to purchase the units. The city will pay full price regardless of the current lease agreement. Staff may be able to receive grant funds to purchase these modulars once the City is a contracted CalAIM provider. However, it is staffs recommendation to continue the lease on the modular units (Phase III). Once the city has implemented the medical respite program and can assess the feasibility and cost associated with the program, staff can come back to Council at a later date to assess further which may include a recommendation to purchase the units. The medical respite program can be operated in the sprung structure or container units, although it would be more challenging to operate in these spaces. The way the current model was designed, all the bathrooms and showers are out side of the main structure for both the sprung structure and container units spaces which makes it more difficult to access restrooms and showers if a client is injured or ill. The modular units offer the ability to have access to ADA restrooms and showers that are close in proximity and indoors.

In addition to the above updates, staff wanted to provide comparable city data referencing other local and regional cities' responses to unsheltered homelessness as requested.

## STRATEGIC PLAN

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

## FISCAL IMPACT

Funding for the contract to operate the City's Temporary Emergency Housing Facility is included in the General Fund's adopted operating budget for Fiscal Year (FY) 2025-26. The FY 2025-26 Homeless Services operating budget totals \$4.1 million and includes funding for City staff, the contract with the shelter provider, and operating costs, including utilities, and building maintenance. With the current bed count of 86, the cost per bed to operate the shelter is \$47,675 annually. Upon completion of construction, the bed count is expected to rise to approximately 150 beds. The increased bed count is expected to increase the cost of the contract with the shelter operator from \$2 million annually to an estimated \$3.5 million annually. Other costs, such as utilities and building maintenance, will also increase with the addition of the new building. This change is estimated to bring the 2026-27 Homeless Services annual budget to approximately \$6.5 million, or \$43,333 per bed.

Staff continues to seek partnerships that continue the goals of the shelter and offset operating costs. The benefit of becoming a CalAIM provider and agreeing to provide Behavioral Health housing supports by partnering with Behavioral Health is the opportunity to subsidize shelter operations for bed utilization while also partnering with County Housing and Mental Health providers.

Through becoming a CalAIM provider, some of the contracted costs may become reimbursable. The actual reimbursable cost is subject to whether the shelter operator can access the CalAIM funds via referral of the individual clients into CalAIM services/and that clients meet the criteria for placement into these specialty beds. Actual recovery amounts from the sources identified above may vary at any given time within the term of the contract. Reimbursements from CalAIM Medi-Cal will be contingent on the needs of the individual client referred. If funds are reimbursed, they will be documented and credited towards ongoing shelter operations.

## 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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council:

- (1) adopt a resolution to implement a Medical Respite program; and
- (2) adopt a resolution approving policies and procedures drafted for Health Plan of San Joaquin contracting process and authorizing the City Manager or designee to execute additional ancillary documents related to the City becoming a Cal Aim provider.

Prepared by: Virginia Carney, Homeless Services Manager

Reviewed by: Sara Castro, Director of Finance  
Brian MacDonald, Parks, Recreation and Community Services Director  
Kamalpreet Gill, Assistant City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

ATTACHMENTS

Attachment A-City Comparable Data Matrix  
Attachment B-Mobile Modular Summary Options  
Attachment C-1 through C-5-HPSJ Policies

Attachment A

City	Entitlement City	Population	PIT Count	Total Number of Beds	Site Specifications	Providers	Services Provided	Costs	% Beds Based on Unhoused Population
Tracy	No	98,578	200	86	Year Round, 24/7-Low-barrier temporary emergency housing facility project is located on 4.8 acres of City owned land.	The Salvation Army (Shelter Operator)	Housing first model through individualized housing stability plan with on site case management support for the duration of shelter stay, laundry services, 3 meals a day and snack, transportation, on site pet support from animal services and volunteer organizations and connections to other partner agencies and outside resources.	2 Million	43%
					<b>Phase II-Sprung Structure</b> – Navigation Center and auxiliary buildings (permanent kitchen, bathrooms, laundry room and admin building) set to be completed at the end of 2025.				
					<b>Phase III - Modules</b> – Opened as the very first shelter phase in November of 2022 with 48 Beds in Operation	Familiar Faces (City Outreach)			
					<b>Phase IV-</b> Custom Containers- Open as second phase in December 2023 with container dormitory units with 38 beds in operation				
Fairfield	Yes	120,768	590	174	<b>Beck Avenue Navigation Center (BANC)</b> - 10-city funded beds at Shelter Solano. Year-round emergency shelter located on 3.5 acres in Fairfield. Provides interim housing including dormitory style rooms, family-sized rooms, and separate apartment-style units (130 bed navigation center). The campus is secured and includes a dining hall, dog kennels, and recreational areas for persons of all ages. Additional, 10 City funded seasonal winter beds.	Project HELP-Mission Samoa	<b>BANC</b> -Specialized programs serve veterans, domestic violence survivors, the disabled, and the re-entry population. Extensive services including case management, employment services, health and wellness checks, connection to benefits and other resources, and individualized success plans to aid them on their path to self-sufficiency and housing.	<b>BANC</b> -10-city funded emergency shelter beds through the Permanent Local Housing Allocation (PLHA) Grant: \$346,750	8.31%
					<b>Mission Samoa Emergency Shelter-Project HELP:</b> 5-City funded beds (Guests must be clean and sober, avg. 10-18 guests/night, 18/over and/or preference to women/men with children).	BANC-SHELTER, Inc	<b>Project Help-Pallet Homes</b> -Site provides: Provides shelter, food, clothing, case management, self-improvement, employment training and placement classes.	<b>Project Help:</b> 5 city-funded emergency shelter beds for total of \$100,000 for current fiscal year	
					<b>Change and New Beginning-</b> New Beginnings Emergency Shelter 21-City funded beds, 30 – 90-day program for individuals and/or families experiencing homelessness	Change and New Beginning through CAN-B	<b>Change and New Beginning.</b> New Beginnings Emergency Shelter provides emergency shelter beds with “wrap around” services for each referred homeless individuals shall include, but not be limited to, providing food three meals per day plus snacks), case management, employment services, housing navigation, access to legal services, and other related services.	<b>CANB</b> -21-City funded emergency shelter beds for total of \$300,000 for current fiscal year and NTE of \$750K for 3 years for outreach services	
					<b>Hayward Housing Navigation Center (HNC)</b> -City Funded Interim transitional housing with 65 beds with short term housing for 45 people at a time in dormitory settings, on-site restroom, shower, laundry and kitchen facilities.	Building Opportunity for Self-Sufficiency (BOSS)	<b>Hayward Housing Navigation Center (HNC)</b> City Funded Interim transitional housing will provide one meal a day and intensive case management geared toward long-term housing placements.	FY 2022-2023-City allocated \$7.5 million in federal Coronavirus State and Local Fiscal Recovery Funds	
Hayward	Yes	155,675	512	113	<b>Emergency Shelter through First Presbyterian Church of Hayward:</b> 23 beds for City (50 meals total) with lottery admission. Guest must be able to care for themselves and pets okay on leash or in crate. Safe parking option available (possibility to park and live in your car on site but need prior registration)	First Presbyterian Church of Hayward	<b>Emergency Shelter through First Presbyterian Church of Hayward:</b> Nightly shelter services. Resource center open for everyone from M-F 10-4. Dinner provided and bagged breakfast and showers M,W and F.	\$1.5 million annual contribution in City General Funds to the Hayward Navigation Center and County manages CalAID services	22.07%
					<b>South County Homeless Project</b> -Interim emergency housing program and residents stay up to 6 months (with extensions as needed while people are seeking permanent housing)	Bay Area Community Services (BACS) – only operator fully fund by City	<b>South County Homeless Project</b> -Interim emergency housing program and residents have access to housing navigation, benefits eligibility, employment, health, wellness, and peer support services.	The City funds Navigation Center, which is interim, transitional housing and spends \$2.5M annual for 65 beds. City funds operations and capital expenses for HNC	
					<b>Scattered Site shared housing program</b> (six single-family homes with 4-5 rooms per house)		<b>Les Marquis Emergency Shelter (Family Shelter)</b> -Provides case management, life skills classes, employment training, parenting classes and children’s activities and linkage to independent housing, benefits acquisition and healthcare services.	City only has one Emergency Shelter, operated by First Presbyterian Church of Hayward and City awards an annual award to support but not fully fund operations	
					<b>Les Marquis Emergency Shelter (Family Shelter)</b> -Houses up to 8 families of all configurations and open 24/7 for up to 60 days.	Restorative Pathways (Ruby's Place)	<b>Betty's Village (DV Shelter)</b> provides temporary shelter and services to meet basic needs of battered women and serves single women and men with children who have experienced domestic violence or human trafficking and provide peer counseling, case planning, employment assistance, educational counseling and assistance in enrollment, finance counseling, housing search and application assistance, housing follow-up and placement assistance, court accommodation, restraining order services, Cal works, GA, WIC, food stamp and other social service assistance/advocacy, immigration support, and transportation.	\$300,000 - \$500,000 in City CDBG funds. Also, City provide a portion of operating expenses for other sites listed and have previously provided one time CDBG infrastructure money for site improvements	
						La Familia/FESCO		The Hayward Navigation Center is partially funded through Proposition 47 funding, administered by the Board of State and Community Corrections (BSCC). The Hayward Navigation Center Prop 47 Local Advisory Committee (LAC), advises on how to identify and prioritize the most pressing needs to be addressed (to include target population, target area, etc.); how to identify the strategies, programs and/or services to be undertaken to address those needs; the development of the grant project and ongoing implementation of the grant project.	
					<b>Betty's Village (DV Shelter)</b> provides temporary shelter and services to meet basic needs				
Livermore	Yes	84,867	277	156	<b>Goodness Village</b> is 28 beds (Tiny Homes). Clients pay rent under low-income housing requirements	Goodness Village	<b>Goodness Village</b> -No sobriety requirement. Focus on independent living, healing and thriving. 24/7 support staff to provide guidance and resources.	FY 23-24 \$3.4 Million	56.32%
					<b>Sojourner House</b> -16-bed facility with separate bedrooms for families, a fully-stocked kitchen, 3 full baths, and laundry facilities and serves two-parent families, families with teen-age boys, single mothers with children, single fathers with children, and single women.	Tri-Valley Haven	<b>Sojourner House</b> -Provides temporary shelter for homeless families in a safe and supportive environment. Clients can stay up of up to 6 months or longer. Staff are on-site available 24 hours/day, 7 days/week. Tri-Valley Haven's Linkages Program provides clients with rental subsidy assistance. Residents of Sojourner House have the opportunity to attend life skill classes twice a week to become more self-sufficient and independent.		
					<b>Shepard's Gate</b> -Shelter for women & children with 40 bed. Serves girls (new born – 18 yrs. old) and boys (newborn – 12 yrs. old), 46 additional shelter beds and 12 Transitional beds	Shepard's Gate	<b>Shepard's Gate</b> -Christ-centered programs that help women and children overcome the trauma of abuse, addiction and homelessness and change their lives with learning and career center, recovery programs and case management.		
					<b>Shiloh</b> (Tri-Valley Haven DV shelter) 30 bed shelter for women and children who are victims of violence (domestic violence, sexual assault or human trafficking) and in need of a safe, confidential location providing supportive services. All TVH shelters accept families with boys and girls up to the age of 18 years.	Tri-Valley Haven	<b>Shiloh</b> -Each resident is assigned a counselor who works individually with her and her children. Case managers help clients with housing, legal, vocational, and financial needs. Each child at Shiloh receives an initial assessment to evaluate their physical and emotional needs. Once clients are safe and making progress, they are promoted to our transitional housing before graduating to permanent housing.	Funding comes from federal and state grant awards, City general fund and additional funding the city applies for like grants.	
					<b>Open Heart Refuge</b> is a 30-bed overnight shelter in Livermore for adults and operates 7 days a week from 6:00 pm - 8:00 am, and includes both dinner and breakfast.	Open Heart Refuge and volunteer based for assistance with check-in of guests nightly	<b>Open Heart Refuge</b> -A guest who has a reserved bed is part of the "Core Group." As long as a guest of the Core Group does not miss more than 3 nights in the same week, they remain a member of the Core Group. 7PM Check-in for one-night-only beds (if available)	Grants received: CDBG, HOME, HHAP, Permanent Local Housing Allocation, Family Homeless Challenge Grant and Alameda County Social Services Agency	
					<b>Arukah</b> is a nonprofit Christian transitional housing program that helps men who are struggling with homelessness due to the loss of a job, having recently been released from prison, drug and alcohol problems and lack of family support. 6 beds	Arukah	<b>Arukah House</b> - Clients enroll in a 1-year live-in program, are assigned a Case Worker/Mentor, and receive food and job/vocational training.		
Stockton	Yes	319,543	3,004	550	<b>St Mary's</b> - Low-barrier shelter that provides 300 beds for men, women, and families.	St. Mary's Community Services	<b>St Mary's</b> - Provide daily essential provisions-shelter, food, clothing, showers-in addition to case management and behavioral health services that enhance the well-being and open opportunities for long-term housing stability.	St. Mary's Community Services: \$767,600.06 from SJC&C, County, and Local Municipalities for FY 22-23 and 2023: City/County funding to maintain Stockton Shelter \$10M (\$5,380,000/each) and \$3.6M Shelter Beds St. Mary's Pathways	18.31%
					<b>Haven of Peace</b> -Shelters up to 35 homeless women and children in French Camp (outside Stockton, CA)	Haven of Peace	<b>Haven of Peace</b> -case management, and provide a variety of classes to residents, such as life skills, parenting, budgeting, and computer classes. Residents are referred to other agencies for assistance with domestic violence, substance abuse, mental health, and other issues. Residents can stay at the Haven of Peace for two weeks. It is possible to extend the stay for up to six months if residents work with their case manager and are reaching goals toward achieving self-sufficiency	FY 2025/2026 Economic Development Department Housing and Homelessness Division Budget: \$162,140,698	
					Total Emergency Shelter beds 550, 75 beds for families, DV, Youth	PREVAIl and Gospel Center	Various assistance to people experiencing DV and transitional youth services	The city uses grants like the Homeless Housing, Assistance, ESG and Prevention (HHAP) program and Project Homekey to fund permanent supportive housing and low-barrier shelters.	
Manteca	No	91,059	317	52	Low Barrier Navigation Center (LBNC)-Housing-first, limited stay program. Each dormitory modular unit has a capacity of 25 beds, plus an additional 2 beds designated for PD. Site has two dormitories, one for men and one for women for a total of 52 beds.	Shelter Operator: His Way Refuge Center	Provides support for housing and employment. The site also provides wrap-around services that focus on helping participants stay in their homes once they obtain housing.	Operating contract of \$845K	16.40%
Lodi	Yes	67,679	422	49	Temporary Access Center and Emergency Shelter (49 overnight beds) and around 100 individuals daily for day resource services.	Shelter Operator: Outreach Ministries	Includes contracted Outreach Services, day services and Neighborhood Clean-up	Temp facility operations at approx. 1.3 million annually	11.61%
					Harmony Homes permanent Supportive Housing (4 units).		The Salvation Army, located next door to the access center, will continue to provide food and laundry services	Fiscal Year 2023-24, the City had nearly \$8 million in direct homelessness costs. \$4.25 million was for capital expenditures and the remainder of \$3.7 million was for ongoing services. Over \$1.8 million in expenditures came from the City General Fund	
					Development of permanent Access Center and Emergency Shelter (208 bed capacity - 106 initial and 102 flex bed space)		Set to provide essential services, including clinic care, integrated behavioral health, and housing support for individuals at the Access Center		
					Future Projects: Construction of Main Street Transitional Housing (40 units, including one single-family dwelling with 4 bedrooms and 1.5 bathrooms) and Partnership with Housing Authority of San Joaquin on 110 units of Senior with Veteran preference affordable housing	The Salvation Army	<b>Main Street Transitional Housing</b> -BHS intends to operate this facility under a lease agreement with the City of Lodi. A draft lease agreement is currently under review by staff and legal teams, with plans for final approval by the City Council and Board of Supervisors in the near future.	Fiscal Year, 2024-25, the City had \$694,791 in direct homelessness costs from July 1, through August 31, 2024. Of the total amount, \$328,210 was capital expenditures and \$366,181 was for operations. \$291,954 in expenditures came from the City's General Fund	

Attachment B

Mobile Modular Management Corporation

60-Month Lease Cost Summary:	
Total Monthly Cost	\$ 9,856.92
Total Annual Cost	\$ 118,283.04
Paid YTD	\$ 421,389.95
60- Month Lease Grand Total	\$ 741,911.79

Modular	Admin	#2	#3	#4	#5
Monthly Charge	\$2,862.24	\$1,748.67	\$1,748.67	\$ 1,748.67	\$ 1,748.67
Annual Cost	\$34,346.88	\$20,984.04	\$20,984.04	\$20,984.04	\$ 20,984.04
60 Month Lease	\$171,734.40	\$104,920.20	\$104,920.20	\$ 104,920.20	\$ 104,920.20
One-Time Delivery	\$20,565.27	\$18,449.08	\$18,449.08	\$ 18,449.08	\$ 18,449.08
Charges Upon Return	\$15,811.00	\$10,081.00	\$10,081.00	\$ 10,081.00	\$ 10,081.00
Total	\$208,110.67	\$133,450.28	\$133,450.28	\$ 133,450.28	\$ 133,450.28
Grand Total:	\$741,911.79				

Early Term Cost Summary:	Grand Total
36-Months (between months 37 and 48)	\$ 86,135.00
48-Months (between months 49 and 60)	\$ 82,535.00

Term Length	Early Term Fee	Total Per Modular	Total-All Modulares	Charges Upon Return	Grand Total
36-Months (between months 37 and 48)	\$ 500.00	\$ 6,000.00	\$ 30,000.00	\$ 56,135.00	\$ 86,135.00
48-Months (between months 49 and 60)	\$ 440.00	\$ 5,280.00	\$ 26,400.00	\$ 56,135.00	\$ 82,535.00

Purchase Cost Summary:	
Purchase Price (All Modulares)	\$ 782,840.00
Taxes	\$ 64,584.30
Fee/License/Registration Fee	\$ 23,485.20
Grand Total	\$ 870,909.50

Modular	Admin	#2	#3	#4	#5
Purchase Price	\$ 199,720.00	\$ 145,780.00	\$ 145,780.00	\$ 145,780.00	\$ 145,780.00
Taxes based on Purchase	\$ 16,476.90	\$ 12,026.85	\$ 12,026.85	\$ 12,026.85	\$ 12,026.85
Fee/License/Registration Fee	\$ 5,991.60	\$ 4,373.40	\$ 4,373.40	\$ 4,373.40	\$ 4,373.40
Total	\$ 222,188.50	\$ 162,180.25	\$ 162,180.25	\$ 162,180.25	\$ 162,180.25
Grand Total	\$ 870,909.50				





## **Policy: Fraud, Waste and Abuse (FWA)**

### **Identifying and reducing FWA.**

- I. **Purpose:** The purpose of this policy is to ensure that in the administration of the Homeless Shelter and Homeless services, the City of Tracy ("City") complies with all laws governing its operations, conducts business according to legal and ethical standards, prevents fraud, waste, and abuse (FWA) of the City's organizational assets, and aligns with Section 6032 of the Deficit Reduction Act of 2005 to decrease financial loss resulting from false claims.
- II. **Policy:** The City of Tracy prohibits fraud, waste, and abuse of its assets. This prohibition includes attempts and conspiracies to conduct such activity, as well as the aiding, abetting, or concealing of such attempts. The City of Tracy promotes behavior that avoids fraud, waste, and abuse and promotes organizational accountability and careful stewardship of public funds
- III. **Definitions:**
  - A. **Fraud:** Fraud is defined as a dishonest and deliberate course of action that results in obtaining money, property, or an advantage to which employees or officials committing the action would not normally be entitled. Fraud also encompasses intentional misleading or deceitful conduct that deprives the City of its resources or rights. There are three categories of fraud: including 1) financial statement fraud, 2) misappropriation of assets, and 3) theft and corruption.
  - B. **Waste:** Waste is defined as the needless, careless, or extravagant expenditure of City funds; incurring of unnecessary expenses; or mismanagement of City resources or property. Waste does not necessarily involve private use or personal gain, but it almost always signifies poor management decisions, practices, or controls.
  - C. **Abuse:** Abuse is defined as the intentional, wrongful, or improper use or destruction of City resources, or improper practice that does not involve prosecutable fraud. Abuse can include the excessive or improper use of an employee or official's position in a manner other than its rightful or legal use.



- D. California Government Code Section 53087.6(F)(2)** collectively defines “fraud, waste or abuse” as “any activity by a local City or employee that is undertaken in the performance of the employee’s official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.”

#### **IV. Implementation of Policy:**

**1. Fraud Prevention Officer:**

1. Chief Compliance Officer is our Homeless Services Manager and serves as the Fraud Prevention Officer and is responsible for developing, implementing, and ensuring compliance with City of Tracy Policies including this policy prohibiting FWA. The CCO reports directly to the Assistant City Manager (ACM).

**2. Training:**

1. The City of Tracy requires its contractors, subcontractors, and downstream subcontractors to conform to this policy and the City’s commitment to fully cooperate with directives from stated law enforcement agencies. This includes enforcing compliance from affected providers, contractors, subcontractors, and downstream subcontractors and ensuring their cooperation with investigations and prosecution as outlined in the Health Plan’s policy and other applicable law.
2. Corrective Action and Sanctions.

**C. Electronic Individual Case Reporting to CHP&RA:**

1. Upon discovering or being notified of suspected instances of FWA, whether reported by the City of Tracy itself or by others, the City will make a preliminary report to Contracted Health Plans and Regulatory Agencies (CHP&RA) within ten (10) working days.



2. Upon completion of its investigation, the City will submit to CHP&RA a comprehensive report detailing its findings, actions taken, and all pertinent documentation supporting these actions.

**D. Electronic Roll-up Reporting to CHP&RA:**

1. The City provides CHP&RA with a quarterly report that details the status of all preliminary, active, and completed investigations related to FWA.
  - a. This report is due within ten (10) working days following the close of each calendar quarter.
  - b. The City of Tracy will provide updates and available documentation upon written request from CHP&RA.
2. When overpayments are identified due to suspected FWA, the City submits a report to CHP&RA within 10 working days of identifying or recovering these overpayments.
3. As part of its annual report to CHP&RA, the City reports all recoveries of overpayments, incorporating in the Rate Development Template (RDT), as outlined in CLMS14– Overpayment of Services: Recovery.

**E. Confidentiality of Investigations:**

1. The City makes every reasonable effort to maintain respect, confidentiality, and privacy throughout the investigation and resolution of reported incidents. Information related to investigations is shared only on a need-to-know basis and may be subject to attorney-client privilege.
2. The City treats all information regarding FWA investigation as confidential until formal criminal, civil, or administrative proceedings become public or unless otherwise required by applicable law. The City of Tracy only uses this information for conducting investigations into potential FWA activities and other program integrity efforts and lawful City purposes. If the City of Tracy needs to share this confidential FWA investigation information with a contractor, subcontractor, or provider, these Third-Party entities must also ensure the confidentiality of that information unless otherwise required by applicable law.



**F. Cooperation with Law Enforcement:**

1. The City of Tracy cooperates with the Division of Medi-Cal Fraud and Elder Abuse (DMFEA), the United States Department of Justice (U.S. DOJ), and/or any other law enforcement organization in their investigations or prosecution, to include providing records and making staff available upon request.
2. City of Tracy provides guidelines on how it complies with investigations or legal actions by DMFEA and/or the U.S. DOJ, including sharing these guidelines with contractors and subcontractors.

**V. Compliance with Federal and State Laws**

**A. Federal False Claims Act (FCA) Requirements:**

1. The City complies with the Federal False Claims Act (31 U.S.C. § 3729, et seq.). The FCA makes it a crime for any person or organization to knowingly make a false record or file a false claim regarding any federal health care program, which includes any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government or any state healthcare system.
2. The City of Tracy adopts this policy to ensure compliance by the City's employees, contractors, subcontractors, and network providers when conducting Homeless Shelter operations and Homeless services and other federally funded services.
3. The City of Tracy also requires its Workforce, contractors, subcontractors, downstream subcontractors, and network providers to participate or attest to completing training on this FWA policy, including False Claim Act training, and within the first 30 days of hire or beginning services.

**B. Whistleblower statutes:**

1. The City of Tracy complies with all applicable laws and regulations related to Whistleblowers. The Federal False Claims Act protects employees who report (Whistleblowers) a violation under the False Claims Act from discrimination,



harassment, suspension, or termination of employment because of reporting possible fraud. Employees who report fraud and consequently suffer discrimination may be awarded by a final judgment of a court of competent jurisdiction:

- a. Two times their back pay plus interest
  - b. Reinstatement of their position without loss of seniority
  - c. Compensation for any costs or damage they incurred.
2. In compliance with HIPAA Federal and State regulations and the City of Tracy policy protecting Whistleblowers and Workforce Crime Victims, the City of Tracy Workforce does not intimidate, threaten, discriminate against, or take other retaliatory action against the City of Tracy clients, employees or any other person or entity for reporting ethics issues or suspected violations of law and regulatory requirements, accreditation requirements, or exercising their rights under federal or state laws including protections under the False Claims Act for whistleblowers.

**C. California False Claims Act (CA FCA):**

1. The City of Tracy complies with the CA FCA (Government Code Section 12650 et seq.) which permits the State Attorney General to bring a civil law enforcement action to recover treble damages and civil penalties against any person who knowingly makes or uses a false statement or document to either obtain money or property from the State or avoids paying or transmitting money or property to the State.
2. CA FCA also allows the “Whistleblower” to receive a higher percentage of the recoveries and to participate even when prosecuted by the Department of Justice (DOJ) or Office of Attorney General (OAG).
3. Under the CA civil FCA, each instance of an item or a service billed to Medicare or Medi-Cal counts as a claim and the penalties start at \$10,000 a claim if approved by a final judgment of a Court of Competent jurisdiction.
4. Criminal penalties, under CA FCA, for submitting false claims include imprisonment and criminal fines.





**D. CHP&RA Recovery of Funds:**

1. The City of Tracy understands that if funds are recovered by Office of Attorney General, DMFEA or the US DOJ because of prosecution of a subcontractor, downstream subcontractor, or network provider, under the California or Federal False Claims Act, that those funds belong exclusively to CHP&RA. The City of Tracy waives any claim to those funds. Any settlement or resolution of a disputed matter involving FWA between the City of Tracy and its contractors, subcontractors, downstream subcontractors, or network providers must include a written provision notifying them that CHP&RA, DMFEA, or the U.S. DOJ are not bound by the settlement and may take further action against the parties involved.

**VI. PROCEDURE**

**A. Reporting:**

1. In compliance with this policy and applicable federal and state laws, the City's employees contractors, subcontractors, downstream subcontractors, are required to report suspected acts of FWA immediately.
2. Suspected acts of FWA should be reported to one or more of the following:
  - a. Through the Compliance Department Share Point Link titled, "Report an Incident."
  - b. To any member of the City of Tracy management team
  - c. To the Chief Compliance Officer
  - d. To a Human Resource representative
  - e. By calling the Anonymous Reporting Hotline 2. FWA Lead is an initial identification of an unsubstantiated allegation of a potentially fraudulent activity.
  - f. Sources of Leads of suspected FWA

**B. Identification and Sources:**



1. As part of City of Tracy commitment to detecting FWA of its assets, it sources Leads from the following activities:
  - a. Proactive manual and software assisted data mining to identify aberrant billing patterns based on a set of predetermined data selection criteria.
  - b. Concerns identified during an audit.
  - c. Anonymous reporting.
  - d. City of Tracy Workforce disclosures.
  - e. Other external reporting sources include, but not limited to; members, community members, Third-Party current and former employees.
2. City Management Team's Role in Detecting FWA The City of Tracy Management Team members are responsible for establishing appropriate internal controls to detect FWA associated with assets under their custody or under their control.

**C. Pre-Investigation required information:**

1. The City of Tracy investigates all incoming FWA Leads within three (3) working days from the identification of suspected FWA activity and gathers, at a minimum, the following information:
  - a. Involved parties, including the full name of the individual, organization, address, phone number, email address (if available)
  - b. Identifiers such as the City of Tracy identification number, National Provider Identifier (NPI), claim ID, and/or license number.
  - c. A summary of the issue being reported.
  - d. If federal or state funds are involved, the source of the funds allegedly compromised.
  - e. The nature of the relationship of the suspected violator with the City.

**D. Investigation of FWA Leads and Case Conversion:**

1. Within 7 working days of identification of the suspected FWA activity, the matter is assessed to determine if there is sufficient evidence to conduct a preliminary investigation or if the lead does not reveal conduct amounting to FWA. In said case, the lead will be closed. Suspected FWA activity/ conduct If enough evidence or information exists to launch a full investigation, an FWA Case will be opened, and a full FWA investigation will be launched.



2. These cases will be reported to CHP&RA within 10 working days of the date that the original Lead was received by the Program Integrity Unit.
3. The Preliminary Investigation period of a Case begins the date the Lead is converted to an active Case and shall be completed within 30 days. This may result in occasional reporting prior to the completion of the Preliminary Investigation.
4. The following required investigative actions must be performed during the Preliminary Investigation:
  - a. Data of extraction and an analysis
  - b. Licensure verification, and Federal and State exclusion checks.
5. The City's Program Integrity Unit employs the following additional activities, as applicable, during the investigation. These additional investigative activities are usually conducted after the Preliminary Investigation is completed.
  - a. Interviews – providers, members, former members, former employees, and others.
  - b. Medical review of records to determine overpayment.
  - c. Medical review of records to verify services were rendered to members as billed.
  - d. Surveys.
  - e. Prepayment review of services.
  - f. Enhanced monitoring for a specified period.

#### **E. Corrective Actions for FWA Violations**

1. In compliance with HIPAA Federal and State regulations, and the City's Personnel Rules and Policies and applicable law, employees, contractors, subcontractors, downstream subcontractors, of the City who attempt or conspire to commit fraud, conceal fraud, aid and abet in the commission of fraud, or who fail to report fraud are subject to appropriate corrective or disciplinary action.
2. One or more of the following actions may be taken against City employees, contractors, subcontractors, downstream subcontractors, and network providers, but are not limited to these:



- a. Additional education and training.
- b. Seek recoupment of overpayment.
- c. Prepayment review of services.
- d. Subject to regulatory reporting to state licensing boards and other agencies as appropriate.
- e. Assess future payment deduction, withhold, or stop payment for services.
- f. Suspension or termination.
- g. Suspension or termination from employment.
- h. Potential civil enforcement or criminal prosecution.

**F. FWA and False Claims Act Training:**

- 1. In accordance with the Compliance Program Training and Education and the Code of Conduct, the City of Tracy Workforce is responsible for taking appropriate actions to prevent all identified FWA. A training report for the City of Tracy Workforce containing the mandatory training record of completion is regularly tracked and monitored.
- 2. City of Tracy requires its employees to be trained on compliance with the False Claims Act and other Federal and State laws described in 42 USC section 1396a(a)(68), including employee rights and Whistleblower protection under the law.
  - a. The Workforce is trained annually and within the first 30 days of hire as outlined in CMP24 – Compliance Trainings and Education.
  - b. Business Associates, per the Business Associate Agreement, are contractually required to maintain their own training programs and attest or show proof of training when requested to do so.

**G. Response to Law Enforcement:**



1. When directed that a law enforcement hold or delay has been requested, the City of Tracy follows the direction given by law enforcement.
2. Active case statuses will be updated in the case management system to “Monitor” with a sub status of “Law Enforcement Hold”.

#### **H. Actions Following a Credible Allegation of Fraud**

1. Upon notification from CHP&RA of a credible allegation of fraud for a provider, the City of Tracy informs CHP&RA what action was taken with the provider. Below is summary of possible actions:
  - a. Terminate the suspected offender from its network.
  - b. Temporarily suspend the provider from its network pending resolution of the fraud allegation.
  - c. Temporarily suspend payment to the provider pending resolution of the fraud allegation; and/or
  - d. Conduct additional monitoring including audits of the provider’s claim history and future claims submissions for appropriate billing.
2. If option “iv (additional monitoring)” above is adopted, the City of Tracy will:
  - a. Implement enhanced monitoring for 30 days;
  - b. Send weekly updates to the effected CP&RA during the monitoring period;
  - c. Launch an investigation into the providers’ billing practices to validate the credible allegation of fraud within 10 days of notification by CHP&RA to the Health Plan; and,
  - d. Inform CHP&RA of the investigation findings, to include a final investigation report and corrective action plan, within 10 days after the conclusion of the investigation.

#### **VII. REVISION HISTORY**





Version	Revision Summary	Date
001		
Initial      Effective Date		

#### VIII. COMMITTEE REVIEW AND APPROVAL

Committee Name	Version	Date

#### IX. REGULATORY CITY APPROVALS

Department	Reviewer	Version	Date

#### X. APPROVAL SIGNATURE(S)

Signature	Name Title	Date

\*Signatures are on file, will not be on the published copy

#### XI. ANNUAL REVIEW

Reviewer Signature	Reviewer Title	Date



Title: Housing Deposit

Date Created: July 11, 2025

Date Modified: August 21, 2025

Approved By: Virginia Carney

## **Policy Statement**

The City of Tracy, in partnership with its delegated operator, provides Housing Deposit services to eligible Medi-Cal managed care plan (MCP) members receiving Housing Transition Navigation Services to overcome one-time financial barriers to establish safe, stable housing. Covered costs may include security deposits, utility fees, and other medically appropriate expenses identified in the member's housing support plan. Services are voluntary, cost-effective and generally limited to one time use, with exceptions only when justified and approved by the MCP.

The services are available to those who meet the California Department of Health Care Services (DHCS) eligibility criteria:

- Prioritized for permanent supportive housing or rental subsidy through Coordinated Entry
- Meet the HUD definition of homelessness and be enrolled in ECM
- Have one or more serious chronic conditions or a series mental health/illness
- Be at risk of institutionalization or in need of residential services due to a substance use disorder
- Meet No Place Like Home criteria (e.g., existing institutions after being homeless)
- Be classified as chronically homeless under W&I Code section 14127 (e) or HUD standards
- Be existing institutional settings and were homeless prior to entry
- Be a family with an adult or minor of household that meets chronic homeless criteria
- Be at imminent risk of homelessness due to unstable living situations or upcoming institutional discharge
- Be a youth or transition-age youth with serious emotional disturbance or other significant barriers to housing stability

## **Purpose**

To define standards and establish procedures for Housing Deposit to support MCP members in identifying, securing, and preparing to move into housing to the goal of improving health outcome and care continuity.

## **Scope**

This policy applies to all staff, subcontractors, and partners providing Housing Deposit under contract with the City of Tracy and serving eligible MCP members.

## **Definitions**

Housing Tenancy Navigation Services (HTNS): Services that assist individuals in locating, applying for, and preparing to transition into housing.

Community Supports: In Lieu of Services, medically appropriate services offered as a substitute for standard State Plan services.

## **Procedures**

### **A. Referral & Eligibility Verification**

1. Accept referrals from ECM providers, MCPs, health care teams, or Coordinated Entry. Ensure services are not covered by other sources and that the member is unable to cover the cost independently.
2. Verify Medi-Cal eligibility with the MCP and submit a prior authorization to provide Housing Deposit.
3. Once the prior authorization has been approved, assess or coordinate with the HTNS provider to determine which one-time services or items are required to establish the household.

### **B. Documentation**

1. Document all planned Housing Deposit services in the housing support plan with justification and/or provide an update to the referring organization

### **C. Tracking and Monitoring**

1. Track that Housing Deposits are used only once in a lifetime unless a second use is justified and approved by the MCP.
2. All payments must be made directly to the vendor (e.g., landlords, utility companies, etc.)

### **D. Restrictions and Limitations**

1. Housing Deposits are classified as Community Supports and must be medically appropriate and cost-effective alternatives.
2. Participation is voluntary and cannot be required as a condition of enrollment or service.
3. Funds may only be used once per lifetime; a second use requires strong documentation of changed circumstances.
4. Funds must be documented in the housing support plan and identified as necessary and reasonable.
5. Housing Deposits do not cover ongoing rental payments beyond the first and last month or room and board.

## **Review Schedule**

Annual Review: This policy is reviewed yearly or as changes in MCP requirements, program structure, or identified quality improvement needs dictate updates.



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Title: Housing Tenancy and Sustaining Services

Date Created: July 12, 2025

Date Modified: August 21, 2025

Approved By: Virginia Carney

## **Policy Statement**

The City of Tracy, in partnership with its delegated operator, provides Housing Tenancy and Sustaining Services (HTSS) to eligible Medi-Cal members to promote housing retention and long-term stability. HTSS supports individuals in overcoming barriers to tenancy, maintaining lease compliance, preventing eviction, and sustaining safe housing. Services are delivered using evidence-based practices such as Housing First, Harm Reduction, and Trauma-Informed Care.

The services are available to those who meet the California Department of Health Care Services (DHCS) eligibility criteria:

- Currently housed and at risk of losing housing due to lease violations, behavioral health needs, or other tenancy-related challenges.
- Recently transitioned from homelessness or institutional care and require ongoing tenancy support.
- Enrolled in ECM and have complex health needs that impact housing stability.

## **Purpose**

To define standards and establish procedures for the delivery of Housing Tenancy and Sustaining Services in alignment with DHCS Community Supports guidance to help eligible individuals maintain housing and prevent unnecessary transitions into higher levels of care.

## **Scope**

This policy applies to all staff, subcontractors, and partners providing HTSS under contract with the City of Tracy and serving eligible Medi-Cal members.

## **Definitions**

HTSS: Community Support services designed to help individuals maintain housing and prevent eviction or homelessness.

Community Supports: Medically appropriate, cost-effective alternatives to services covered under California's Medi-Cal State Plan.

## **Procedures**

### **A. Referral and Authorization**

1. Accept referrals from ECM providers, MCPs, housing navigators, or Coordinated Entry.
2. Verify eligibility and submit prior authorization request to the MCP.
3. Initiate services upon approval.

### **B. Tenant Education and Lease Compliance Support**

1. Educate clients on lease terms, tenant rights and responsibilities.
2. Support development of routines for rent payment, cleanliness, and compliance.
3. Conduct periodic home visits as needed.

### **C. Coordination and Problem Resolution**

1. Coordinate with landlords to address lease violations or conflicts.
2. Mediate disputes to prevent eviction.
3. Assist with reasonable accommodation requests or unit transfers.

### **D. Eviction Prevention and Crisis Management**

1. Identify early warning signs of tenancy jeopardy (e.g., missed rent, neighbor complaints).
2. Develop and document a housing crisis plan with the member.
3. Coordinate services to prevent eviction and address immediate risks.

### **E. Linkage to Ongoing Services**

1. Refer and connect members to behavioral health, primary care, and other community resources.
2. Ensure services are coordinated with ECM and case management supports.
3. Monitor for changes that affect housing stability (e.g., income loss, relapse).

### **F. Periodic Review and Support Plan Updates**

1. Review individualized housing support plans every 6 months or as needed.
2. Update interventions and supports based on current housing risk or life changes.

## **Review Schedule**

**Annual Review:** This policy will be reviewed annually or as program requirements, DHCS guidance, or quality improvement initiatives dictate updates.





Title: Housing Transition and Navigation

Date Created: July 12, 2025

Date Modified: August 21, 2025

Approved By: Virginia Carney

## **Policy Statement**

The City of Tracy, in partnership with its delegated operator, provides Housing Transition Navigation Services to eligible Medi-Cal members experiencing homelessness or housing instability. The City of Tracy, in partnership with their delegated operator, will assist individuals in securing and transitioning into stable, safe housing. Services follow a person-centered, trauma-informed approach and reflect best practices such as Housing First and Harm Reduction.

The services are available to those who meet the California Department of Health Care Services (DHCS) eligibility criteria:

- Currently homeless or at risk of homelessness (per HUD definition);
- Residing in an institutional setting and unable to secure stable housing upon discharge;
- Transition-aged youth with system involvement and no stable housing; or
- members with significant health, behavioral, or substance use needs who face housing barriers.

## **Purpose**

To define standards and establish procedures for the delivery of Housing Transition Navigation Services (HTNS) to support individuals in identifying, securing, and preparing to move into housing, thereby improving health outcomes and care continuity.

## **Scope**

This policy applies to all staff, subcontractors, and partners providing HTNS under contract with the City of Tracy and serving eligible Medi-Cal members.

## **Definitions**

HTNS: Services that assist individuals in locating, applying for, and preparing to transition into housing.

Community Supports: In Lieu of Services, medically appropriate services offered as a substitute for standard State Plan services.

## **Procedures**

A. Referral & Eligibility Verification

1. Accept referrals from ECM providers, MCPs, health care teams, or Coordinated Entry.
  2. Verify Medi-Cal eligibility with the MCP and submit a prior authorization to provide HTNS services.
  3. Once the prior authorization has been approved, complete initial screening for homelessness risk or housing instability.
- B. Tenant Screening & Needs Assessment
1. Conduct a housing-specific needs assessment that includes:
    - a. Housing history
    - b. Barriers to housing (e.g., credit, criminal background)
    - c. Accessibility needs
    - d. Preferred locations and types of housing
- C. Development of Individualized Housing Support Plan
1. Collaborate with the beneficiary to develop a documented and measurable support plan and includes:
    - a. Housing goals (short- and long-term)
    - b. Identification of necessary documents (ID, income verification)
    - c. Planned service interventions
    - d. Anticipated timelines for each stage
  2. Provide a plan copy to the members and update the plan as needed
- D. Housing Search and Application Support
1. Assist in locating available and appropriate housing options
  2. Help complete and submit rental applications
  3. Support the collection and submission of required documents
  4. Schedule and attend unit viewings as needed
- E. Benefits and Resource Advocacy
1. Assist with securing benefits needed for housing, including:
    - a. SSI/SSDI, Section 8, or other subsidies
    - b. Utility assistance programs
    - c. Employment or income supports
- F. Landlord Liaison and Engagement
1. Communicate with landlords/property managers on behalf of the member.
  2. Negotiate reasonable accommodations or modifications.
  3. Provide education to landlords on the HTNS program.
  4. Ensure the facility aligns with the member's goals.
  5. Facilitate lease signing and coordination with housing authorities.
- G. Move-In Preparation and Support
1. Coordinate move-in logistics, including:
    - a. Furniture delivery
    - b. Household supplies
    - c. Environmental modifications (if required)
  2. Arrange transportation for the move-in date.
  3. Ensure safety and accessibility of the unit.
- H. Crisis Planning and Retention Preparation

1. Create a housing stability plan including:
  - a. Early warning signs of housing risk
  - b. Contacts for emergency support
  - c. Strategies to maintain landlord/tenant relationships

#### I. Monitoring and Quality Assurance

1. Conduct monthly case review and supervision, often frequently as needed
2. Outcome tracking (e.g., retention at 6/12 months)
3. Update the referring organization of the status of the referral and any key milestones or significant changes

#### **Review Schedule**

Annual Review: This policy is reviewed yearly or as changes in MCP requirements, program structure, or identified quality improvement needs dictate updates.



Title: Short Term Post Hospitalization

Date Created: July 12, 2025

Date Modified: August 21, 2025

Approved By: Virginia Carney

## **Policy Statement**

The City of Tracy, in partnership with its delegated operator, provides Short-Term Post-Hospitalization Housing to eligible Medi-Cal managed care plan (MCP) members existing institutions, experiencing or at risk of homelessness. This service offered temporary housing and recovery support for members with ongoing physical or behavioral health needs how would otherwise require continued institutional care.

Support may include help with daily living, clinical recovery, care coordination, and connections to long-term housing. The service is limited to six months within a rolling 12-month period and must be delivered in settings that meet quality care standards and align with MCP requirements.

Eligible criteria includes:

- Exiting from a qualifying institution (recuperative care, inpatient hospital, residential Substance Use Disorder/Severe Mental Illness treatment, correctional or nursing facility)
- Experiencing or at risk of homelessness, as defined by HUD (with Department of Health Care Services modifications)
- Meeting at least one of the following: receiving ECM, having a serious chronic condition, having a serious mental illness, or at risk of institutions due to a SUD.
- A qualified health professional has determined the need for continued care that would otherwise require institutionalization

## **Purpose**

To define standards and establish procedures for the delivery of Short-Term Post-Hospitalization Housing to support MCP members transitioning from institutions.

## **Scope**

This policy applies to all staff, subcontractors, and partners providing Short-Term Post-Hospitalization Housing under contract with the City of Tracy and serving eligible MCP members.

## **Definitions**

HTNS: Services that assist individuals in locating, applying for, and preparing to transition into housing.

Community Supports: In Lieu of Services, medically appropriate services offered as a substitute for standard State Plan services.

## **Procedures**

### **A. Referral & Eligibility Verification**

1. Accept referrals from ECM providers, MCPs, health care teams, or Coordinated Entry.
2. Verify Medi-Cal eligibility with the MCP and submit a prior authorization to provide HTNS services.
3. Once the prior authorization has been approved, complete initial screening for homelessness risk or housing instability.

### **B. Tenant Screening & Needs Assessment**

1. Conduct a housing-specific needs assessment that includes:
  - a. Housing history
  - b. Barriers to housing (e.g., credit, criminal background)
  - c. Accessibility needs
  - d. Preferred locations and types of housing

### **C. Development of Individualized Housing Support Plan**

1. Collaborate with the beneficiary to develop a documented and measurable support plan and includes:
  - a. Housing goals (short- and long-term)
  - b. Identification of necessary documents (ID, income verification)
  - c. Planned service interventions
  - d. Anticipated timelines for each stage
2. Provide a plan copy to the members and update the plan as needed

### **D. Housing Search and Application Support**

1. Assist in locating available and appropriate housing options
2. Help complete and submit rental applications
3. Support the collection and submission of required documents
4. Schedule and attend unit viewings as needed

### **E. Benefits and Resource Advocacy**

1. Assist with securing benefits needed for housing, including:
  - a. SSI/SSDI, Section 8, or other subsidies
  - b. Utility assistance programs
  - c. Employment or income supports

### **F. Landlord Liaison and Engagement**

1. Communicate with landlords/property managers on behalf of the member.
2. Negotiate reasonable accommodations or modifications.
3. Provide education to landlords on the HTNS program.
4. Ensure the facility aligns with the member's goals.
5. Facilitate lease signing and coordination with housing authorities.

### **G. Move-In Preparation and Support**



1. Coordinate move-in logistics, including:
    - a. Furniture delivery
    - b. Household supplies
    - c. Environmental modifications (if required)
  2. Arrange transportation for the move-in date.
  3. Ensure safety and accessibility of the unit.
- H. Crisis Planning and Retention Preparation
1. Create a housing stability plan including:
    - a. Early warning signs of housing risk
    - b. Contacts for emergency support
    - c. Strategies to maintain landlord/tenant relationships
- I. Monitoring and Quality Assurance
1. Conduct monthly case review and supervision, often frequently as needed
  2. Outcome tracking (e.g., retention at 6/12 months)
  3. Update the referring organization of the status of the referral and any key milestones or significant changes

### **Review Schedule**

Annual Review: This policy is reviewed yearly or as changes in MCP requirements, program structure, or identified quality improvement needs dictate updates.

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

- 
- (1) ADOPT A RESOLUTION TO IMPLEMENT A MEDICAL RESPITE PROGRAM; AND**
  - (2) APPROVING POLICIES AND PROCEDURES DRAFTED FOR THE HEALTH PLAN OF SAN JOAQUIN CONTRACTING PROCESS AND AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO EXECUTE ADDITIONAL ANCILLARY DOCUMENTS RELATED TO THE CITY BECOMING A CAL AIM PROVIDER.**

**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, and

**WHEREAS**, the 2024 San Joaquin County Continuum of Care Point In Time Count reflects 200 sheltered/unsheltered homeless individuals living within Tracy's city limits, with 98 of them in shelter; 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 (Temporary Emergency Housing Facility (TEHF); and

**WHEREAS**, in February of 2025, the City Council held a workshop regarding the possible future of the TEHF site, including the potential programs and services that could be conducted on site by partners to provide wrap around services to our unhoused. The Council provided broad support and consensus direction for staff to continue to pursue grant funding and opportunities for partners to operate programs on site that would help offset the cost of maintaining the shelter site. A key component to offsetting the City's costs will be the City's ability to participate in the CalAIM Initiative program; and

**WHEREAS**, in addition, Council members requested information on comparable city data relative to the capacity and services the city of Tracy is providing to our unhoused residents attached hereto as Attachment 1; and

**WHEREAS**, since that February workshop City staff have worked closely with the vendor, Health Management Associates, on applying for the PATH CITED grant, visiting other programs in California both locally and within the Kaiser Cohort, meeting with health plans to draft policies and procedures and applying for additional financial support through Department of Health Care Services for Technical Assistance to begin providing CalAIM billable services; and

**WHEREAS**, the current site plan includes Phase III, which consists of 48 modular units and an administration building used to serve meals and provide case management, as well as Phase IV, which consists of 39 custom container units with temporary restrooms and showers currently operated by the Salvation Army Stockton Corps; and

**WHEREAS**, with the addition of the Sprung Structure and auxiliary buildings, the site will have the capacity to serve more than 150 individuals. This includes the Navigation Center, which can provide up to 70 additional congregate beds. Final capacity will depend on maintaining adequate low-barrier accommodations, including space for pets, partners, and personal belongings; and

**WHEREAS**, With the addition of the Navigation Center, kitchen, office spaces, restrooms, laundry, storage, and administration building, there is a need to discuss a sustainable future plan for the site. The City's current shelter operator has a contract in place through April 30, 2026. This only includes the non-congregate units that consist of Phase III and Phase IV. This contract is currently at an NTE of \$1,486,642 dollars for 6 months. Staff negotiated a short 6-month term agreement for The Salvation Army to continue managing the site until the CIP is completed and City staff can finalize the RFP process. This item was approved at the October 21, 2025, Council meeting under the consent agenda. The RFP process will need to be finalized subject to decisions and considerations made by the Council as discussed below; and

**WHEREAS**, the soon to be complete Phase II will bring the Navigation Center and additional auxiliary buildings online, tentatively by the end of 2025, which will increase the site's capacity and operations costs. Staff recommends that the Council consider alternative programming options that could support the increased shelter capacity through external revenue sources. This includes partnerships with the CalAIM Initiative through the County Managed Care Plans. Currently the County Managed Care plans are implementing additional services to the unhoused space through the Department of Health Care Services (DHCS). Their Initiative provides a benefit for intensive care coordination for members with the most complex needs and allows service providers to be reimbursed for the services provided to the members. Currently the shelter site is supporting clients with complex needs as best they can without the added resources or staffing. The City of Tracy secured a Kaiser Medical Respite Implementation grant that has supported the planning of a medical respite program at the shelter site. Once the program has the capacity to launch, the City will be able to begin CalAIM services; and

**WHEREAS**, Staff has pursued opportunities to implement Council recommendations and returned directly to Council as grants and program opportunities have arisen. Staff is requesting Council approval of the policies and program components that would allow for staff to move forward with the medical respite program. Some of these additional components are related to policies and procedures, subrecipient agreements, and additional approval of scopes

of work for technical assistance through the Department of Health Care Services. Staff will need to work with the managed care plans on additional policies and procedures, the contracting process, and additional infrastructure to implement the CalAIM program. Staff has applied for grants to assist the city in this process; and

**WHEREAS**, through the CalAIM Initiative the City could develop programs and initiatives that provide for Medical Respite Care, an Umbrella term often used to include providing short-term post-hospitalization services, and recuperative care. Currently these are the programs that staff is focused on building and partnering with Managed Care Plans to build in the Phase III Modular Area of the site as directed by Council at the February workshop. The CalAIM initiative will allow the city to be reimbursed for those Medical Respite Services that may be provided. CalAIM can also include transitional rent and housing deposits. However, these additional services have never been discussed with Council nor are they being proposed to be provided at the shelter at this time. A significant amount of additional information would need to be provided by the CalAIM program and the state before we could consider their inclusion. Further they would require that the City dedicate significant funds and resources to disperse before the City could be reimbursed by the Managed Care Plan. Staff is focused on implementing an effective and functioning CalAIM Medical Respite Care reimbursement program; and

**WHEREAS**, in May of 2025, the city applied for Technical Assistance through the DHCS during the drafting of the PATH CITED Round 4 grant application, which was submitted in early May to assist the city in developing a Medical Respite program. This process was initiated by the Consultant, Health Management Associates, funded through the Kaiser Medical Respite Planning grant. While awaiting approval from the state (DHCS), the city has worked with the Consultant to draft policies and procedures and work on program development for the Medical Respite program implementation; and

**WHEREAS**, on July 11, 2025, the Technical Assistance application was approved by DHCS. Upon receiving the notice of approval from DHCS, the Consultant drafted a Scope of Work and a budget to assist the City in program development. Some of the project services outlined in the Scope of Work are as follows: Community Supports and Workplan Development that includes a gap analysis, Program Design and Coaching, Financial Modeling Assessment and Training, and Documentation Development; and

**WHEREAS**, City staff is also working through policies and procedures required for the Health Plan of San Joaquin readiness approval to move forward in the contracting process. This includes the subrecipient agreement with Independent Living Systems, LLC, a Managed Care plan that will assist the City in the reimbursement process for CalAIM-eligible services and additional items that will be required now that the Technical Assistance Marketplace Scope of Work has been approved and city staff can continue to move forward with the contracting process; and

**WHEREAS**, in addition to CalAIM support, the city has an opportunity to partner with San Joaquin County Behavioral Health Services (BHS). This opportunity would be an addition to the footprint scope of work, which would allow the city to subsidize shelter operations costs through reimbursable services and support with operations of the facility. A portion of the shelter residents are currently receiving behavioral health services, and this partnership would provide the opportunity for them to receive shelter beds coupled with their services that are paid for through BHS. While the city has been in conversations with BHS over the last several months, city staff have asked for an extension on this process. There are some requirements under the Behavioral Health Bridge Housing (BHBH) supports funding that require the city to be in direct opposition to the current program model. Though the city does want to serve vulnerable residents, the city

wants to ensure that it can be done safely. The city is asking for more time to research best practices, consult with the City Council, complete construction of the site, and complete the RFP process before moving forward with a contract; and

**WHEREAS**, the Medical Respite Program will be housed on the Phase III site of the TEHF, which is comprised of 5 leased mobile modulars. The city has options regarding the Modular units currently utilized as Phase III. The units can continue to be leased for an additional 2 years or can be purchased. Attached hereto as Attachment 2, the Mobile Modular Summary Options shows the cost to date of leasing the modulars, returning the modulars and terminating the contract, or purchasing the modulars for permanent use. Currently, the City is 36 months into the contract. The contract required the City to lease the units for a minimum of 24 months and can terminate with a fee after the 24 months are over, continue the extent of the lease or purchase the units. There is no decreased cost or discount to the city to purchase the units. The city will pay full price regardless of the current lease agreement. Staff may be able to receive grant funds to purchase these modulars once the City is a contracted CalAIM provider. However, it is staff's recommendation to continue the lease on the modular units (Phase III). Once the city has implemented the medical respite program and can assess the feasibility and cost associated with the program, staff can come back to Council at a later date to assess further which may include a recommendation to purchase the units. The medical respite program can be operated in the sprung structure or container units, although it would be more challenging to operate in these spaces. The way the current model was designed, all the bathrooms and showers are out side of the main structure for both the sprung structure and container units spaces which makes it more difficult to access restrooms and showers if a client is injured or ill. The modular units offer the ability to have access to ADA restrooms and showers that are close in proximity and indoors; and

**WHEREAS**, this report seeks to provide an update to the February workshop and request Council direction on next steps including approval to implement a medical respite program at the shelter site; approval of policies and procedures drafted for the Health Plan of San Joaquin contracting process attached hereto as Attachment 3; and adopt a resolution authorizing the City Manager or designee to execute ancillary documents related to the City becoming a CalAIM provider to move forward with the medical respite program. Should the Council accept staff's recommendation staff brings a companion item consisting of an agreement, which allows the City to bill for eligible Community Support Services already being provided at the TEHF; now, therefore, be it

**RESOLVED:** That the City Council finds that this action is exempt from California Environmental Quality Act(CEQA) pursuant to the 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 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; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy adopt a resolution to implement a Medical Respite program; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy adopt a resolution approving policies and procedures drafted for Health Plan of San Joaquin contracting process and authorizing the City Manager or designee to execute additional ancillary documents related to the City becoming a Cal Aim provider.



\* \* \* \* \*

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

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
APRIL QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Attachments:

Attachment 1-City Comparable Data Matrix  
Attachment 2-Mobile Modular Summary Options  
Attachment 3-C-1 through C-5-HPSJ Policies

# Temporary Emergency Housing Facility Site Plan Update

November 4th, 2025  
Virginia Carney  
Homeless Services Manager



# 2021 ORIGINAL PROJECT DESCRIPTION

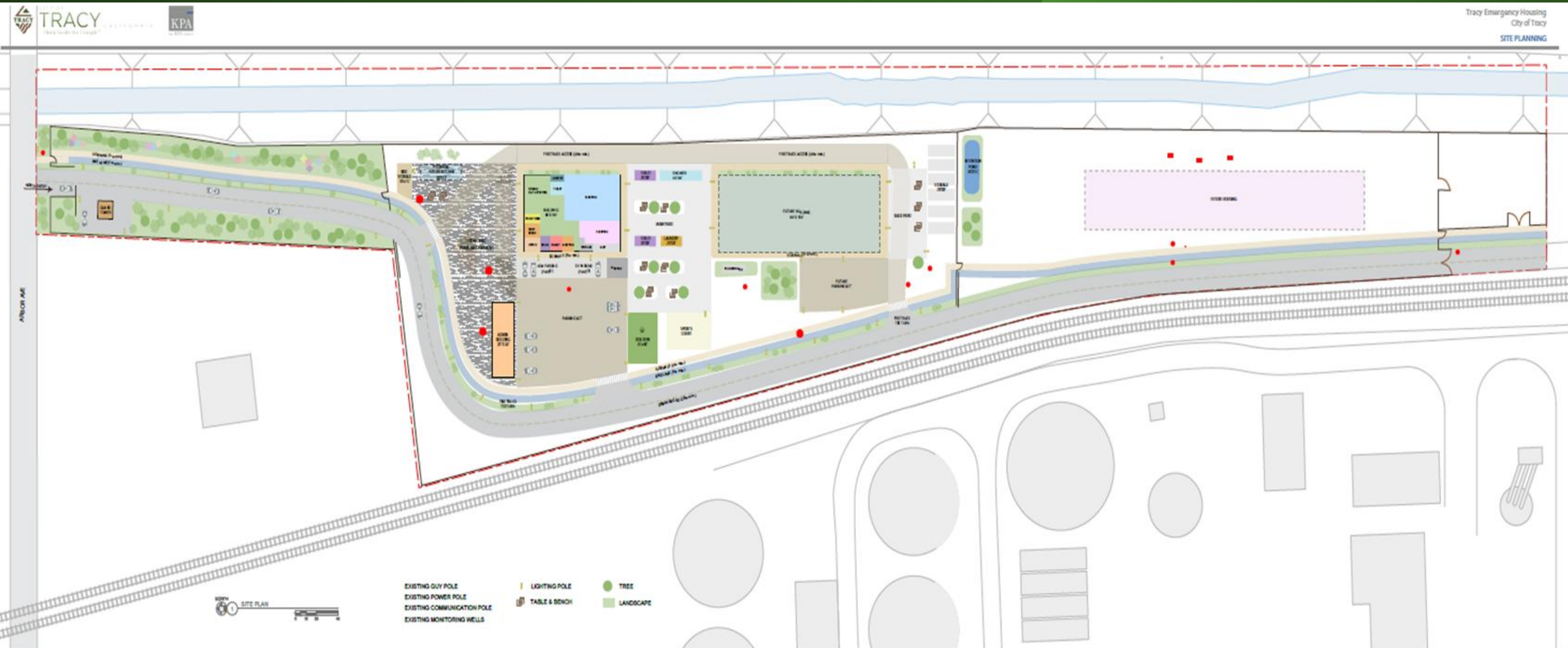
- 4-acre project – unimproved **City-owned** property.
- 5,600sf structure with ADA compliant walkways, ventilation, and parking facility.
- Will house approximately 68 guests/clients, with room for expansion based on funding availability.
- Intended to be a low-barrier shelter accommodating people, pets, and possessions.
- Request for Proposal to identify an operator.

# PROJECT LOCATION MAP





# ORIGINAL 2021 SITE LAYOUT AND CONCEPTUAL PLAN





# CURRENT SITE FOOTPRINT

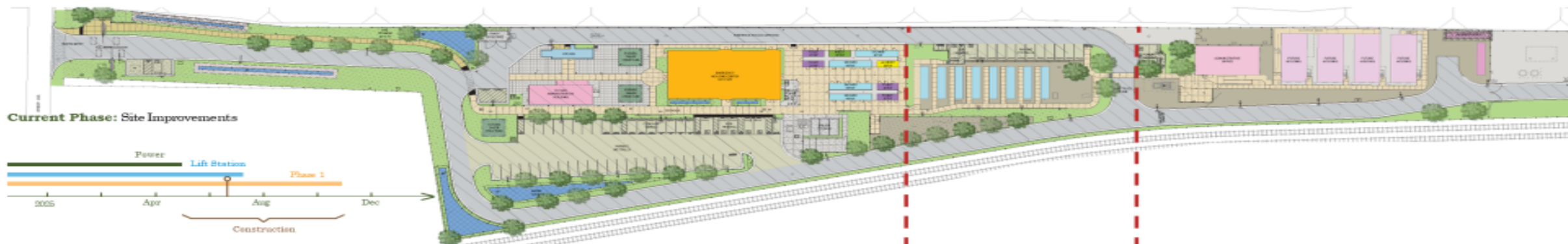
## CITY OF TRACY TEMPORARY EMERGENCY HOUSING PROJECT

370 W Arbor Ave, Tracy, CA

Date: May 22, 2025



Phasing - Bed Capacity



### PHASE I & II Site Improvements Congregate Housing & Administrative Offices

~70 BEDS

Phase 1 will provide a Sprung Structure with temporary bed space for up to 70 individuals along with access to restrooms, showers and a laundry room facility. This construction project was completed over multiple phases, which included Site Preparation (preparation of earthwork, demolition of existing infrastructure and placement of major utilities), Power Installation (providing permanent electrical switchboards and site power to replace temporary generator power), Lift Station Installation (providing onsite sanitary sewer lift station to serve Sprung Structure and restrooms), and Site Improvements (the overall construction project providing additional site utilities, fencing, pavement surfaces and complete facilities). Construction on Site Improvements began in November 2024 and is set to be completed by December 2025. A modular administration building will be provided for additional case management and administrative office space after the main construction project is completed.

### PHASE IV Shipping Container Dorms (Single Person Rooms)

~39 BEDS

Phase 4 of the Temporary Emergency Housing Facility includes eight shipping container dormitory units that can accommodate up to 39 additional individuals.

Additional restroom and shower space will be included adjacent to the Phase 2 restrooms and showers.

### PHASE III Expansion with Individual Modular Units

~48 BEDS

Phase 3 of the project provides four modular dormitory units, providing space for up to 48 individuals.

An additional modular administration structure is located adjacent to modular dormitories and allow a base for City and shelter operations.

# UPDATE TO PHASE III DIRECTION

- Council direction in February was to continue to work towards the Medical Respite program implementation.
- Staff is working towards the contracting process for CalAIM Initiative billing to begin and implemented in Phase III modulars.
- Development of policies and procedures which we are asking Council to approve along with a subrecipient agreement to continue moving forward with the contracting process to ensure the city can reimburse for services.
- The CalAIM Initiative process will help offset the expenses of operating this portion of the facility. Reimbursable services through the CalAIM initiative are subject to Council approval.

# UPDATE TO PHASE IV DIRECTION

- Council direction in February was to continue to work towards the potential to contract with Behavioral Health Services to lease a portion of the site.
- Staff worked with BHS on a potential lease agreement and contract to implement Behavioral Health Bridge Housing (BHBH) in Phase IV container dorms.
- Staff needs more time to discuss as additional components of the site come online and will need to return in the future for action if we are able to arrive at terms.

# UPDATE TO PHASE II

- Tentative completion date end of 2025.
- Kitchen building is now onsite which is part of Phase II completion.
- Staff is awaiting arrival of additional ancillary buildings and administrative building to be arriving in the next month.
- Staff is currently working on furniture layout to ensure low barrier shelter status and installation of additional security system to encompass the full site plan.
- Staff is currently working through RFP process for full site and transition plan to ensure we are selecting an operator that can operate all components of the site, once completed.

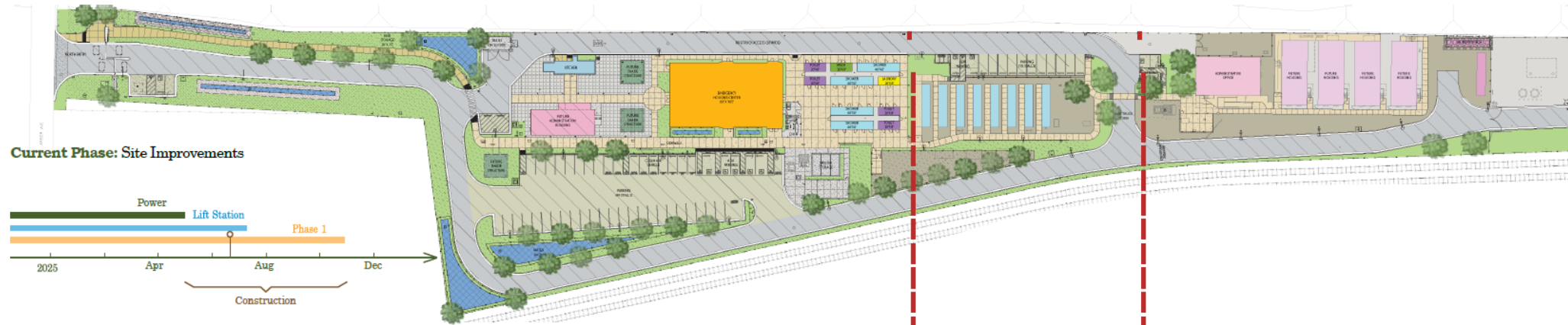
# CITY OF TRACY TEMPORARY EMERGENCY HOUSING PROJECT

370 W Arbor Ave, Tracy, CA



Date: May 22, 2025

Phasing - Bed Capacity



**PHASE I & II**  
Site Improvements  
Congregate Housing & Administrative Offices

**~70 BEDS**

\$\$ - Potential cost recovery through additional CalAIM billable services.

If council approves the Medical Respite item, staff will continue to pursue opportunities to offset the cost of operations. The CalAIM supports are specific to beds and there may become opportunities to offset operations costs in Phase II.

**PHASE IV**  
Shipping  
Container Dorms  
(Single Person Rooms)

**~39 BEDS**

\$\$ - Potential cost recovery through Behavioral Health Bridge Housing supports.

Behavioral Health proposed a grant for support of infrastructure and a monthly lease amount for use of the units. Though this amount would likely only cover some costs to operate Phase IV.

**PHASE III**  
Expansion with  
Individual Modular Units

**~48 BEDS**

\$\$ - Potential cost recovery through CalAIM billable services under the Medical Respite program components.

If council approves this item staff will continue to pursue opportunities to offset the cost of operating Phase III.



# QUESTIONS

Agenda Item 4.F

RECOMMENDATION

**Staff recommends that the City Council adopt a Resolution approving a Subcontractor Services Agreement with Independent Living Systems, LLC., to provide billable services for eligible persons receiving care at the Temporary Emergency Housing Facility shelter site location of 370 Arbor Avenue, Tracy, CA 95304 so that the City can receive reimbursements for such services through Independent Living Systems, LLC as the Managed Care Plan provider for CalAIM billable services.**

EXECUTIVE SUMMARY

In February of 2025, the City Council held a workshop regarding possible future site plans of the Temporary Emergency Housing Facility shelter project, one of which included the onboarding of the CalAIM Initiative through the Department of Health Care Services. CalAIM seeks to work with organizations in communities that are providing health related services to our lowest-income residents. At the workshop Council directed staff to pursue implementation of CalAIM at the shelter site. Earlier this evening Council will have received an update on the implementation of the direction from workshop and recommendations for proceeding with the CalAIM initiative. Should the Council have accepted staff's recommendation staff brings this companion item consisting of an agreement, which allows the City to bill for eligible Community Support Services already being provided at the TEHF. This is part of our process in reframing services at the shelter site to make shelter operations cost-recoverable in nature through Medi-Cal or Medi-Caid reimbursements.

BACKGROUND

The 2024 San Joaquin Continuum of Care Point in Time (PIT) Count of Sheltered and Unsheltered Homeless individuals reflects 200 sheltered/unsheltered homeless individuals living within Tracy's city limits, with 98 of these currently sheltered. 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 to both build and operate a temporary emergency housing facility to address the impacts of homelessness within the community. Staff oversight of shelter operations has included staff coordinating 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 Temporary Emergency Housing Facility, CIP 71112. City staff have worked vigorously to balance the circumstances of the unsheltered, as well as the needs of the community.

Pursuant to the 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. This effort not only focuses on housing and support but also prepares 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 at the 370 Arbor Avenue, Tracy location.

## ANALYSIS

In February of 2025, the City Council was presented with a workshop regarding recommendations for the full site plan of the Temporary Emergency Housing Facility shelter project, one of which included the onboarding of the CalAIM Initiative through the DHCS. Staff has pursued opportunities to implement Council recommendations and returned directly to Council as grants and program opportunities have arisen. This initiative seeks to work with organizations in communities that are providing services to the lowest-income residents. The City received a grant from Department of Health Care Services for Technical Assistance that was approved by Council on October 7, 2025 to support the onboarding of a medical respite program. In March, the City staff hired a consultant to utilize a portion of the Kaiser Medical Respite Planning grant funds to begin the contracting process and planning of a Medical Respite program. This consultant is our Department of Health Care Services approved vendor. Part of the contracting process consists of working with Managed Care Plans, which will provide the ability to bill for contracted services at the shelter site. The Managed Care Plans the City is working towards partnering with are Independent Living Systems, LLC, and Health Plan of San Joaquin. This is part of the process in reframing services at the shelter site to make shelter operations cost-recoverable in nature through Medi-Cal or Medi-Caid reimbursements.

Through this agreement, ILS will reimburse the City for CalAIM billable services for covered services to covered persons and members of participating health plans, including Kaiser Permanente North and South. This subcontractor agreement provides a timely and strategic mechanism to recoup costs for existing services, enabling a new revenue stream to help offset the expanded site's operational costs. Under the agreement, the city must comply with state and federal requirements, including timely service delivery, cultural and linguistic competency, care coordination with other providers, and maintaining appropriate staffing levels. These obligations align with the City's current service standards and operations at the TEHF. Further, they are consistent with upcoming Request for Proposal's which is seeking a shelter operator to implement the full site plan and vision as approved and may be approved by the Council, and which includes the additional space made available by Phase II and the associated revised Scope of Work. Our RFP selection and future operator for the site and services expansion is set to come online Spring of 2026 year. The timing of this agreement is contingent on the direction of Council from the item earlier tonight and aligns with the completion of Phase II construction at the TEHF, which will significantly increase shelter capacity and support service demands, and which allow staff to begin the building the program components that are necessary for the full site operation. Participation in CalAIM offers a viable and timely funding solution to support the expanded site and ensure continuity of care for the unhoused in the City of Tracy.

The City's pursuit of the CalAIM initiative provides an ongoing benefit to the City because the City can bill for eligible services received at the shelter, which can subsidize the cost of operating the shelter. Some of the services are specific to specialty beds. An example of specialty beds is the city being reimbursed for bringing an individual from the hospital to recover, once stable but in need of recuperative care before they are able to take care of their own activities of daily living. This service is known as short-term post-hospitalization care and is a CalAIM Initiative reimbursable service. The city will need additional infrastructure to bill for these services and is working with our current contracted vendor to assist us with this process. This contract with Independent Living Systems, LLC., would assist us in moving forward with the ability to reimburse for costs of eligible services. There is no procurement process needed to begin the contracting process with our Managed Care Plans. There are only a few MCPs in this area. Most of our Medi-Cal beneficiaries who reside at the shelter are under the MCP Health Plan of San Joaquin. Other

MCPs in this area are Health Net and Independent Living Systems (ILS), which is a Kaiser MCP. Our goal is to eventually contract with all the MCPs in the Medi-Cal coverage area.

### FISCAL IMPACT

Funding for the contract to operate the City's Temporary Emergency Housing Facility is included in the General Fund's adopted operating budget for Fiscal Year (FY) 2025-26. The FY 2025-26 Homeless Services operating budget totals \$4.1 million and includes funding for City staff, the contract with the shelter provider, and operating costs, including utilities and building maintenance. With the current bed count of 86, the cost per bed to operate the shelter is \$47,675 annually. Upon completion of construction, the bed count is expected to rise to approximately 150 beds. The increased bed count is expected to increase the cost of the contract with the shelter operator from \$2 million annually to an estimated \$3.5 million annually. Other costs, such as utilities and building maintenance, will also increase with the addition of the new building. Some of these increases we anticipate will be offset and recoverable through the CalAIM program. This change is estimated to bring the FY2025-26 Homeless Services annual budget to approximately \$6.5 million, or \$43,333 per bed.

Staff continues to seek partnerships that continue the goals of the shelter and offset operating costs. The benefit of becoming a CalAIM provider is the opportunity to subsidize shelter operations for bed utilization while also partnering with County Housing and Mental Health providers.

Through becoming a CalAIM provider, some of the contracted costs may become reimbursable. The actual reimbursable cost is subject to whether the shelter operator can access the CalAIM funds via referral of the individual clients into CalAIM services/and whether clients meet the criteria for placement into these specialty beds. Actual recovery amounts from the sources identified above may vary at any given time within the term of the contract. Reimbursements from CalAIM Medi-Cal will be contingent on the needs of the individual client referred. If funds are reimbursed, they will be documented and credited towards ongoing shelter operations.

### CEQA DETERMINATION

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. In addition, 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 Facility on Arbor Avenue (CIP 71112). 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). No environmental impacts beyond those already analyzed for the CIP exist; accordingly, no further CEQA analysis is needed.

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 is consistent with the City Council's adopted 2023-2025 Strategic Priorities: Quality of Life Strategy Plan, Goal No. 5: Continue to implement the Council-Adopted Homelessness Strategic Plan.

### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution approving a Subcontractor Services Agreement with Independent Living Systems, LLC., to provide billable services for eligible persons receiving care at the Temporary Emergency Housing Facility shelter site location of 370 Arbor Avenue, Tracy, CA 95304 so that the City can receive reimbursements for such services through Independent Living Systems, LLC as the Managed Care Plan provider for CalAIM billable services.

Prepared by: Virginia Carney, Homeless Services Manager

Reviewed by: Sara Castro, Director of Finance  
Brian MacDonald, Parks, Recreation and Community Services Director  
Arturo M. Sanchez, Assistant City Manager  
Kamal Gill, Deputy City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

### ATTACHMENTS

Attachment A – Subcontractor Services Agreement with Independent Living Systems, LLC



## SUBCONTRACTOR SERVICES AGREEMENT

This Subcontractor Services Agreement (“Agreement”) is made and entered into by and between **Independent Living Systems, LLC.**, a Florida limited liability company, with offices in California located at 500 North Brand Blvd. Suite 675, Glendale, CA 91203 (hereafter referred as, “**ILS**”), on the one hand, and **City of Tracy** (“**Subcontractor**”), and is effective \_\_\_\_\_ (“Effective Date”). ILS and Subcontractor are each referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, ILS provides or arranges for the provision of Covered Services to Covered Persons under a contract between ILS and the Health Plan listed in Schedule “1” to this Agreement.

WHEREAS, Subcontractor is a public agency providing health care services to certain patients in the areas listed in Schedule “2”;

WHEREAS, ILS desires to arrange for the provision of certain services “Contracted Services” associated with Medi-Cal benefits to individuals who are enrolled in or assigned to Subcontractor (“Members”), and Subcontractor desires to provide those Contracted Services (identified in Schedule “3”) to Members, in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises herein contained and for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### AGREEMENT

#### ARTICLE I DEFINITIONS

1.01 **Authorization:** The approval for the provision of Covered Benefits to Members (i) by persons designated to provide such approval, (ii) pursuant to a Health Plan’s utilization management and review programs, and (iii) in the manner specified (such as prior written approval in many instances), each as described herein, including in the Policies and Procedures and Schedule "4" (Additional Terms). Further, “Authorization” also means the document(s) or electronic documentation indicating Health Plan’s approval, as the context requires. “Authorized” means provided pursuant to and in compliance with an Authorization.

1.02 **Authorized Representative (“AR”):** an individual or organization acting on behalf of a Member as authorized by Law.

1.03 **Claim:** a request for payment for Services rendered to a Member that is submitted in accordance with the terms of this Agreement.

1.04 **Complaint:** any verbal or written expression of a Member’s dissatisfaction with Services provided hereunder (for example, a grievance).

1.05 **Complete Claim:** an itemized Claim that (i) is received timely by ILS for payment of Covered Services, (ii) can be processed without obtaining any additional information from Subcontractor or from a third party, and (iii) complies with applicable Law.

1.06 **Covered Benefit(s):** the health care services and benefits that a Member may be entitled to receive under the Medi-Cal Contract(s).

1.07 **Covered Service(s):** those Services rendered by Subcontractor to Members that are Covered Benefits and, if required, Authorized.

1.08 **Department of Health Care Services (“DHCS”):** the California state agency that administers the Medi-Cal program.

1.09 **Facility(ies):** those facilities, institutions, locations or any other sites used and operated by Subcontractor (or any subcontractor) to provide Services to Members pursuant to this Agreement listed in Schedule “5”.

1.10 **Health Plan:** one or more of the health maintenance organizations, insurers, provider service networks, and other managed care organizations with which ILS has contracted to provide or arrange for the provision of Covered Services, as such may be listed on Schedule “1” attached hereto.

1.11 **Law:** local, state and federal law, regulation, rule, executive order, public health order, the California State Plan or any waiver thereto, or guidance by the Centers for Medicare & Medicaid Services (“CMS”) or by DHCS, as applicable, including, without limitation, DHCS All Plan Letters, DHCS Medi-Cal Subcontractor Manual, and DHCS policy guides.

1.12 **Member(s):** an individual enrolled by DHCS in a Health Plan under a Medi-Cal contract(s) who is eligible to receive Covered Services and assigned to Subcontractor.

1.13 **Membership Agreement:** a description of a plan of health benefits covered, issued, sponsored or underwritten by ILS. The term “Membership Agreement” includes the relevant evidence of coverage, statement of coverage, certificate of insurance, summary plan description, or other description of Covered Benefits issued to a Member, as amended from time to time.

1.14 **Official(s):** (i) an individual who represents, in an official capacity, a local, state or federal government agency or regulatory body with jurisdiction over ILS or Subcontractor, (ii) a representative of any accreditation agency or organization (such as the National Committee for Quality Assurance (“NCQA”)) or a peer review or professional organization applicable to ILS or Subcontractor, (iii) such other official entitled by Law or pursuant to the Medi-Cal Contract(s) with ILS to monitor health care services to Members; and (iv) the designee(s) of any of the above.

1.15 **Physician:** a person duly licensed as a physician by the Medical Board of California.

1.16 **Policies and Procedures:** manual(s), policies, procedures and guidelines applicable to Covered Services, including the Subcontractor Manual, as applicable, and as may be updated and supplemented by a Health Plan and/or ILS from time to time in accordance with applicable Law.

1.17 **Program Requirements:** (i) the Policies and Procedures; (ii) the Medi-Cal Contract(s); (iii) the Subcontractor Manual and any other applicable policies, procedures, guidelines and formularies, as amended and supplemented by ILS and/or Health Plan from time to time; (iv) all applicable Law, including licensure and certification requirements; (v) the applicable Membership Agreement; and (vi) NCQA and all other accreditation requirements imposed upon ILS in order for Health Plan to maintain accreditation, all as applied to Subcontractor’s provision of Services to Members.

1.18 **Subcontractor Manual:** manual(s) of policies, procedures and guidelines, including billing procedures, Authorization and referral policies and procedures, utilization management, quality assurance and improvement, Complaints, and other guidelines and criteria for providing health care services to Members, as updated and supplemented by ILS and/or Health Plan from time to time in accordance with applicable Law.

1.19 **Records:** books, documents, contracts, subcontracts, and records prepared and/or maintained by a Party that relate to this Agreement whether in written or electronic format, including records of Services, Member billing and payment records, claims, financial and accounting records, policies and procedures, and other books and records that may be required by applicable Law.

1.20 **Intentionally left blank.**

1.21 **Services:** those services, supplies and facilities, including as described in Schedule “4” (Additional Terms), that are ordinary and necessary for the diagnosis and/or treatment of patients and are customarily provided by Subcontractor or its subcontractors to its/their patients. Services also include all administrative services related to preventive health services provided by Subcontractor (or its Subcontractors) pursuant to this Agreement.

1.22 **Subcontract:** means a written agreement between Subcontractor and its subcontractor(s) and/or between two or more subcontractors for the provision of Services to Members under this Agreement.

1.23 **Subcontractor:** any person or entity that provides or arranges for Services to Members pursuant to a direct or indirect agreement or other arrangement with ILS through its employees, and/or independent contractors, if such independent contractors are allowed under this Agreement.

## **ARTICLE II SUBCONTRACTOR RESPONSIBILITIES**

2.01 General. As required by applicable Law and in accordance with applicable Program Requirements, Subcontractor shall maintain, or cause to be maintained, in full force and effect during the term of this Agreement all required licenses, certifications, credentials, and qualifications for itself, its employees, and, Facilities, and, if applicable, any subcontractors providing the Services to Members pursuant to this Agreement. References to the responsibilities and obligations of Subcontractor in this Agreement shall be interpreted to apply, as appropriate under the circumstances, to its employees, Facilities, and subcontractors. If Subcontractor is providing any or all Services through a subcontractor, Subcontractor must ensure the compliance of such subcontractor (and its employees, agents and Facilities) with this Agreement pursuant to section 11.04.

2.02 Facilities. Subcontractor shall ensure that all Facilities are maintained in good repair, which shall mean that are in substantially compliance with any applicable code, statute, ordinance, or regulation governing their operation, if any, and are approved by ILS and/or Health Plan. If Subcontractor provides or arranges for the provision of Services at a location other than a Member’s personal residence, Subcontractor shall identify those Facilities at which it provides Services to Members in Schedule 5 (Facilities).

2.03 Subcontractor Experience and Qualifications.

- (a) If a State-level Medi-Cal enrollment pathway exists, Subcontractor shall enroll, and ensure that each subcontractor, as applicable, shall enroll, as a Medi-Cal provider pursuant to relevant DHCS All Plan Letters, including Subcontractor Credentialing/Recredentialing and Screening/Enrollment All Plan Letter 22-013.
- (b) If All Plan Letter 22-013 does not apply to Subcontractor, Subcontractor shall comply, and ensure that each of its subcontractors, as applicable, complies, with ILS and/or Health Plan’s process for vetting to ensure they meet the capabilities and standards required.
- (c) Subcontractor, shall have the ability to receive referrals from licensed practitioners, if applicable, to provide Services pursuant to this Agreement.

- (d) Subcontractor shall ensure, and shall maintain evidence demonstrating, that all of its employees, contractors and other providing Services pursuant to this Agreement it (i) satisfies all qualifications required by DHCS, including those as may be set forth in Schedule 4 (Additional Terms), and (ii) have adequate supervision and training.
- (e) Subcontractor shall have direct or indirect oversight of all members of its staff and subcontractors providing Services to Members pursuant to this Agreement.
- (f) Subcontractor shall ensure the provision of Services pursuant to this Agreement complies with all applicable Law and all Medi-Cal benefit requirements in the Medi-Cal Contract(s) and associated guidance.

2.04 Readiness. The parties understand and agree that, prior to the Effective Date, Subcontractor shall successfully complete a readiness assessment for the provision of Services in compliance with requirements imposed by ILS, Health Plan or DHCS.

### **ARTICLE III PROVISION OF SERVICES**

3.01 Services to be Provided. Subcontractor shall provide those Services described in Schedule 3 to Members in accordance with this Agreement, the Additional Terms described in Schedule 4, the Program Requirements, and the Medi-Cal Contract(s), and in accordance with best practices and industry standards for such Services.

3.02 Availability. Subcontractor shall ensure that Services are available (i) during normal business hours, (ii) when medically indicated, on a prompt or same-day basis as set forth in Policies and Procedures, and (iii) as otherwise specified in Schedule 4 (Additional Terms). Subcontractor shall ensure that Services provided under this Agreement are readily available and accessible, provided in a prompt and efficient manner without delays in appointment scheduling and waiting times, and consistent with applicable recognized standards of practice and the Program Requirements.

3.03 Verification. Prior to the provision of Services, Subcontractor shall verify (i) that a person seeking Services is in fact an eligible Member as of the date of provision of Services, (ii) the Services rendered to such Member are Covered Benefits pursuant to the applicable Membership Agreement, and (iii) the Services (including the scope and duration of Services) are properly Authorized, where required, all in the manner described in this Agreement, the Policies and Procedures, and the Member's health plan identification card. Subcontractor's receipt of an identification card issued by Health Plan from a person claiming to be a Member is indicative but not conclusive of the person's status as a Member.

3.04 Subcontractor Staffing and Capacity. At all times, Subcontractor shall ensure that it has the sufficient capacity to ensure Subcontractor's ability to carry out its responsibilities, and within any applicable timeframes, for each assigned Member consistent with this Agreement and the Program Requirements. Subcontractor shall immediately alert ILS, by email and in accordance with Policies and Procedures, if it cannot meet the timely service requirement in this Section 3.04. Such notice shall describe specific actions Subcontractor is taking, and the time period anticipated, to bring Subcontractor back in compliance with this Section 3.04. ILS's acceptance of any such notice does not preclude ILS from exercising any rights in this Agreement in response to Subcontractor's failure to comply with this Section 3.04, including, without limitation, termination under Section 8.02 (Termination).

3.05 Activities Delegated to Subcontractor. ILS may delegate to Subcontractor certain of its activities, upon Subcontractor's agreement to perform such delegated activities, consistent with regulatory and accreditation standards ("Delegated Activities"). Upon Subcontractor's agreement to perform such Delegated Activities, such delegated activities shall be described in a separate writing signed by the Parties.

To the extent that there are any Delegated Activities, ILS shall retain the right to audit, monitor, and oversee these Delegated Activities, including implementing a corrective action plan to address any deficiencies identified by Officials or ILS, and Subcontractor shall fully cooperate with ILS in any such implementation. ILS reserves the right to revoke any such delegation (i) at any time by giving notice in accordance with Section 7.02 (Procedure for Giving Notice) and (ii) promptly if ILS or an Official determines that any such Delegated Activities have not been performed in a satisfactory manner. In the event that ILS has delegated to Subcontractor the responsibility or authority to select practitioners to provide Services to Members under this Agreement, ILS retains the right to approve, suspend or terminate any such responsibility or authority.

#### **ARTICLE IV BILLING AND PAYMENT**

4.01 Compensation. Subject to the terms of this Agreement, the Policies and Procedures and applicable Law, ILS shall pay Subcontractor for the provision of Covered Services to its Members in accordance with this Article IV and Schedule 6 (Billing and Payment). Subcontractor shall accept such payment as payment in full for all and any financial obligations. Compensation for Covered Services provided to Members is payable only to Subcontractor and only if Subcontractor has strictly satisfied its responsibilities in Articles II and III herein and, to the extent Authorization is required, the Authorization has neither expired nor been terminated as of the date(s) of service. For any Covered Services that require Authorization, ILS's obligation to compensate Subcontractor for Covered Services is commensurate with the scope and duration of the Authorization.

4.02 Claims Submission and Reporting.

- (a) For Covered Services provided pursuant to this Agreement, Subcontractor shall submit Complete Claims to ILS using allowable current procedural terminology codes as outlined in Schedule 6 herein.
- (b) Subcontractor shall submit Complete Claims to ILS no later than ninety (90) calendar days of providing the Services and will comply with the other billing requirements identified in Schedule 4 (Additional Terms) and Schedule 6 (Billing and Payment) and/or the Policies and Procedures. If Subcontractor fails to comply with the Claims submission timeframe, ILS shall have no obligation to pay for such requests for payment, and Subcontractor shall be prohibited from billing the Member and/or the Health Plan.
- (c) Subcontractor shall not bill for Services that are duplicative of services for Covered Benefits that are reimbursed to Subcontractor through other Medi-Cal benefits. For example, Subcontractor shall not bill for Community Health Worker Services and Enhanced Care Management Services, because the latter is inclusive of the services within the Community Health Worker benefit. In such cases, Subcontractor shall not submit duplicate bills for Services provided for the same Member for the same time period.
- (d) Subcontractor shall submit relevant additional information as may be requested from time to time by ILS.

4.03 Claims Payment. ILS shall pay Subcontractor for Covered Services provided pursuant to this Agreement within such time permitted or required by applicable Law, after receipt of a properly submitted Complete Claim. The date of receipt shall be the date ILS receives the Complete Claim, as indicated by its date stamp on the Complete Claim. If ILS contests or denies some or all of a Claim, ILS shall so contest or deny within the time period as permitted or required by applicable Law. If any disputed amount is determined to be payable, ILS shall pay such amount within such time frame as permitted or required by applicable Law. ILS shall pay to Subcontractor any interest and penalties on late payment of Claims, as required by applicable Law.



4.04 Authorization. ILS may require Authorization for payment of Services to the extent permitted by applicable Program Requirements. ILS and/or Health Plan may terminate an Authorization prior to its expiration date, as specified in the Policies and Procedures. However, ILS and/or Health Plan will not revoke or modify an Authorization to the extent that Subcontractor already has provided Services in good faith reliance on an applicable Authorization.

4.05 Denials. ILS reserves the right to deny a Complete Claim if Subcontractor fails to submit it in accordance with this Article IV and Schedule 6 (Billing and Payment). In addition, and without limitation, to the extent allowable under Law or the Medi-Cal Contracts, ILS reserves the right to deny payment of a Complete Claim for Services rendered (i) by Subcontractor, its subcontractors, if any, and its employees and agents, in the event any of them fail to meet the applicable requirements set forth in Articles II and VI on the date(s) of service, (ii) to a Member by any person, or at a Facility, that is sanctioned under or debarred, suspended, precluded, excluded or otherwise deemed ineligible from, or has opted out of, participation in Medicare or Medicaid, or (iii) in any manner or by any person prohibited by Law or by the Medi-Cal Contracts.

4.06 Right to Review/Audit Claims and Recoup Overpayments.

- (a) Prior or subsequent to payment, ILS, and/or Health Plan may review and/or audit any and all Claims, including Records related to such Claims, to ensure charges are billed, and supported for payment, in accordance with this Agreement, the Policies and Procedures, and applicable Law. Except to the extent prohibited by Law, ILS reserves the right to deny, reduce or otherwise adjust payment to Subcontractor on Claims (or any portion thereof) that ILS and/or Health Plan determines contain (i) coding errors or erroneous charges; (ii) charges and/or coding that are not payable in accordance with this Agreement, the Policies and Procedures, or applicable Law, or (iii) charges for services rendered that are not appropriate or inconsistent with the Member's care plan.
- (b) If any audit shows that Subcontractor owes money to ILS, then ILS shall notify Subcontractor, and Subcontractor shall contest or refund such overpayment to ILS within ten (10) business days of the ILS's notice. If this Agreement expires or is terminated for any reason prior to ILS's full recovery of such overpayment, the remaining amount shall become due and owing immediately upon the effective date of the expiration or termination. To the maximum extent permitted by applicable Law, ILS is hereby authorized to offset and recoup the amount of any debt owed by Subcontractor to ILS, including any overpayment to Subcontractor identified in an uncontested notice of overpayment sent in accordance with applicable Law, whether or not such debt arises from payment for Services under this Agreement or otherwise, against any debt or money owed by Subcontractor, whether for Services under this Agreement or otherwise.
- (c) Upon three (3) business days' prior written notice from ILS and/or Health Plan, Subcontractor will provide ILS or Health Plan's internal auditors (or such independent auditors and inspectors as ILS may designate in writing and have agreed to abide by reasonable confidentiality provisions) with access and the right to make copies of Subcontractor's Records relating to Services to verify the accuracy of Claims submitted to ILS by Subcontractor. Subcontractor will cooperate with the inspection and will make available the Records and related materials reasonably required to conduct the inspection available on a timely basis.

4.07 Member Hold Harmless. Subcontractor shall look solely to ILS for compensation for Covered Services rendered to Members, and Subcontractor agrees that in no event (including non-payment by ILS, insolvency of ILS or breach of this Agreement) shall Subcontractor, or any of its subcontractors, vendors,

employees, and agents shall bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any Member, person acting on the Member's behalf, the State of California, the California Department of Managed Health Care, DHCS, or any Medicaid plans, for Covered Services provided under this Agreement. Without limiting the foregoing, Subcontractor, (or any of its subcontractors, vendors, employees, and agents) shall not seek payment from Members for reasons including (i) amounts denied by ILS and/or a Health Plan because billed charges were not customary or reasonable or (ii) Subcontractor's failure to (a) obtain Authorization for Services delivered, if required, (b) submit clinical or other data promptly, or (c) submit a Complete Claim in accordance with the terms of this Agreement.

4.08 **Surcharges Prohibited.** Subcontractor understands and agrees that surcharges against Members are prohibited by Law, ILS's contracts with Health Plans, the Medi-Cal contracts, and Membership Agreements, and ILS shall take appropriate action if surcharges are imposed. A surcharge is an additional fee that is charged to a Member for Covered Services but is not expressly permitted under the applicable Membership Agreement or, where applicable, is not permitted by Law or an Official.

4.09 **Intentionally left blank.**

4.10 **Financial Responsibility of Subcontractor.** Subcontractor is solely responsible for the payment of compensation to its provider practitioners, professionals, contractors, employees and agents, if any, and under no circumstances will ILS and/or Health Plan be responsible for the payment of compensation to any individual provider practitioners, professionals, contractors, employees and agents. Subcontractor will hold ILS and/or Health Care Plan harmless for all costs, expenses, and liabilities incurred by ILS and/or Health Plan in connection or as a result of ILS and/or Health Plan's non-payment of its obligations to its provider practitioners, professionals, contractors, employees and agents.

## **ARTICLE V RECORDS AND CONFIDENTIALITY**

5.01 **Copies of Records and Other Information.** To the extent permitted by Law and without charge, Subcontractor shall promptly forward to ILS (and its authorized agents) copies of Records, including, without limitation, for the purpose of (i) meeting legal, regulatory and accreditation requirements applicable to ILS or (ii) addressing any inquiry from an Official. Upon request and consistent with applicable Law, Subcontractor shall transmit Records to ILS by facsimile or other electronic means. Subject to reasonable request and notification, ILS may arrange for copying of Records to which they are entitled under this Agreement through a copying service.

5.02 **Reporting.** Subcontractor shall report all data, documentation, or other information to ILS as required by ILS, Official(s), the Medi-Cal Contract(s) or Program Requirements, within the timeframe established by ILS in its Policies and Procedures.

5.03 **Secure Documentation Transmission.** Subcontractor shall use ILS' care management documentation system or process. Subcontractor shall establish and maintain, and ensure its individual provider practitioners, professionals, contractors, employees and agents establish and maintain, security measures in accordance with applicable federal, state, and local privacy and security laws, generally accepted industry practices, and the specific privacy and security requirements set forth in this Agreement.

5.04 **Confidentiality of Information.**

- (a) **Confidential Information Defined.** The Parties shall keep in strictest confidence and in compliance with all applicable Law: (i) the terms of this Agreement; (ii) any patient information, including a Member's name, address and health records (including mental health records); (iii) information concerning any matter relating to the business of the other,

including the other's employees, products, services, Membership, prices, operations, business systems, planning and finance, policies, procedures and practice guidelines; (iv) materials, data, data elements, records or other information obtained from the other during the course of or pursuant to this Agreement; and (v) any information learned while performing obligations under this Agreement, which if provided by the other, would be required to be kept confidential under this Agreement (collectively, "Confidential Information"). Subject to applicable Law and except as provided in Section 5.04(b) (Exceptions), ILS on the one hand, and Subcontractor on the other hand, shall not disclose Confidential Information to a third party unless authorized in writing in advance by the other, provided however that patient information may be disclosed to the Member, the Member's Authorized Representative, practitioners participating in the Member's care, and others as permitted by Law.

- (b) Exceptions. The prohibitions on disclosure set forth in Section 5.04(a) (Confidential Information Defined) do not apply to information that (i) is required by Law or the Medi-Cal Contracts to be disclosed or to be provided to Officials; (ii) is required by accreditation organizations of ILS, or Subcontractor; (iii) is disclosed in legal or government administrative proceedings; (iv) was publicly known at the time of the disclosure; (v) becomes publicly known through no fault of the disclosing Party after the disclosing Party's receipt of the Confidential Information; (vi) was developed by the disclosing Party independently of and without reference to any of the other Party's Confidential Information; (vii) is disclosed as necessary to enforce ILS's or Subcontractor's rights for coordination of benefits, liens, reimbursement or subrogation; or (viii) is disclosed as necessary to ILS's or Subcontractor's agents and affiliates to perform essential corporate activities as permitted by Law.

5.05 HIPAA. Subcontractor understands and agrees that this Agreement and certain data exchanged hereunder may be subject to Laws governing the privacy of health records, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-91), the Health Information Technology and Economic and Clinical Health Act (42 USC 300(j)), and all implementing regulations (collectively, "HIPAA"), 42 C.F.R. Part 2 regulations, and the California Confidentiality of Medical Information Act ("CMIA"). Subcontractor shall comply, and shall ensure all Subcontractors comply with all such Laws governing the privacy of health records. If Subcontractor is or becomes a "Covered Entity" as defined by HIPAA, Subcontractor shall comply with all relevant HIPAA requirements. If Subcontractor is a "Business Associate" of ILS as defined by HIPAA, Subcontractor shall execute a Business Associate Agreement with ILS.

5.06 Provider Directory. Consistent with the Policies and Procedures, Subcontractor shall be responsible for reporting any information about Subcontractor necessary for ILS to maintain an accurate and up to date provider directory, including as required by Schedule 5 (Facilities).

## **ARTICLE VI COMPLIANCE AND OVERSIGHT**

6.01 General Compliance. Subcontractor represents and warrants that any of its individual provider practitioners, professionals, contractors, employees and agents are currently, and for the term of the Agreement shall remain, in compliance with all applicable Program Requirements. Subcontractor shall cooperate with ILS in maintaining ILS's compliance with applicable Law for provision of Services to Members under this Agreement, and when required to maintain ILS and/or Health Plan's licenses, shall comply with the relevant provisions of such Law. ILS acknowledges that it is subject to applicable Law, as monitored and enforced by relevant Officials.

6.02 Medi-Cal/Medicaid Compliance. Subcontractor represents and warrants that Subcontractor, any of its individual provider practitioners, professionals, contractors, employees and agents are currently, and for the term of the Agreement shall remain, (i) where applicable, enrolled in and certified by the Medicare and Medi-Cal/Medicaid programs; (ii) not identified on the CMS Preclusion List; (iii) in compliance with all applicable Laws and CMS instructions necessary for participation in the Medi-Cal/Medicaid programs, including applicable Medicare and Medi-Cal/Medicaid conditions of participation; and (iv) in compliance with the terms set forth in Schedule 7 (Medi-Cal Program Compliance), attached hereto and incorporated herein. Subcontractor further represents and warrants that it, its Subcontractors and any of its individual provider practitioners, professionals, contractors, employees and agents, and for the term of the Agreement shall not be, sanctioned under or debarred, suspended, precluded, excluded from, or opted out of, any federal program, including Medicare or Medicaid, or identified in a federal list of precluded or excluded entities or individuals, including lists maintained by CMS, the General Services Administration, Office of Inspector General, Department of Health and Human Services, or Office of Foreign Assets Control. Any provision required to be in this Agreement by the Laws governing the Medi-Cal/Medicaid program shall bind the Parties, whether or not provided in this Agreement.

6.03 Quality and Oversight.

- (a) Subcontractor acknowledges on behalf of itself and any of its individual provider practitioners, professionals, contractors, employees and agents that ILS is required by contractual terms with Health Plans, Law, and Health Plan's accreditation to monitor and oversee the Services. To ensure the quality of Services and ongoing compliance with Program Requirements, ILS will perform ongoing monitoring and oversight, which may include audits, evaluations and/or corrective actions.
- (b) Subcontractor shall respond to all ILS requests for information and documentation to permit ongoing monitoring of the Services.
- (c) Subcontractor shall participate in all business meetings and committees deemed necessary by ILS to discuss quality and operational issues, including, without limitation, access to Services, Service capacity, minimum Member projections, patient satisfaction, utilization and payment issues. Subcontractor shall promptly provide reports and cooperate, in good faith, with ILS in discussing issues as requested by ILS.
- (d) Subcontractor shall ensure that any of its individual provider practitioners, professionals, contractors, employees and agents meet quality management and quality improvement Policies and Procedures established by ILS and/or Health Plan. If required by DHCS, or Law, Subcontractor shall maintain a quality improvement program that, at all times during the term of this Agreement, meets all state and federal licensing, accreditation and certification requirements applicable to Subcontractor.
- (e) Subcontractor shall investigate and respond promptly to issues regarding quality of care, accessibility and other Complaints related to Services. Subcontractor shall use best efforts to remedy promptly any unsatisfactory condition related to the care of Members by Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents, as determined by ILS, Health Plan, or any Official.
- (f) In addition to any right that ILS has to terminate this Agreement as provided in Section 8.02 (Termination), below, ILS reserves the right to suspend and/or revoke the provision of Services by Subcontractor, any of its individual provider practitioners, professionals, contractors, employees and agents if ILS or any governmental authority (including CMS or DHCS) determines that the Services have not been carried out in a satisfactory manner.

In the event of such suspension or revocation ILS shall provide written notice to Subcontractor of the effective date of such suspension or revocation.

- (g) As an alternative to termination, suspension or revocation, if at any time ILS determines that Subcontractor any of its individual provider practitioners, professionals, contractors, employees and agents is not in compliance with all applicable Program Requirements or that Services have not been carried out in a satisfactory manner, then ILS may, at its sole discretion, implement a quarterly monitoring process until Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents, as applicable, demonstrates improvement over three (3) consecutive quarters, or place Subcontractor under a Corrective Action Plan (CAP) until such time as Subcontractor, any of its individual provider practitioners, professionals, contractors, employees and agents, as applicable, complies with the terms of this Agreement. Any such CAP shall detail the deficiencies; list specific steps, tasks and activities to bring Subcontractor into compliance; and a timeline for completion of corrective action to achieve compliance with performance requirements. Subcontractor understands and agrees that ILS may be required to provide a copy of the CAP, if requested, to governmental agencies or accreditation organizations to which ILS, and/or Health Plan is subject. In addition to fulfillment of the terms of any CAP, Subcontractor agrees to cooperate with ILS in resolving any quality of care issues identified through the credentialing or vetting process. If Subcontractor fails to comply with the CAP or the terms of this Agreement, ILS may terminate this Agreement consistent with Section 8.02 below.

## **ARTICLE VII NOTICE**

7.01 Subcontractor's Responsibility to Notify ILS. Subcontractor shall provide notice to ILS in accordance with Section 7.02 (Procedure for Giving Notice) under all applicable circumstances, including:

- (a) Notice of Complaints. Subcontractor shall promptly notify ILS of any urgent Complaint involving an imminent and serious threat to the health of the Member that Subcontractor, a Subcontractor or a Rendering Subcontractor receives from or on behalf of Members the same day from the date of receipt. Subcontractor shall also notify of any other Complaint to ILS within one (1) business days of receipt by Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents: (i) Complaints regarding discrimination against Members, including discrimination prohibited under this Agreement; (ii) contact by an attorney regarding any Complaint; (iii) any Complaints of an alleged violation of HIPAA; and (iv) any Complaints which, by Law or the Medi-Cal Contracts must be addressed by ILS and/or Health Plan.
- (b) Notice of Changes in Subcontract. If Subcontractor is allowed under the terms of this Agreement to enter into subcontracts for the provision of Services, Subcontractor shall notify ILS within thirty (30) calendar days after Subcontractor and any subcontractor make a material change to their subcontract that may impact Services provided to Members.
- (c) Notice of Changes in Subcontractor Status. Subcontractor has an affirmative obligation to be aware of and shall notify ILS in writing, within three (3) business days of Subcontractor's, or any of its individual provider practitioners, professionals, contractors, employees and agents' knowledge of the pending occurrence of any of the following events and promptly after the occurrence of any of the following events: (i) any incident that may affect any license, certification, or accreditation held by Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents, or any Facility or that may materially affect performance of its/their obligations under this



Agreement, or that may be reasonably be interpreted as negatively affecting ILS and/or Health Plan's reputation or operations; (ii) any change in Subcontractor's or any of its individual provider practitioners, professionals, contractors, employees and agents' operations (including termination, suspension or interruption of any Services) that will materially affect the manner in which it provides Services to Members or that will result in cessation or suspension of any Services; (iii) any unusual occurrence that affects any Member receiving Services (including a Member's death or serious physical or psychological injury or risk thereof), or that is required to be reported to any governmental or regulatory body or to an accreditation organization; (iv) any change in legal status, tax identification number, Medicare or Medicaid number; (v) any material change in ownership, control, name, or location; and (vi) any other event or circumstance that materially impairs Subcontractor's or any of its individual provider practitioners, professionals, contractors, employees and agents' ability to provide Services to Members as required by this Agreement, including Subcontractor's or any of its individual provider practitioners, professionals, contractors, employees and agents' inability to provide Services at a Facility at which ILS expects Services to be provided.

- (d) Notice of Pending Actions. Subcontractor shall promptly provide written notification to ILS (i) of the initiation of any legal action, accreditation organization action, or, regulatory or governmental action that has more than a minimal likelihood of materially affecting a Subcontractor's ability to perform its obligations under this Agreement; (ii) of an investigation regarding sanction under or debarment, exclusion or suspension from any federal program, including Medicare or Medicaid with respect to Subcontractor, any of its individual provider practitioners, professionals, contractors, employees and agents; (iii) any inquiry or formal action, proceeding, or investigation is initiated against Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents by an accreditation organization; (iv) Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents is the subject of any legal or governmental action concerning qualifications or ability to perform Services; (v) any professional liability claim filed or asserted regarding Services provided to Members by or on behalf of Subcontractor; and (vi) the initiation of any legal action related to Services filed by a Member against Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents.
- (e) Notice of Changes in Insurance. Subcontractor shall provide ILS at least ten (10) days' prior written notice before any insurance coverage described in Schedule 8 (Insurance Requirements) attached hereto is cancelled, terminated, not renewed, modified or expired. Subcontractor shall or shall require that any insurance carrier for insurance coverage described in Schedule 8 (Insurance Requirements) attached hereto notify ILS at the time of any material change in insurance carrier, limits or deductibles to the extent that such change may impact Subcontractor's compliance with the terms of the Agreement.
- (f) Notice of Condition for Termination, Suspension or Exclusion. Subcontractor has an affirmative obligation to be aware of and shall notify ILS in writing, within three (3) business days of Subcontractor's or any of its individual provider practitioners, professionals, contractors, employees and agents' knowledge of the pending occurrence of, and promptly after the occurrence of any condition evoking cause for termination of the Agreement in subsections (b), (c) or (e) of Section 8.02 (Termination), or for suspension or exclusion of participation of any of its individual provider practitioners, professionals, contractors, employees and agents in Section 8.03(b) (Suspension or Exclusion Without Notice Period).

7.02 Procedure for Giving Notice. Unless otherwise stated elsewhere in this Agreement, all notices required or permitted under this Agreement shall be in writing, personally delivered or sent by confirmed fax, sent by USPS or a commercial service with confirmed delivery, or certified mail (return receipt requested), and shall be deemed given upon the date of the actual receipt. Notices shall be addressed as follows (or to such other address as may be furnished in accordance herewith):

If to ILS:

Independent Living Systems, LLC  
Registered Agent: Corporate Creations, Inc.  
5901 W Century Blvd.  
Los Angeles, CA 90045

If to Subcontractor:

[Enter Provider Name & Address of Notice]

## **ARTICLE VIII TERM AND TERMINATION**

8.01 Term. The Term of this Agreement shall commence on the Effective Date and, unless terminated earlier in accordance with this Article VIII, shall continue until December 31, 2024 (the “Initial Term”). Following expiration of the Initial Term, this Agreement shall automatically renew for successive one-year renewal terms unless either Party terminates the Agreement in accordance with this Article VIII. The Initial Term and all Renewal Terms shall be referred to collectively as the “Term.”

8.02 Termination. This Agreement may be terminated prior to the expiration of the Term as follows:

- (a) By a Party, for any reason or no reason, upon ninety (90) days’ prior written notice to the other Party;
- (b) By a Party, upon written notice to the other Party, if a Party has materially breached its obligations under this Agreement and that breach either cannot be cured, or if it can be cured, the breaching Party has failed to cure that breach within thirty (30) days after having received written notice from the non-breaching Party, which notice shall fully describe the alleged breach that must be cured;
- (c) By a Party, upon written notice to the other Party, if the Party terminating this Agreement is required to do so by competent regulatory authority (including DHCS) or must do so to remain in compliance with applicable Law; or
- (d) By written mutual agreement of the Parties,.
- (e) Notwithstanding subsection (b) above, in certain circumstances, ILS may terminate this Agreement immediately, with written notice. ILS may so terminate immediately if: (i) any Official revokes, suspends, restricts or fails to renew any license, certificate, permit, credential, privilege, accreditation or certification required for the provision of Services under this Agreement (each an “Essential Permit” and collectively, “Essential Permits”) for Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents is sanctioned under or is debarred, suspended, precluded or excluded from or opts out of any federal program (including Medicare or Medicaid) or is identified in a federal list of excluded entities or excluded individuals, including lists or maintained by the General Services Administration, Office of Inspector General, Department of Health

and Human Services, or Office of Foreign Assets Control or is identified on Medi-Cal's Suspended and Ineligible Subcontractor List; or (ii) Subcontractor demonstrates conduct (through act or omission) that threatens the health, safety or privacy of a Member, as determined by ILS in good faith; or (iii) Subcontractor files a petition in or for bankruptcy, reorganization or an arrangement with creditors, makes a general assignment for the benefit of creditors; is adjudged bankrupt, unable to pay debts as they come due; has a trustee, receiver or other custodian appointed on its behalf; or has a case or proceeding commenced against it under any bankruptcy or insolvency Law; or (iv) Subcontractor undergoes dissolution, merger or consolidation, the sale of all or substantially all of its assets or a direct or indirect change of control, ownership or legal structure.

#### 8.03 Suspension or Exclusion of Participation.

- (a) Suspension or Exclusion With Notice Period. In accordance with applicable Law, ILS may, at any time and for any reason or no reason, suspend or exclude the participation of Subcontractor, or any of its individual provider practitioners, professionals, contractors, employees and agents providing Services under this Agreement (without terminating the Agreement) by giving at least thirty (30) day prior written notice to Subcontractor, unless patient care or safety requires less or no notice.
- (b) Suspension or Exclusion Without Notice Period. In accordance with applicable Law, ILS may immediately suspend or exclude the participation of any of Subcontractors or any of its individual provider practitioners, professionals, contractors, employees and agents providing Services under this Agreement (without terminating the Agreement), as specified in a written notice, if: (i) any Official revokes, suspends, restricts or fails to renew any Essential Permit; (ii) Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents demonstrates conduct (through act or omission) likely to result in revocation, suspension, restriction or nonrenewal of an Essential Permit, as determined by ILS in good faith, including misrepresentation or falsification of information submitted in support of an Essential Permit; (iii) any Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents, or Facility is sanctioned under or debarred, precluded, suspended, or excluded from or opts out of any federal program (including Medicare or Medicaid) or identified in a federal list of excluded entities or individuals, including lists maintained by the General Services Administration, Office of Inspector General, Department of Health and Human Services, or Office of Foreign Assets Control or identified on Medi-Cal's Suspended and Ineligible Subcontractor List; (iv) criminal charges are filed against Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents for any act involving professional misconduct or moral turpitude; (v) Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents, or any Facility fails to comply with or rectify noncompliance with any material provision of this Agreement within a time period acceptable to ILS; (vi) Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents or Facility fails to adequately provide or becomes incapable of adequately providing Services; or (vii) Subcontractors, Subcontractor or any of its individual provider practitioners, professionals, contractors, employees and agents, or any Facility demonstrates conduct (through act or omission) that threatens the health, safety or privacy of a Member, as determined by ILS in good faith.

8.04 Survival. With respect to the provision of Services, Articles V, VI, VII, VIII, IX, X and XI as well as any other provisions of this Agreement that, by their terms are intended to survive, shall survive the

expiration or termination (regardless of the cause giving rise to termination) of this Agreement and shall continue to be binding on the Parties and their respective heirs, successors or permitted assigns.

## **ARTICLE IX DISPUTE RESOLUTION**

9.01 Dispute Resolution. If a disagreement or dispute between ILS, and Subcontractor, arises out of or in relation to this Agreement (the “Dispute”) that cannot be resolved informally by ILS and Subcontractor, then the aggrieved party shall provide the other with written notice of the nature of the claim, dispute, or controversy within sixty (60) days of when that party knew of or should have known of the dispute. Within ten (10) days of receipt of such notice, each party will designate the appropriate level management or staff member to meet, whether in person or by phone, to discuss and seek to resolve the matter. Such meeting shall occur within twenty (20) days of receipt of the staff member or manager designation. Resolution of the claim, dispute, or controversy must be consistent with the terms of this Agreement.

### 9.02 Binding Arbitration.

- (a) Arbitration Demand. If the Disputing Parties cannot reach agreement pursuant to Sections 9.01 above, then the Disputing Parties agree that the Dispute shall be submitted to binding arbitration in Los Angeles County, California. Notice of demand to arbitrate the Dispute shall be given as set forth in Section 7.02 (Procedure for Giving Notice) and must be received by the other parties to the dispute within 365 calendar days after the notice of dispute was sent. The arbitration shall be conducted in Los Angeles County, California. The construction, validity and performance of all arbitrations conducted pursuant to this Agreement shall be governed by the Law of the State of California, including California Code of Civil Procedure Section 1280 et seq., and specifically Section 1283.05, and Section 2 of the Federal Arbitration Act. The Disputing Parties shall have the right to conduct discovery in accordance with California Code of Civil Procedure Section 1283.05.
- (b) Administration of Arbitration. Subcontractor or ILS may initiate confidential arbitration by providing a written arbitration demand as specified in Section 9.02(a) above. Upon tender of the demand, the Disputing Parties shall use their best efforts to agree on an Alternative Dispute Resolution (“ADR”) organization. If the Disputing Parties to the Dispute cannot agree on an ADR organization to administer the confidential arbitration within thirty (30) Calendar Days from the date on which the demand was tendered, the Dispute shall be administered by JAMS in accordance with the JAMS rules applicable to commercial arbitrations (the “JAMS Comprehensive Arbitration Rules and Procedures” or its successor, referred to as “JAMS Rules”), except that this Agreement shall control in instances where it conflicts with the JAMS Rules. The Parties prefer that the arbitrator (“Arbitrator”) be a retired judge of the California Superior, Appellate or Supreme Court or of a United States court sitting in California. If the Disputing Parties are unable to agree on the Arbitrator, the Arbitrator shall be selected pursuant to the rules of the ADR organization to which they have mutually agreed or, if there is no such agreement, the JAMS Comprehensive Arbitration Rule 15; provided, however, that nothing stated in this section 9.02 (Binding Arbitration) shall prevent ILS or Subcontractor from disqualifying an Arbitrator based on a conflict of interest. The Disputing Parties shall be responsible for their own attorney’s fees and costs incurred in preparing for and attending the arbitration. The Parties shall share equally the fees of the Arbitrator, with costs split between ILS and Subcontractor. The Parties agree that any and all proper Parties may be joined in the arbitration, but the Parties agree to proceed with arbitration of all Disputes even if other Parties refuse to participate. The Parties agree that in no event shall a Member be

considered a proper party for purposes of this Agreement, and the Arbitrator shall not have the power to join a Member as a party.

- (c) Arbitrator's Decision. The Arbitrator shall issue a written reasoned decision setting forth the Disputing Parties' contentions, findings of fact and conclusions of law applying California and applicable federal Law (the "Decision") within thirty (30) calendar days of the conclusion of the arbitration of each Dispute. The Arbitrator's final Decision shall be conclusive and binding, and it may be confirmed thereafter as a judgment by the Superior Court of the State of California, subject only to challenge on the grounds set forth in California Code of Civil Procedure Section 1281 et seq. By agreeing to binding arbitration as set forth in Section 9.02 (Binding Arbitration), the Parties acknowledge that they are waiving certain substantial rights and protections which otherwise may be available if a Dispute between them were determined by litigation in a court, including the right to a jury trial, attorneys' fees and certain rights of appeal.

9.03 Injunctive Relief Available. Notwithstanding anything to the contrary provided in this Article IX, and without prejudice to the above procedures, ILS or Subcontractor may at any time, in connection with any Dispute, apply to a court of competent jurisdiction for temporary injunctive or other provisional judicial relief if in such party's sole judgment such action is necessary to avoid irreparable damage or to preserve the status quo until such time as the Dispute is otherwise resolved in accordance with this Article IX.

9.04 Disputes Between a Member and Subcontractor. Subcontractor shall cooperate with ILS in identifying, processing and resolving all Complaints. Subcontractor shall comply with the resolution of any such Complaints by ILS. All decisions regarding Covered Benefits for Members are reserved to ILS, and Subcontractor shall refer Members who have inquiries or disputes regarding Covered Benefits to ILS for response and resolution. In addition, upon request by a Member expressing a desire to file a Complaint, Subcontractor shall promptly provide the Member with ILS and/or Health Plan's grievance form and a description of the grievance procedures.

## **ARTICLE X INSURANCE AND INDEMNIFICATION**

10.01 Subcontractor Insurance. Subcontractor shall maintain or cause to be maintained insurance coverage and comply with the terms set forth in Schedule 8 (Insurance Requirements) attached hereto.

10.02 Subcontractor Indemnification. Subcontractor shall indemnify, defend with counsel approved by ILS (in consultation with ILS in-house counsel) and hold harmless ILS, Health Plan and all other persons or organizations cooperating in the conduct of ILS and/or Health Plan, and each of their respective officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (including the payment of attorneys' fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by Subcontractor or any of its officers, partners, individual provider practitioners, professionals, contractors, employees and agents.

10.03 ILS Indemnification. ILS shall indemnify, defend with counsel approved by Subcontractor, and hold harmless Subcontractor, its officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (including the payment of attorneys' fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by ILS, its officers, partners, employees, or agents.



10.04 Cooperation of the Parties. The Parties shall cooperate with each other in the investigation and disposition of any claims arising out of or relating to this Agreement, provided that nothing shall require either Party to cooperate to its own legal detriment, disclose any documents, records or communications that are protected from disclosure under the peer review privilege, the attorney-client privilege, the attorney work-product doctrine or other rules governing such privileged materials.

## **ARTICLE XI MISCELLANEOUS**

11.01 Non-Exclusivity. This is not an exclusive Agreement; Subcontractor and ILS may enter into similar agreements with other parties; and ILS reserves the right to arrange for any Services for Members from any other provider.

11.02 No Volume Guarantee. ILS does not represent, warrant or covenant any minimum volume of Members that will be referred to Subcontractor under this Agreement.

11.03 Assignment and Delegation. Except as otherwise provided in this Agreement, Subcontractor will not assign this Agreement, or any rights hereunder, or subcontract or delegate any of its duties and obligations under this Agreement without the prior written consent of ILS. Any material change of ownership or control of Subcontractor or Subcontractor's assets will be deemed an assignment. In any event, all obligations of Subcontractor under this Agreement will be enforceable against any permitted successors and assigns. In the event of a sale, lease or other transfer of Subcontractor's ownership or control, Subcontractor shall, unless ILS objects, ensure that the buyer, lessee or transferee agrees to enter into a services agreement with ILS pursuant to which such buyer, lessee or transferee will provide Services to Members under the same terms and conditions and for the same rates as ILS is obligated to pay to Subcontractor for such Services hereunder. No transfer of the duties or obligations under this Agreement, nor the change of ownership or transfer of assets shall be deemed to modify, reduce, or limit Subcontractor's duty to either obligate any successor or assignee to provide or arrange for all Services pursuant to the terms and conditions of this Agreement, or to continue performing the full duties and obligations of this Agreement. Further, any succession or assignment without ILS's express written consent will not relieve or otherwise affect the liability of the predecessor or assignor, who will remain jointly and severally liable with the successor or assignee. Subcontractor understands and agrees that ILS may assign this Agreement and its duties under this Agreement and delegate its rights under this Agreement to any ILS entity or affiliate.

11.04 Subcontracts.

- (a) Subcontractor may not subcontract for the performance of any of the Services specified in this Agreement without the prior written consent of ILS. Subcontractor warrants that subcontractors shall be subject to all obligations of Subcontractor under this Agreement. Subcontractor shall obligate its Subcontractors to comply with all relevant provisions set forth in this Agreement and the Medi-Cal Contracts that would apply to Subcontractor if Subcontractor were providing the Services directly, including, without limitation, the Policies and Procedures. If Subcontractor is a "Business Associate" of ILS as defined by HIPAA, Subcontractor shall execute a Business Associate Agreement with a subcontractor to the extent a Subcontractor is performing Business Associate functions. If subcontractor is a "Business Associate" of Subcontractor, then Subcontractor shall execute a Business Associate Agreement with such subcontractor.
- (b) If ILS consents to any subcontract, ILS shall maintain and be responsible for oversight of compliance with all contract provisions and Services, regardless of the number of layers of subcontracting.

- (c) Consistent with Section 10.02 (Subcontractor Indemnification), any subcontract must expressly include a requirement that Subcontractor shall hold harmless ILS, the Health Plan and all other persons or organizations, and each of their respective officers, directors, partners, shareholders, agents and employees to the extent allowed by Law, from and against any and all demands, claims, losses, damages, liability, costs, expenses (including the payment of attorneys' fees and costs actually incurred, whether or not litigation is commenced), judgments or obligations, actions or causes of action whatsoever, to the extent arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations hereunder by Subcontractor, its officers, partners, employees, Subcontractors or agents, or arising from or in connection with any acts, failures to act or the performance of or failure to perform obligations under any subcontracts by Subcontractor, its officers, partners, employees, subcontractors or agents.
- (d) Subcontractor shall pay its subcontractor(s) in accordance with the timeframes specified in the subcontract(s) and as otherwise required by applicable Law.
- (e) To the extent that applicable Law, a government contract or an Official requires additional provisions to be included in such subcontracts, Subcontractor shall amend its contracts accordingly or such amendments shall be deemed included in all such subcontracts.

11.05 Independent Contractor. ILS, and Subcontractor, enters into this Agreement, and shall remain throughout the Term of this Agreement, as an independent contractor of the other. Nothing in this Agreement is intended to create nor shall it be construed to create between ILS, a Health Plan and Subcontractor a relationship of principal, agent, employee, partnership, joint venture or association. Neither ILS nor Subcontractor has authorization to enter into any contracts, assume any obligations or make any warranties or representations on behalf of the other. No individual through whom any Party performs any obligation under this Agreement shall be entitled to or shall receive from the other Party any compensation for employment, employee welfare and pension benefits, fringe benefits, or workers' compensation, life or disability insurance or any other benefits of employment, in connection with such performance. Subcontractor represents and warrants on behalf of itself and any of its officers, partners, individual provider practitioners, professionals, contractors, employees and agents that each is solely obligated for the timely payment of wages, proper classification of its workers, workers' compensation insurance, employee benefits, any payroll-related taxes and any other employment-related liability for its workers.

11.06 Expenses. Except as otherwise expressly set forth in this Agreement, each Party shall take all actions and pay all of its own expenses necessary to fully perform all of its obligations under this Agreement.

#### 11.07 Amendment.

- (a) Amendment by Mutual Consent. Except as otherwise set forth in this Agreement, amendments to this Agreement shall be adopted by mutual consent in a written amendment signed by the Parties.
- (b) Change in Legal or Regulatory Requirements. Notwithstanding any other provision of this Agreement, if ILS or Health Plan reasonably determine that a modification of this Agreement (or the Policies and Procedures) is necessary to cause it to conform with Law, or the requirements imposed upon ILS and/or Health Plan by an accrediting or regulatory agency, or in order for ILS to participate in health plans/programs sponsored, funded or administered by a government entity (a "Legally Required Modification"), then ILS shall give Subcontractor written notice of the proposed Legally Required Modification and the date on which it is to go into effect, which shall not be less than thirty (30) calendar days

following the date of the notice, unless a different period is required by Law or Officials, and the Legally Required Modification shall be effective on that date specified in the notice. If a material modification that is not a Legally Required Modification (a “Non-Legally Required Modification”) is proposed to the Policies and Procedures, ILS shall give Subcontractor thirty (30) calendar days’ notice of the modification and, if the Parties do not mutually agree upon the modification, Subcontractor may terminate this Agreement in accordance with Section 8.02(a).

11.08 Legally Required Provisions. Any provision required to be in this Agreement by any Law, including, without limitation, the Knox-Keene Act, or the Medi-Cal Contract(s) shall be deemed to be included in this Agreement as if fully set forth herein and shall bind the Parties, whether or not explicitly provided in this Agreement.

11.09 Public Statements or Releases. Unless otherwise required by law or regulation or court or administrative order, the Parties each agree that no Party will make, issue or release any public announcement, statement or acknowledgment of the existence of, or reveal the details or status of this Agreement and/or negotiations leading to this Agreement without first obtaining the consent of the other Party, which consent may be withheld in the sole discretion of a Party.

11.10 Use of Name. Each Party reserves to itself the right to, and the control of the use of, its names, symbols, trademarks and service marks, presently existing or hereafter established, and no Party shall use another Party’s names, symbols, trademarks or service marks in any advertising or promotional materials or communication of any type or otherwise without the latter Party’s prior written consent. Notwithstanding the foregoing, Subcontractor consents to ILS’s use of its name, address and telephone number in lists of practitioners and facilities and other marketing materials that ILS may publish from time to time during the term of this Agreement.

11.11 Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of California, without regard to the principles of California law governing conflicts of law, as well as the applicable contractual requirements imposed upon ILS by the Medicaid program. The Parties hereby consent to the exclusive jurisdiction of the federal and state courts with venue in Los Angeles County, California in any action, suit or proceeding arising under this Agreement (including, without limitation, actions, suits and proceedings in connection with the enforcement of any judgment) to the extent such action, suit or proceeding in court is permitted by Article IX. The Parties waive any objection based on forum non conveniens, jurisdiction or venue to the bringing of any action, suit or proceeding in accordance with this Section 11.11.

11.12 Construction of Agreement. This Agreement shall not be construed more strictly against one Party than against the other Party merely because it may have been prepared by counsel for one of the Parties, it being recognized that each Party has contributed substantially and materially to the preparation of this Agreement. The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and risks and having had the opportunity to obtain legal counsel of their choice. Where the context so indicates, a word in the singular form shall include the plural. The term “include” and similar terms (e.g., includes, including, included, comprises, comprising, such as, e.g., including but not limited to and for example), when used as part of a phrase, including one or more specific items, are not words of limitation and are not to be construed as being limited to only the listed items.

11.13 Headings. The headings in this Agreement are for convenience of reference only and shall not control or affect the meaning or construction of any provisions hereof.

11.14 Statutory and Other References. Any reference to a statute, regulation, executive order, regulatory guidance, government agency or regulatory body, accreditation standard, or accreditation organization

refers to the statute, regulation, executive order, regulatory guidance, government agency or regulatory body, accreditation standard, or accreditation organization as amended from time to time, and to any successor statute, regulation, executive order, regulatory guidance, government agency or regulatory body, accreditation standard, or accreditation organization.

11.15 Enforceability. The invalidity or unenforceability of any provisions of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of this Agreement, including any such provision, in any other jurisdiction, it being intended that all rights and obligations of the Parties hereunder shall be enforceable to the fullest extent permitted by law.

11.16 Severability. If any provision is determined invalid, void or unenforceable, in whole or in part, the remaining provisions shall remain in full force and effect.

11.17 Waiver. A failure of any Party to exercise any provision of this Agreement shall not be deemed a waiver. Any waiver of any provision of this Agreement shall be in writing and signed by the Party against whom the waiver is sought to be enforced. Any such waiver shall not operate or be construed as a waiver of any other provision of this Agreement or a future waiver of the same provision.

11.18 Remedies Cumulative. The rights and remedies provided for in this Agreement shall not be exclusive and are in addition to any other rights and remedies that exist in law or equity, all of which are hereby expressly reserved by each Party.

11.19 Entire Agreement. Except with respect to Delegated Activities that are described in a separate writing, this Agreement, including all exhibits and subexhibits hereto (each of which is expressly incorporated by reference), and all applicable Policies and Procedures, hereby incorporated by reference, constitute the entire agreement and understanding of the Parties hereto in respect of the subject matter contained herein, and there are no restrictions, promises, representations, warranties, covenants, or undertakings with respect to the subject matter hereof or thereof, other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements, letters of intent, memoranda, and understandings between the Parties hereto with respect to the subject matter hereof.

11.20 Order of Precedence. In the event of any inconsistency or conflict between any of the writings described in section 11.19, the descending order of precedence shall be: (1) Schedule 7 (Medi-Cal Subcontractor Compliance); (2) all exhibits and subexhibits, exclusive of Schedule 7; (3) this Agreement, exclusive of exhibits and subexhibits, and (4) applicable Policies and Procedures.

11.21 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original with the same effect as if the signatures thereto and hereto were upon the same instrument. Any signature duly affixed to this Agreement and delivered by facsimile transmission or in PDF format shall be deemed to have the same legal effect as the actual signature of the person signing this Agreement. Any Party receiving delivery of a facsimile or PDF copy of the signed Agreement may rely on such as having actually been signed.

11.22 List of Schedules and Exhibits:

Schedule 1	List of Health Plans
Schedule 2	Subcontractor areas of Service
Schedule 3	Services
Schedule 4	Additional Terms
Schedule 5	Facilities
Schedule 6	Billing and Payment
Schedule 7	Medi-Cal Program Compliance
Schedule 8	Insurance Requirements

*(signature page follows)*



**IN WITNESS WHEREOF**, the Parties have caused this Subcontractor Services Agreement to be executed by their respective duly authorized representatives.

**SUBCONTRACTOR**

**INDEPENDENT LIVING SYSTEMS, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Nestor J. Plana

Title: \_\_\_\_\_

Title: Chairman & CEO

Date: \_\_\_\_\_

Date: \_\_\_\_\_

TIN: 45-0481642

**SCHEDULE 1**

**LIST OF HEALTH PLANS**

Subcontractor, its individual provider practitioners, professionals, contractors, employees and agents shall provide Services to Members in the following Health Plan(s): (Check all that apply)

<b>Name of Health Plan, Managed Care Organization, or Health Maintenance Organization</b>	<b>Plan</b>
Kaiser Permanente	North and South Regional Plans

## **SCHEDULE 2**

### **SUBCONTRACTOR SERVICE AREAS**

Subcontractor, its individual provider practitioners, professionals, contractors, employees and agents shall provide Services to Members in the following Service Areas:

**County:**

San Joaquin

### **SCHEDULE 3**

#### **SERVICES**

Subcontractor, its individual provider practitioners, professionals, contractors, employees and agents shall provide the following Services to Members: (Check all that apply)

<b><u>Community Health Worker Service</u></b> <b><u>(CHW)</u></b>	
1. Asthma Preventive Services	<input type="checkbox"/>
2. Health Education	<input type="checkbox"/>
3. Health Navigation	<input type="checkbox"/>
4. Individual Support or Advocacy	<input type="checkbox"/>
5. Screening and Assessment	<input type="checkbox"/>
6. Violence Preventive Services	<input type="checkbox"/>

<b><u>Enhanced Care Management Services</u></b> <b><u>(ECM)</u></b>	
1. ECM Outreach Services	<input type="checkbox"/>
2. ECM Core Services	<input type="checkbox"/>

<b><u>Community Support Services</u></b> <b><u>(CSS)</u></b>	
1. Housing Transition Navigation Services	<input checked="" type="checkbox"/>
2. Housing Deposits	<input checked="" type="checkbox"/>
3. Housing Tenancy and Sustaining Services	<input checked="" type="checkbox"/>
4. Short-Term Post-Hospitalization Housing	<input checked="" type="checkbox"/>
5. Recuperative Care (Medical Respite)	<input type="checkbox"/>
6. Respite Services	<input type="checkbox"/>
7. Day Habilitation Programs	<input type="checkbox"/>
8. Nursing Facility Transition/Diversion to Assisted Living Facilities, such as Residential Care Facilities for Elderly (RCFE) and Adult Residential Facilities (ARF)	<input type="checkbox"/>
9. Community Transition Services/Nursing Facility Transition to a Home	<input type="checkbox"/>
10. Personal Care and Homemaker Services	<input type="checkbox"/>
11. Environmental Accessibility Adaptations (Home Modifications)	<input type="checkbox"/>
12. Meals/Medically Tailored Meals	<input type="checkbox"/>
13 Sobering Centers	<input type="checkbox"/>
14. Asthma Remediation	<input type="checkbox"/>

#### **SCHEDULE 4**

#### **ADDITIONAL TERMS**

If any Services could be classified under more than one subexhibit attached to this Schedule 4 and/or to Schedule 7, ILS shall determine in its sole discretion which of the attached subexhibits shall govern the provision of those Services.

The following subexhibit(s) attached to this Schedule 4 describe(s) additional terms applicable to this agreement:

SCHEDULE 4.3            ADDITIONAL TERMS FOR COMMUNITY SUPPORTS SERVICES



### **SCHEDULE 4.3**

#### **ADDITIONAL TERMS FOR COMMUNITY SUPPORTS SERVICES**

The following additional terms apply to Subcontractor's provision of Community Supports Services (as defined below) including through Subcontractors.

1. **Definitions.** The following terms supplement Article 1 (Definitions) of the Agreement.
  - 1.1. **Clean Claim:** a Claim that can be processed without obtaining additional information from the provider of the service or from a third party. It includes a Claim with errors originating in a ILS's or the Department of Health Care Services' claims system. It does not include a Claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.
  - 1.2. **Community Supports Provider:** a contracted provider of DHCS-approved Community Supports. Community Supports Providers are entities with experience and expertise providing one or more of the Community Supports approved by DHCS.
  - 1.3. **Community Supports Provider Standard Terms and Conditions:** standard terms and conditions for Community Supports provider agreements issued by DHCS.
  - 1.4. **DHCS-Health Plan ECM and ILOS Contract:** the provisions in the Medi-Cal Contract(s) or the attachments thereto applicable to Community Supports.
  - 1.5. **Enhanced Care Management ("ECM") Provider:** A provider of enhanced care management services.
  - 1.6. **In Lieu of Services ("ILOS") ("Community Supports"):** Pursuant to 42 CFR 438.3(e)(2), ILOS or Community Supports are services or settings that are offered in place of services or settings covered under the California Medicaid State Plan and are medically appropriate, cost-effective alternatives to services or settings under the State Plan. ILOS or Community Supports are optional for both Subcontractor and the Member and must be approved by DHCS. ILOS may be referred to in the future by names defined by DHCS, including, without limitation, the term "Community Supports."
  - 1.7. **"Health Plan Community Supports Procedure Manual"** shall constitute a Policy and Procedure created by ILS and/or Health Plan and includes, but is not limited to, a statement of work and workflows. ILS may update and implement changes to the Health Plan Community Supports Procedure Manual in accordance with Section 11.07(b) of the Agreement.
  - 1.8. **"Lead Care Manager"** means a Member's designated care manager by Subcontractor.
  - 1.9. **"Policy Guide"** means the Medi-Cal Community Supports (ILOS) Policy Guide or Community Supports (ILOS) Policy Guide issued by the California Department of Health Care Services (DHCS), as may be amended by DHCS from time to time. The Parties agree that current Policy Guide and any amendments thereto shall be incorporated as if fully stated herein.
  - 1.10. **State Plan:** the plan governing the Medi-Cal program pursuant to 42 U.S.C. section 1396a, as approved by the federal CMS.
  - 1.11. **State Plan Covered Services:** Medi-Cal health care services or settings that are covered under the State Plan.

1.12. The following terms shall have the meaning as described in the Policy Guide: Housing First, Harm Reduction, Progressive Engagement, Motivational Interviewing, and Trauma-Informed Care.

2. **Subcontractor's Responsibilities.** The following terms supplement Article 2 (Subcontractor Responsibilities) of the Agreement.

2.1. **General.** Subcontractor shall provide the Community Supports Services identified in Section 3.1 of this Schedule 4.3. Subcontractor shall provide all Community Supports Services in accordance with this Agreement, applicable Law and the DHCS-Health Plan ECM and ILOS Contract, with best practices and industry standards for such Services.

2.2. **Authorized Subcontractor.** Subcontractor agrees that it meets the conditions for being a permissible provider type for each of Community Supports Services, as such conditions are defined in the Policy Guide.

2.3. **Services to be Provided.** Subcontractor agrees to provide the full scope of Community Supports Services described in the Policy Guide to eligible Members, as identified in the Policy Guide, and the Health Plan Community Supports Procedure Manual. The applicable restrictions/limitations in the Policy Guide shall apply to the scope of Community Supports Services performed by Subcontractor under this Agreement.

2.4. **Community Supports Subcontractor Requirements.**

(a) Experience and training in the elected Community Supports.

- (i) Subcontractor shall have sufficient experience and/or training in the provision of the Community Supports Services.
- (ii) Subcontractor shall have the capacity to provide the Community Supports Services in a culturally and linguistically competent manner, as demonstrated by a successful history of providing such Community Supports Services, training or other factors identified by ILS and/or the Health Plan.

(b) If Subcontractor subcontracts with other entities to administer its functions of Community Supports described in this Schedule 4.3, Subcontractor shall ensure agreements with each entity bind each entity to applicable terms and conditions set forth herein.

3. **Provision of Services.** The following terms supplement Article 3 (Provision of Services) of the Agreement.

3.1. **General.** Subcontractor shall offer the following DHCS-Authorized Community Supports to Members (check as applicable):

- (a) ☒ Housing Transition Navigation Services
- (b) ☒ Housing Deposits
- (c) ☒ Housing Tenancy and Sustaining Services
- (d) ☒ Short-Term Post-Hospitalization Housing

- (e) ☐ Recuperative Care (Medical Respite)
- (f) ☐ Respite Services
- (g) ☐ Day Habilitation Programs
- (h) ☐ Nursing Facility Transition/Diversion to Assisted Living Facilities, such as Residential Care Facilities for Elderly (RCFE) and Adult Residential Facilities (ARF)
- (i) ☐ Community Transition Services/Nursing Facility Transition to a Home
- (j) ☐ Personal Care and Homemaker Services
- (k) ☐ Environmental Accessibility Adaptations (Home Modifications)
- (l) ☐ Meals/Medically Tailored Meals
- (m) ☐ Sobering Centers
- (n) ☐ Asthma Remediation

**3.2. Delivery of Community Supports Services.**

- (a) Subcontractor shall deliver the Community Supports Services in accordance with DHCS service definitions and requirements.
- (b) Subcontractor shall maintain staffing that allows for timely, high-quality service delivery of the Community Supports Services.
- (c) Subcontractor shall:
  - (i) Accept and act upon Member referrals from ILS for Authorized Community Supports Services, unless Subcontractor is at pre-determined capacity;
  - (ii) Conduct outreach to the referred Member for Authorized Community Supports Services as soon as possible, including by making best efforts to conduct initial outreach within 24 hours of assignment, if applicable;
  - (iii) Be responsive to incoming calls or other outreach from Members, including by maintaining a phone line that is staffed or able to record voicemail 24 hours a day, 7 days a week;
  - (iv) Coordinate with other providers in the Member's care team, including ECM Providers, other Community Supports Providers and ILS;
  - (v) Comply with cultural competency and linguistic requirements required by federal, state and local laws, this Agreement and the Medi-Cal Contract(s); and
  - (vi) Comply with non-discrimination requirements set forth in state and federal law, this Agreement and the Medi-Cal Contracts.

- (d) When state or federal law requires authorization for data sharing, Subcontractor shall obtain and/or document such authorization from each assigned Member, including sharing of protected health information (PHI), and shall confirm it has obtained such authorization to ILS.
- (i) Member authorization for Community Supports-related data sharing is not required for Subcontractor to initiate delivery of Services unless such authorization is required by state or federal law. Subcontractor will be reimbursed only for Services that are Authorized by ILS and or Health Plan. In the event of a Member requesting services not yet Authorized by ILS, Subcontractor shall send prior authorization request(s) to ILS, unless a different agreement is in place.

3.3. **Identification of Members who May Benefit from Community Supports.** ILS shall identify individuals who may benefit from Community Supports and for whom Community Supports will be a medically appropriate and cost-effective substitute for State Plan Covered Services. Subcontractor is encouraged to identify Members who would benefit from Community Supports and send a request to ILS to determine if the Member is eligible for Community Supports, consistent with ILS's process for such request. Subcontractor is encouraged to identify additional Community Supports the Member may benefit from.

3.4. **Requests for Community Supports.** ILS shall accept requests for Community Supports Services from Members and on behalf of Members from providers and organizations that serve them, including community-based organizations.

3.5. **Authorization.** ILS and/or Health Plan shall authorize the provision of Community Supports Services by Subcontractor, for Members deemed eligible pursuant to the Policies and Procedures.

3.6. **Timeliness.** Subcontractor shall comply with ILS and/or Health Plan's Policies and Procedures regarding the timeliness of the provision of Community Supports Services.

3.7. **Transition Planning.** If a Community Supports service is discontinued for any reason, Subcontractor shall support transition planning for the Member into other programs or services that meet their needs.

3.8. **Training.** Subcontractor shall participate in all mandatory Community Supports training and technical assistance provided or arranged by ILS, as necessary.

4. **Additional Responsibilities.** The following terms clarify the responsibilities described in the Agreement and the Policy Guide as applicable to the Community Supports Services identified as being provided by Subcontractor in Section 3.1 of this Schedule 4.3.

4.1. Subcontractor shall provide the Services utilizing best practices for Members who are experiencing homelessness and/or who have complex health, disability, and/or behavioral health conditions, including Housing First, Harm Reduction, Progressive Engagement, Motivational Interviewing, and Trauma-Informed Care.

4.2. Subcontractor will comply with any operational policies, workflows, or other Policies and Procedures regarding the provision of any Community Supports Services.

4.3. **Housing Navigation Transition Services.**

- (a) Subcontractor shall coordinate with County Housing Services in searching for housing and presenting options and will process/enroll Members into the County Coordinated Entry Systems (CES).
  - (b) When identifying, coordinating, securing, or funding non-emergency, nonmedical transportation, Subcontractor may use Health Plan non-medical transportation and accompany the Member. Subcontractor and its employees, subcontractors, and agents are prohibited from transporting Members in private vehicles.
  - (c) Subcontractor will obtain pre-approval from ILS when identifying and coordinating environmental modifications to install necessary accommodations for accessibility. Member must be approved for this service under Housing Modifications.
- 4.4. **Housing Deposits.** All expenditures related to housing deposits must be pre-approved by ILS and/or Health Plan. All expenditures are limited to those items listed in the Policy Guide.
- 4.5. **Housing Tenancy and Sustaining Services.** The determination of the termination of housing tenancy and sustaining services shall be made in collaboration with the ILS Lead Care Manager.
- 4.6. **Short-Term Post-Hospitalization Housing.** Subcontractor shall coordinate with ILS for housing navigation services, as appropriate, to prepare Members to transition from short-term post-hospitalization housing to more permanent housing.
- 4.7. **Recuperative Care.** Subcontractor shall coordinate with ILS for housing navigation services if appropriate for Members receiving recuperative care, as determined by ILS.
- 4.8. **[Nursing Facility Transition/Diversion to Assisted Living Facilities, such as Residential Care Facilities for Elderly and Adult Residential Facilities. Reserved.]**
- 4.9. **Community Transition Services/Nursing Facility Transition to a Home.** All expenditures must be pre-approved by ILS and/or the Health Plan.
- 4.10. **Environmental Accessibility Adaptations (Home Modifications).** All expenditures, including those associated with home visit(s), must be pre-approved by ILS and/or the Health Plan.
- 4.11. **Sobering Centers.**
- (a) Subcontractor shall identify Members with emergent physical health conditions and arrange transport to a hospital or other appropriate source of medical care.
  - (b) Subcontractor shall obtain written consent from the Member prior to releasing any information as required by 42 CFR Part 2 “Confidentiality of Substance Use Disorder Patient Records.” This consent must be either provided to ILS before Subcontractor sends any Member information to ILS and/or Health Plan or attached to any Member information sent to ILS and/or Health Plan.
- 4.12. **Asthma Remediation.** All expenditures, including those associated with home visit(s), must be pre-approved by ILS and/or Health Plan.
- 4.13. **Day Habilitation Programs.** The determination of the termination of day habilitation services shall be made in collaboration with the ILS Lead Care Manager.



4.14. **Personal Care and Homemaker Services.** Subcontractor shall coordinate with ILS for Personal Care and Homemaker Services if appropriate for Members who are eligible for and/or receiving In-Home Support Services.

4.15. **Respite Services.** All expenditures related to services rendered must be pre-approved by ILS and/or Health Plan.

4.16. **Medically Tailored Meals/Medically-Supportive Food.** The determination of eligibility for medically tailored meals and medically-supportive food shall be made in collaboration with the Lead Care Manager.

5. **Billing and Payment.** The following terms supplement Article IV (Billing and Payment) of this Agreement:

5.1. **Payment for Community Supports Services**

- (a) Subcontractor shall record, generate, and send a claim or invoice to ILS for Services rendered.
  - (i) If Subcontractor submits claims for Community Supports Services, Subcontractor shall submit claims to ILS using specifications based on national standards and code sets to be defined by DHCS.
  - (ii) In the event Subcontractor is unable to submit claims to ILS for Community Supports Services using specifications based on national standards or DHCS-defined standard specifications and code sets, Subcontractor shall submit invoices with minimum necessary data elements defined by DHCS, which includes information about the Member, the Community Supports Services rendered, and Subcontractors' information to support appropriate reimbursement by ILS, that will allow ILS to convert the Community Supports invoice information into DHCS-defined standard specifications and code sets for submission to DHCS.
- (b) Subcontractor shall not receive payment from ILS for the provision of any Community Supports Services not Authorized by ILS.
- (c) Subcontractor must have a system in place to accept payment from ILS for Community Supports Services rendered.
  - (i) ILS shall pay 90 percent of all Clean Claims and invoices within 30 days of receipt and 99 percent of Clean Claims and invoices within 90 days of receipt.
  - (ii) ILS will provide expedited payments for urgent Community Supports (e.g., recuperative care services for an individual who no longer requires hospitalization, but still needs to heal from an injury or illness, including behavioral health conditions, and whose condition would be exacerbated by an unstable living environment), pursuant to the Medi-Cal Contract and any other related DHCS guidance.

5.2. **Authorization.** Authorization is required for payment of Community Supports Services. ILS's obligation to compensate Subcontractor is commensurate with the scope and duration of the

Authorization. Compensation for Community Supports Services provided to Members is payable to Subcontractor only if the Community Supports Services are covered by an Authorization that has neither expired nor been terminated as of the date(s) of service, and Subcontractor has strictly satisfied its responsibilities in Articles II and III of the Agreement.

6. **Records and Confidentiality.** The following terms supplement Article V (Records and Confidentiality) of the Agreement.

6.1. **Data Sharing to Support Community Supports.**

- (a) Consistent with federal, state and, if applicable, local privacy and confidentiality laws, Subcontractor shall have access to:
  - (i) Demographic and administrative information confirming the referred Member's eligibility and Authorization for the requested service;
  - (ii) Appropriate administrative, clinical, and social service information Subcontractor might need to effectively provide the requested service; and
  - (iii) Billing information necessary to support Subcontractor's ability to submit claims or invoices to ILS.

6.2. **Creation and Maintenance of Records.** Subcontractor shall keep, maintain, and make its records and documents available as are necessary to disclose fully the type and extent of Community Supports Services provided to a Medi-Cal Member. In addition, Subcontractor shall maintain such records and documents necessary to disclose how Subcontractor discharged its obligations under this Agreement. These records and documents shall disclose the quantity of Services provided under this Agreement, the quality of those services, the manner and amount of payment made for those services, the persons eligible to receive Services, the manner in which Subcontractor administered its daily business, and the cost thereof.

6.3. **Certification of Accuracy of Data.** Subcontractor recognizes that ILS is required to certify the accuracy, completeness and truthfulness of data that Officials request. Such data may include encounter data, payment data, and any other information provided to ILS by its providers. Subcontractor hereby represents and warrants that any such data submitted to ILS by Subcontractor shall be accurate, complete and truthful. Upon ILS's request, Subcontractor shall make such certification in the form and manner specified by ILS in order to meet ILS's legal, regulatory, accreditation and contractual requirements.

7. **Quality and Oversight.** The following terms supplement Article VI (Compliance and Oversight) of the Agreement.

7.1. **General.** Subcontractor represents and warrants that it is currently and for the term of this Agreement shall remain (a) appropriately licensed and otherwise permitted to provide the Community Supports Services, without additional oversight by any officials with jurisdiction (or other parties at the direction of any such officials); (b) in compliance with all applicable Law, professional codes of ethics or standards of practice; and (c) in compliance with all operational protocols (including, without limitation, specific Laws and guidance related to infection prevention and controls, and vaccination, for communicable diseases and infections, as required by Law.

7.2. **Community Supports Quality and Oversight.**

- (a) Subcontractor acknowledges ILS will conduct oversight of its delivery of Community Supports to ensure the quality of services rendered and ongoing compliance with all legal and contractual obligations both ILS and Subcontractor have, including, but not limited to, required reporting, audits, and corrective actions, among other oversight activities.
- (b) Subcontractor shall respond to all ILS requests for information and documentation to permit ongoing monitoring of Community Supports Services.

7.3. **Electronic Visit Verification.** As applicable in connection with the provision of personal care services and home health care services in a Member's home, Subcontractor shall comply with all Laws relating to electronic visit verification, and all other sub-regulatory guidance, instructions, advice, contractual specifications or requirements issued by DHCS, Officials or ILS, as the same may be amended, supplemented or revised. Subcontractor's failure to comply with any such Laws or requirements may result in non-compliance action imposed by DHCS, Officials or ILS and/or Health Plan, including, without limitation, a corrective action plan, denial of payment for Services rendered during the period of non-compliance, enrollment or monetary sanctions, or other remedial action, as deemed appropriate.

7.4. **Telehealth.** Subcontractor shall ensure all Services provided via telehealth comply with applicable Law and DHCS Program requirements, including those telehealth requirements set forth in the DHCS Provider Manual. Without limiting the generality of the foregoing, Subcontractor shall ensure the Member's consent to the use of telehealth is documented in the Member's medical record, which shall be made available to ILS and/or Health Plan and DHCS upon request.

7.5. **Reporting and Monitoring.** Subcontractor shall provide documentation and reports, including, without limitation, monthly member contact and individual progress reports, outreach status and action plans, consistent with Law and with the Policies and Procedures.

## **SCHEDULE 5**

### **FACILITIES**

This Schedule 5 incorporates by reference, as applicable, a listing of (i) the name, location, and address of each physical site (Facility) at which Subcontractor provide Services to Members under this Agreement, and (ii) related Subcontractor information as reasonably requested by ILS from time to time to administer this Agreement. Prior to execution of this Agreement and thereafter upon request by ILS, Subcontractor shall (i) complete a Subcontractor Profile Information Form (“PPIF”), (ii) ensure that an individual with fully granted signature authority signs such PPIF, and (iii) deliver such PPIF to ILS. ILS reserves the right to modify the format and/or change the information required on the PPIF from time to time.

Subcontractor shall not use any Facility to provide Services to a Member under this Agreement unless and until such Facility meets the conditions specified in Article VI (Compliance) of the Agreement and any conditions specified in the Policies and Procedures. In the event that Subcontractor intends to amend the information set forth below, it shall give ILS at least forty-five (45) calendar days’ prior notice of any intended addition, deletion or substitution of Facilities. Whether or not Subcontractor has properly notified ILS about the Facilities at which Subcontractor provides Services to Members under this Agreement, this Agreement shall be deemed to apply to all Facilities where Services are provided to Members.

The following Facilities, identified by name and address, shall be used to provide Services to Members under this Agreement:

Legal Name	
D.B.A. (Doing Business As)	
Physical Address:	
City	
State	
Zip Code	
Tax Identification No. (TIN)	
NPI	
Public Phone Number	
Medicare No.	
Medi-Cal No.	
License No. (CA. or Business)	

## **SCHEDULE 6**

### **BILLING AND PAYMENT**

In accordance with the provisions of Article IV (Billing and Payment) and this Schedule 6, Subcontractor shall be paid for Covered Services rendered to Members. The subexhibit(s) listed below and attached to this Schedule 6 describe(s) billing instructions and compensation rates/ payment terms for Covered Services provided under this Agreement. If any Services could be classified under more than one subexhibit attached to this Schedule 6, ILS shall determine in its sole discretion which of the attached subexhibits shall govern the payment for those Services.

SCHEDULE 6.3

BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT  
RATES FOR COMMUNITY SUPPORTS SERVICES



**SCHEDULE 6.3**

**BILLING INSTRUCTIONS AND COMPENSATION / PAYMENT RATES**  
**FOR COMMUNITY SUPPORTS SERVICES**

Provider will bill for the corresponding service and receive reimbursement for the corresponding county.

Counties	Housing Transition Navigation Services	Housing Tenancy and Sustaining Services	Housing Deposits	Short-Term Post- Hospitalization Housing
See Schedule 2	\$386.00 PMPM	\$440.00 PMPM	<i>shall be reimbursed on a prior-approved, per case basis, not to exceed Member's lifetime benefit maximum of \$5,000.</i>	\$97.00 Per Diem

## **SCHEDULE 7**

### **MEDI-CAL PROGRAM COMPLIANCE**

The following additional provisions are required by Law and/or Membership Agreements between a Health Plan and the California Department of Health Care Services (“DHCS”) (such contract referenced herein as the “Medi-Cal Contract”), and govern the delivery of Covered Services to Members who are entitled to Covered Services pursuant to the Medi-Cal Contract (“Medi-Cal Members”) as of the effective date required by Law, the Medi-Cal Contract or DHCS. The parties acknowledge that this Agreement specifies the Services to be provided, ordered, referred, or rendered by ILS, Subcontractor, the method and amount of compensation, and the term of the Agreement, including the beginning and ending dates, methods of extension, renegotiation, phaseout, and termination. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(1)-(3), 3.1.6(B)(1)-(3); DHCS All Plan Letter 19-001; 22 CCR §§ 53250(c) and (e)] The parties further acknowledge that this Agreement shall be governed by and construed in accordance with all applicable Law and the Medi-Cal Contract, Including 42 CFR § 438.230, Knox-Keene Health Care Services Plan Act of 1975, Health and Safety Code Section 1340 *et seq.* (unless expressly excluded under the Medi-Cal Contract); 28 CCR Section 1300.43 *et seq.*; Welfare and Institutions Code Sections 14000 and 14200 *et seq.*; 22 CCR Section 53800 *et seq.* [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(4), 3.1.6(B)(7); DHCS All Plan Letter 19-001; 22 CCR § 53250(c)] In the event of a conflict or inconsistency with any term or condition in the Agreement relating to Covered Services rendered to Medi-Cal Members, this Exhibit shall control.

#### **I. Services for Medi-Cal Members.**

(A) ILS and Subcontractors shall provide Covered Services required by and in accordance with the Medi-Cal Contract for Medi-Cal Members. Covered Services shall be readily available and accessible, and shall meet or exceed the Health Plan standards (Including access standards) for medical practice approved by DHCS. [Medi-Cal Contract Exhibit A, Attachment III, §§ 5.2.1, 5.2.5; 28 CCR§ 1300.67.2] ILS shall notify KP one hundred twenty (120) days prior to making changes in the availability or location of Covered Services provided to Medi-Cal Members under this Agreement. [Medi-Cal Contract Exhibit A, Attachment III, § 5.2.9(A)]

(B) If ILS provides family planning services, ILS acknowledges that Medi-Cal Members have the right to access family planning services through any family planning provider without prior authorization. As applicable, ILS shall provide family planning services in a manner that ensures Medi-Cal Members the freedom to choose their preferred method of family planning consistent with 42 CFR § 441.20. [Medi-Cal Contract Exhibit A, Attachment III, § 5.2.8(A)(1)]

#### **II. Reports, Maintenance and Availability of Records.**

(A) ILS shall keep, maintain, and make its records and documents available as are necessary to disclose fully the type and extent of Covered Services provided to a Medi-Cal Member, Including working papers reports to DHCS, financial records, medical records, medical charts and prescription files, encounter data, and other documentation pertaining to medical and non-medical services rendered to Medi-Cal Members. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(8)-(9), 3.1.6(B)(13)-(14), Exhibit E, § 1.22(A)(1); 22 CCR § 53250(c)]

In addition, ILS shall maintain such records and documents necessary to disclose how ILS discharged its obligations under this Agreement. These records and documents shall disclose the quantity of Covered Services provided under this Agreement, the quality of those services, the manner and amount of payment made for those services, the persons eligible to receive Covered

Services, the manner in which ILS administered its daily business, and the cost thereof [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(7), 3.1.6(A)(9), 3.1.6(B)(12), 3.1.6(B)(14), Exhibit E, § 1.22(A)(1)]

(B) ILS shall develop and submit reports as required to satisfy KP's obligations under applicable Law related to the Medi-Cal Program and the Medi-Cal Contract. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(6), 3.1.6(B)(10); DHCS All Plan Letter 19-001; 22 CCR § 53250(c)] If requested by KP, ILS shall attest to the accuracy, truthfulness, and completeness of reports, data, or documentation provided to KP. [Medi-Cal Contract Exhibit A, Attachment III, §§ 2.1.5, 2.1.6(D), 3.1.6(A)(6), 3.1.6(B)(10); DHCS All Plan Letter 17-005; 42 CFR § 438.606]

(C) ILS, or its Subcontractors, as applicable, shall submit complete, accurate, reasonable, and timely claims, provider data, and encounter data to KP to enable KP to meet its administrative functions and data reporting and other applicable requirements under the Medi-Cal Contract. All encounter data shall be submitted to KP no later than 12 months from the date of service. [Medi-Cal Contract Exhibit A, Attachment III, §§ 2.1.1, 2.1.2, 2.1.4, 2.1.5, 2.1.6(D), 3.1.6(A)(6), 3.1.6(B)(10); 42 CFR §§ 438.242 and 438.606; DHCS All Plan Letters 16-019, 19-001 and 20-017]

(D) ILS shall collect and disclose information regarding its officers, owners, stockholders owning more than five percent of the stock issued by ILS, and major creditors holding more than five percent of the debt of ILS, and such other information KP may be required to provide to Government Officials by Law or under the Medi-Cal Contract. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.12; Welfare and Institutions Code § 14452(a); 22 CCR § 51000.35; 42 CFR § 438.608(c)] ILS shall provide to KP written disclosure of (i) information relating to the ownership and control of ILS as required under 42 CFR § 438.608(c)(2) and Part 455, Welfare and Institutions Code § 14452(a), and 22 CCR § 51000.35 and (ii) any prohibited affiliations under 42 CFR § 438.610, at the times required by such authorities. Such information shall also be provided to KP a) upon request by KP, b) when any such information previously disclosed to KP has changed, or c) when such disclosures are required by 42 CFR § 455.104. Such information may be made available by KP to DHCS upon DHCS' request. [42 CFR §§ 438.608(c)(2) and 438.610; 42 CFR Part 455; Medi-Cal Contract Exhibit A, Attachment III, §§ 1.1.2, 1.3.5.B; DHCS All Plan Letter 23-006]

(E) Pursuant to 42 CFR § 438.3(h), DHCS, CMS, the DHHS Office of the Inspector General, the Comptroller General, the United States Department of Justice, the Division of Medi-Cal Fraud & Elder Abuse, DMHC, the External Quality Review organization contractor, and all other agencies authorized under state and federal law ("Authorized Agencies"), and their duly authorized representatives or designees may, at any time, inspect and audit any of ILS's, or its Subcontractors', records or documents and may, at any time, inspect, evaluate and audit the premises, physical facilities, and equipment where Medi-Cal-related activities or work is conducted. The right to audit under this Section exists for ten (10) years from the final date of the Medi-Cal Contract period or from the date of completion of any audit, whichever is later. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(8), 3.1.6(B)(13), Exhibit E, § 1.22; 22 CCR §§ 53250(c)(2), 53867]

(F) ILS shall make all of its premises, facilities, equipment, books, records, contracts, computer and other electronic systems pertaining to the Covered Services ordered, referred, or rendered under this Agreement, available for the purpose of an audit, inspection, evaluation, examination, or copying as required by Law or the Medi-Cal Contract, through ten (10) years

from the final date of the Medi-Cal Contract period or from the date of completion of any audit, whichever is later: [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(8); 42 CFR § 438.3(h); 22 CCR § 53250(e); DHCS All Plan Letter 19-001]

(1) In accordance with inspections and audits, as directed by DHCS, CMS, DHHS Inspector General, the Comptroller General, Department of Justice (“DOJ”), DMHC, or their designees [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(8)(a); DHCS All Plan Letter 19-001];

(2) At all reasonable times at ILS’s place of business, or at such other mutually agreeable location in California. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(8)(b); Welfare and Institutions Code § 14452(c); DHCS All Plan Letter 19-001]

(G) ILS shall maintain all of its books and records, including encounter data, in accordance with good business practices and generally accepted accounting principles for a term of at least ten (10) years from the final date of the Medi-Cal Contract period or from the date of completion of any audit, whichever is later, and shall maintain records as specified in 42 CFR Section 438.3(u). [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(9), 3.1.6(B)(14), Exhibit E, § 1.22(A)(2); DHCS All Plan Letter 19-001; Welfare and Institutions Code § 14124.1]

(H) (1) If DHCS, CMS, or the DHHS Inspector General determines there is a reasonable possibility of fraud or similar risk, DHCS, CMS, or the DHHS Inspector General may inspect, evaluate, and audit ILS at any time. [DHCS All Plan Letter 19-001]

(2) While under investigation upon a credible allegation of fraud or placed on a temporary suspension, KP may suspend payments under this Agreement, suspend or exclude the participation of a Practitioner or Facility under this Agreement or terminate this Agreement. [Medi-Cal Contract Exhibit A, Attachment III, § 1.3(4)(D); DHCS All Plan Letters 15-026 and 21-003; 42 CFR § 455.23 and 438.608(a)(8); Welfare and Institutions Code §§ 14107.11, 14043.36] Upon resolution of a full investigation of fraud, DHCS reserves the right to suspend or terminate ILS from participation in the Medi-Cal program, seek recovery of payments made to ILS, impose other sanctions provided under the State Plan, and direct KP to terminate this Agreement due to fraud. [DHCS All Plan Letter 19-001]

(3) ILS is not entitled to payment for services that ILS provides to Medi-Cal Members for any period during which ILS is decertified, suspended (including any payment suspension or temporary suspension), terminated, excluded from the Medi-Cal program, or listed in any Suspended and Ineligible ILS List, Restricted ILS Database, or restricted federal database (the Social Security Administration’s Death Master File, the National Plan and ILS Enumeration System (NPPES), the List of Excluded Individuals/Entities (LEIE), the System for Award Management (SAM), and any other databases as DHCS or DHHS may prescribe) (collectively, “State or Federal Databases”), as these services are not eligible to receive state or federal Medi-Cal reimbursement (from KP or otherwise). ILS may not collect payment from Medi-Cal Members for services rendered for any period during which ILS is decertified, suspended (including any payment suspension or temporary suspension), terminated, excluded from the Medi-Cal program, or listed in any State or Federal Databases. KP may recoup any payments made to ILS to which ILS is not entitled for any services provided by ILS during the period in which ILS was decertified, suspended (including any payment suspension or temporary suspension), terminated, excluded from the Medi-Cal program, or listed in any

State or Federal Databases. [42 CFR § 438.608(d)(2); DHCS All Plan Letter 21-003]

(4) ILS shall notify KP upon receiving notice of decertification, suspension (Including any payment suspension or temporary suspension), termination, exclusion, or being listed on any State or Federal Databases. [DHCS All Plan Letter 21-003]

(I) ILS shall maintain and make available to DHCS, upon request, copies of all ILS's Subcontracts related to ordering, referring, or rendering Covered Services under this Agreement and ensure that all such Subcontracts are in writing and impose the requirements of section II(F) and (G) on any Subcontractor. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(7); 22 CCR § 53250(e)(3); DHCS All Plan Letter 19-001]

(J) ILS shall permit state and federal agencies to visit and inspect the premises upon their request, as required by Law or the Medi-Cal Contract. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6.A.8, 3.1.6.B.13, Exhibit E, 1.22(B)(2)]

(K) ILS shall comply with KP's process, timeframes, and documentation requirements related to overpayments. Overpayments include any payments ILS receives from KP to which ILS is not entitled to under Title XIX of the Social Security Act. ILS must report directly to KP, or KP's Medi-Cal Subcontractor if applicable, when it has received an overpayment under this Agreement and return such overpayment to KP or its Medi-Cal Subcontractor if applicable, within sixty (60) calendar days of the date the overpayment was identified. ILS shall also notify KP or its Medi-Cal Subcontractor if applicable, in writing of the reason for the overpayment in accordance with the Medi-Cal Contract overpayment recovery provisions and 42 CFR §438.608(d)(2). [DHCS All Plan Letter 17-003; Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(19), 3.1.6(B)(27); 42 CFR § 438.608(d)(2)]

(L) If requested by KP or DHCS, ILS shall provide documentation of ILS's financial viability. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.1, 3.1.7]

### **III. No Recourse Against Medi-Cal Members.**

(A) ILS shall hold harmless the State of California, other Medi-Cal plans, and Medi-Cal Members and persons acting on a Medi-Cal Member's behalf, in the event KP or, if applicable, a Medi-Cal Subcontractor, cannot or will not pay for Covered Services performed, ordered, referred, or rendered by ILS or its Subcontractors pursuant to the Agreement. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(13); 22 CCR § 53250(e); DHCS All Plan Letter 19-001]

(B) ILS agrees to hold harmless Medi-Cal Members if Medi-Cal Laws or the Medi-Cal Contract provide for insufficient funding to cover program benefits. ILS is prohibited from balance billing a Medi-Cal Member. Notwithstanding anything to the contrary in this Agreement, ILS shall not submit a claim, bill, or demand, or otherwise seek or collect reimbursement for Covered Services provided under this Agreement or for missed or canceled appointments from any Medi-Cal Member or any person acting on behalf of any Medi-Cal Member, except as expressly authorized by the Agreement, Law, or DHCS. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(13), (A)(14); Welfare and Institutions Code § 14019.3(d); 22 CCR § 53220; DHCS All Plan Letter 19-001]

(C) If ILS is a federally qualified health center, a rural health clinic, or other clinic, ILS agrees that the negotiated and agreed-upon rates, subject to the terms in the Agreement, constitute complete reimbursement and payment in full from KP for the Covered Services rendered to



Medi-Cal Members. [Exhibit A, Attachment III, § 3.1.8]

IV. **Compliance with Laws.**

(A) ILS shall comply with and ensure its Subcontractors comply with (1) all DHCS Medi-Cal Managed Care Program requirements and standards applicable to Medi-Cal providers; (2) any requirements imposed upon KP by federal and state laws and regulations, DHCS Medi-Cal Managed Care Policy and All-Plan Letters and sub-regulatory guidance, and through the Medi-Cal Contract and subsequent amendments; and (3) KP's compliance program and policies implementing said requirements and standards. [42 CFR § 438.608(a); Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(5); DHCS All Plan Letter 19-001]

(B) Without limitation, ILS shall not discriminate against any Medi-Cal Member on the basis of race, color, age, sex, gender identity, religion, creed, ancestry, national origin, language, physical or mental disability or handicap, marital status, sexual orientation, health status, identification with any other persons or groups defined in Penal Code Section 422.56, or any reason in violation of Title VI of the Civil Rights Act of 1964 (42 USC § 2000(d) and implementing rules and regulations) and shall provide Covered Services in a culturally and linguistically appropriate manner. [Medi-Cal Contract Exhibit A, Attachment III, §§ 2.2.6(F), 5.2.10(B)(3), Exhibit E, § 1.30(A)]

(1) ILS shall take affirmative action to ensure that Medi-Cal Members are provided Covered Services without regard to race, color, national origin, creed, ancestry, religion, language, age, marital status, sex, sexual orientation, gender identity, health status, or physical or mental disability or handicap, or identification with any other persons or groups defined in Penal Code Section 422.56, except where medically indicated. [Medi-Cal Contract Exhibit A, §§ 2.2.6(F), 5.2.10, Exhibit E, § 1.30(B)]

(2) ILS agrees that copies of all grievances it receives alleging discrimination against Medi-Cal Members or eligible beneficiaries because of race, color, national origin, creed, ancestry, religion, language, age, marital status, sex, sexual orientation, gender identity, health status, physical or mental disability, or identification with any other persons or groups defined in Penal Code Section 422.56, shall be forwarded to KP for review and appropriate action. [Medi-Cal Contract Exhibit A, Attachment III, § 4.6.2, Exhibit E, § 1.30; 28 CCR §§ 1300.68(a)(1-2) and (f)(2)(D)]

(C) ILS shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment and shall take affirmative action to ensure that qualified applicants are employed, and that applicants and employees during employment, are treated without regard to their race, color, religion, sex, national origin, ancestry, mental handicap or disability, physical disability (Including HIV, AIDS, ARC), medical condition (Including cancer), age (over 40), marital status, status as a disabled veteran or veteran of the Vietnam era, or denial of family care leave. 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 career development opportunities and selection for training, Including apprenticeship. ILS agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the federal government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973 and the affirmative action clause required by the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 § USC 4212). Such notices shall state ILS's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without

discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees. [Medi-Cal Contract Exhibit D(f), § 1(a), Exhibit E, § 1.28]

(D) ILS shall, in all solicitations or advertisements for employees placed by or on behalf of ILS, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. [Medi-Cal Contract Exhibit D(f), § 1(b)]

(E) ILS shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice, to be provided by the federal government or the State of California, advising the labor union or workers' representative of ILS's commitments under the provisions herein and shall post copies of the notice in conspicuous places available to employees and applicants for employment. [Medi-Cal Contract Exhibit D(f), § 1(c)]

(F) ILS shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 and implementing regulations in 2 CCR § 7285 et. seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990(a-f), set forth in Chapter 5 of Division 4.1, Title 2 CCR, are incorporated into this Agreement by reference and made part hereof as if set forth in full. [Medi-Cal Contract Exhibit E, § 1.28(D)]

(G) ILS shall ensure that any facilities owned, occupied, or operated by ILS are licensed, accredited (where applicable), in compliance with licensing standards, and in compliance with all applicable local, state, and federal standards, including fire and safety standards, and conduct proper sterilization and disinfection of equipment. [22 CCR § 53230]

(H) In compliance with Section 14115.75 of the California Welfare and Institutions Code, ILS shall comply with the federal False Claims Act employee training and policy requirements in 42 USC § 1396a(a)(68), and ILS shall cooperate with KP's establishment and dissemination of similar written policies for employees and contractors, which policies provide information about the federal False Claims Act, other administrative remedies for false claims under federal law, any state and civil or criminal penalties for false claims, and any whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in federal health benefit programs.

(I) ILS shall comply with all provisions of and furnish all information and reports required by Section 503 of the Rehabilitation Act of 1973, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 USC § 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 CFR 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor" and of the rules, regulations, and relevant orders of the Secretary of Labor. [Medi-Cal Contract Exhibit D(f), § 1(d)]

(J) ILS shall furnish all information and reports required by Federal Executive Order No. 11246 as amended, including by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 CFR 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and the Rehabilitation Act of 1973, and by the rules, regulations, and

orders of the Secretary of Labor, or pursuant thereto, and ILS shall permit access to its books, records, and accounts by the State of California and its designated representatives and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders. [Medi-Cal Contract Exhibit D(f), § 1(e)]

(K) ILS shall comply with all applicable federal requirements in Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972 (regarding education programs and activities, as amended); the Age Discrimination Act of 1975; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act of 1990, as amended; and Section 1557 of the Patient Protection and Affordable Care Act. [Medi-Cal Contract Exhibit E, § 1.29(A)]

(L) In the event of ILS's noncompliance with the requirements of the provisions herein or with any federal rules, regulations, or orders which are referenced herein, this Agreement may be cancelled, terminated, or suspended in whole or in part, and ILS may be declared ineligible for further federal and state contracts in accordance with procedures authorized in Federal Executive Order No. 11246 as amended and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246 as amended, including by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 CFR 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by Law. [Medi-Cal Contract Exhibit D(f), § 1(f)]

(M) ILS shall not take any punitive action of any kind against a Practitioner or Subcontractor who either requests an expedited review of a Medi-Cal Member's Complaint or supports a Medi-Cal Member's appeal of KFHP's determination regarding such Complaint. [Medi-Cal Contract Exhibit A, Attachment III, § 3.27]

(N) As applicable in connection with the provision of personal care Services and home health care Services in a Medi-Cal Member's home, ILS shall comply with all Laws relating to electronic visit verification, and all other sub-regulatory guidance, instructions, advice, contractual specifications or requirements issued by DHCS, Government Officials or KP, as the same may be amended, supplemented or revised. ILS's failure to comply with any such Laws or requirements may result in non-compliance action imposed by DHCS, Government Officials or KP, including a corrective action plan, denial of payment for Services rendered during the period of non-compliance, enrollment or monetary sanctions, or other remedial action, as deemed appropriate by DHCS, Government Officials or KP. [Welfare and Institutions Code § 14043.51; DHCS All Plan Letter 22-014]

## **V. Other Requirements.**

(A) In the event of termination of a Medi-Cal Contract, ILS agrees to assist KP, DHCS, or, if applicable, a Medi-Cal Subcontractor, in the transfer of care of Medi-Cal Members pursuant to the applicable Medi-Cal Contract phaseout provisions. Further if a Subcontract with a provider who is providing Services to a Medi-Cal Member is terminated for any reason, ILS agrees to assist KP, DHCS, or a Medi-Cal Subcontractor in the transfer of care of the Medi-Cal Member. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(11), 3.1.6(B)(16); DHCS All Plan Letter 19-001]

(B) ILS agrees to timely gather, preserve and provide to KP, DHCS, CMS, Attorney General's Division of Medi-Cal Fraud and Elder Abuse (DMFEA), and any authorized State or federal regulatory agencies, any records in its possession, in accordance with the Medi-Cal

Contract provisions governing records related to recovery for litigation. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(10), 3.1.6(B)(15); DHCS All Plan Letter 19-001]

(C) ILS agrees to provide language assistance services, Including interpreter services and translation services for Medi-Cal Members, and to comply with the language assistance standards developed pursuant to Health & Safety Code § 1367.04. [Welfare and Institutions Code § 14029.91; Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(17); DHCS All Plan Letter 19-001]

(D) ILS agrees to participate and cooperate in KP's Quality Improvement System, Including participation in KP quality programs, initiatives and committees. [Medi-Cal Contract Exhibit A, Attachment III, §§ 2.2.4, 3.1.6.B.19; DHCS All Plan Letter 19-001]

(E) Smoke-Free Workplace Certification – ILS certifies that to the extent applicable it shall comply with the requirements of the U.S. Pro-Children Act of 1994 (20 USC § 6081 *et seq.*) and shall therefore not allow smoking within any portion of any indoor facility used for the provision of health services for children. [Medi-Cal Contract Exhibit D(f), § 21]

(F) Debarment and Suspension Certification – ILS agrees to comply with applicable federal suspension and debarment regulations, Including 7 CFR § 3017, 45 CFR § 76, 40 CFR § 32, 34 CFR § 85. [Medi-Cal Contract Exhibit D(f), § 20; the terms and definitions herein have the meanings set out in 2 CFR Part 180 as supplemented by 2 CFR Part 376] ILS certifies to the best of its knowledge and belief that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal or state department or agency.

(2) Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated herein.

(3) Have not within a three-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default.

(4) Shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under federal regulations (i.e., 48 CFR § 9, subpart 9.4), debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction, unless authorized by the State of California.

(G) ILS acknowledges that KP has advised it of its right to submit a grievance under KP's formal process for resolving provider grievances. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(20), 3.2.2; DHCS All Plan Letter 19-001]

(H) ILS shall report ILS-Preventable Conditions (conditions occurring in an inpatient hospital setting, or a condition occurring in any health care setting, that meets the criteria as stated in 42

CFR § 447.26(b)) in accordance with applicable Law and DHCS requirements and as directed by KP. KP shall not pay any claims nor reimburse for a ILS-Preventable Condition. [42 CFR §§ 447.26 and 434.6; DHCS All Plan Letter 17-009; Medi-Cal Contract Exhibit A, Attachment III, § 3.3.17]

(I) ILS shall comply with all monitoring provisions of the Medi-Cal Contract and any monitoring requests by DHCS. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(11); DHCS All Plan Letter 19-001]

(J) ILS shall implement and maintain written policies and procedures respecting advance directives in accordance with the requirements of 42 CFR §§ 422.128 and 438.3(j).

(K) If ILS has not already enrolled in Medi-Cal through DHCS' Medi-Cal Fee-For-Service enrollment process and ILS provides services to Medi-Cal patients under this Agreement, ILS shall enroll through DHCS' provider enrollment process or through KP's or another managed care plan's internal provider enrollment process if such an internal enrollment process is available. ILS shall maintain enrollment in good standing in Medi-Cal throughout the term of this Agreement. ILS shall notify KP immediately when it has been denied enrollment through one of these enrollment processes and when it has been enrolled through another managed care plan's internal provider enrollment process. [DHCS All Plan Letter 22-013; 42 CFR § 438.602(b)]

(L) ILS shall cooperate with KP's Medi-Cal credentialing, re-credentialing, screening, and enrollment processes, as applicable, and shall provide any documentation requested by KP or DHCS related to these processes. [DHCS All Plan Letter 22-013; Medi-Cal Contract Exhibit A, Attachment III, § 1.3.3]

(M) ILS acknowledges that KP will provide cultural competency, sensitivity, health equity, and/or diversity training, and agrees that its employees and staff at key points of contact with Medi-Cal Members shall complete any such training required by KP. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(16), 3.1.6(B)(24); DHCS All Plan Letter 19-001]

(N) ILS acknowledges that it has completed, and agrees it will continue to complete, the required training regarding Medi-Cal managed care program to ensure it operates in full compliance with the DHCS Medi-Cal Managed Care Program requirements and all applicable Law in the form specified by KP. ILS agrees that, upon request and consistent with applicable Law, it will confirm in writing timely completion of the training in accordance with Medi-Cal requirements. [Medi-Cal Contract Exhibit A, Attachment III, § 3.2.5]

(O) To the extent applicable, if a Medi-Cal Member seeks or requires mental health services, including behavioral health assessments, that are beyond the scope of practice of ILS or its Subcontractors, ILS or its Subcontractors shall cooperate with KP to refer the Medi-Cal Member to an appropriate provider in the KP provider network for such mental health care services. In addition, ILS and its Subcontractors shall cooperate with KP to refer adult Medi-Cal Members with significant impairment resulting from a covered mental health diagnosis, and Medi-Cal Members under age 21 according to criteria that are found in the Medi-Cal ILS Manual, to the county Mental Health Plan ("MHP"). ILS further agrees to refer the adult Medi-Cal Members to the county MHP for further assessment when the Medi-Cal Member has a significant impairment, but the diagnosis is uncertain. [DHCS All Plan Letter 22-006]

(P) ILS shall require its Subcontractor primary care providers to screen beneficiaries for



alcohol misuse as part of routine care, and offer and document Alcohol Misuse Screening and Counseling (AMSC) services according to requirements that are found in the Medi-Cal ILS Manual. [DHCS All Plan Letter 21-014]

(Q) ILS shall notify KP immediately upon becoming aware that a third party may be liable for reimbursement to DHCS for Medi-Cal paid services to a Medi-Cal Member. ILS may not retain a duplicate payment from a third party such as a Workers' Compensation carrier or employer for services provided to a Medi-Cal Member. ILS shall notify KP immediately if it receives such a duplicate payment. [Medi-Cal Contract Exhibit E, § 1.26; DHCS All Plan Letter 21-007]

(R) Solely with respect to the Services provided by ILS to Medi-Cal Members, the Agreement and any amendments shall be effective upon prior written approval by DHCS or by operation of law, as may be required under applicable Law or the Medi-Cal Contract. [22 CCR § 53250(c)(3); DHCS All Plan Letter 19-001]

(S) ILS understands and agrees that KP and DHCS shall have the right to terminate this Agreement or impose other remedies in instances where DHCS or KP determines that ILS has not performed satisfactorily. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(12); 42 CFR § 438.230(c)(1)(iii); DHCS All Plan Letter 19-001]

(T) ILS shall notify DHCS in the event this Agreement with KP is amended or terminated for any reason. Notice shall be considered given when properly addressed and deposited in the United States Postal Service as first-class registered mail, postage attached. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(17); 22 CCR § 53250(e); DHCS All Plan Letter 19-001]

(U) ILS agrees that assignment or delegation of this Agreement or Subcontract shall be void unless prior written approval is obtained from DHCS. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(5); 22 CCR § 53250(e); DHCS All Plan Letter 19-001]

(V) Health Plan shall inform ILS of prospective requirements added by State or federal law or by DHCS related to the Medi-Cal Contract that impact obligations undertaken through this Agreement or any delegation agreement, before the requirements would be effective, and ILS shall comply with the new requirements within thirty (30) calendar days of the effective date, unless otherwise instructed by DHCS and to the extent possible under applicable Law. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(15); DHCS All Plan Letter 19-001]

(W) ILS is entitled to all protections afforded to ILS under Health & Safety Code § 1375.7, the Health Care ILSs' Bill of Rights, Including ILS's right to access KP's dispute resolution mechanism and submit a grievance pursuant to Health & Safety Code § 1367(h)(1). [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(A)(20); Health & Safety Code §§ 1367(h)(1), 1375.7; DHCS All Plan Letter 19-001]

(X) Subcontractor must notify ILS and/or Health Plan, and Health Plan's Medi-Cal Subcontractor if applicable, within ten (10) working days of any suspected fraud, waste, or abuse and Health Plan may, in accordance with its fraud and abuse reporting requirements in the Medi-Cal Contract, share such information with DHCS or a subcontractor of DHCS. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(A)(18), 3.1.6(B)(26)]

(Y) Prior to delivering Covered Services to Medi-Cal Members, ILS and Subcontractor shall review the Medi-Cal eligibility records for the presence of other health coverage (OHC). If the

Medi-Cal Member has active OHC, ILS and Subcontractor must compare the OHC code to the requested service and if the service is covered by the OHC, ILS and Subcontractor shall instruct the Medi-Cal Member to seek the service from the OHC carrier. Regardless of the presence of OHC, ILS and Subcontractor shall not refuse to provide a Medi-Cal Covered Service to a Medi-Cal Member. In cases where prenatal service billing is bundled with claims for other services, ILS shall cost-avoid the entire claim. Health Plan shall not process claims for a Medi-Cal Member whose Medi-Cal eligibility record indicates OHC, other than a code of A or N, unless ILS presents proof that all sources of payment have been exhausted or the provided service meets the requirement for billing Medi-Cal directly. Acceptable forms of proof that all sources of payment have been exhausted include a denial letter from the OHC for the service, an explanation of benefits indicating that the service is not covered by the OHC, or documentation that ILS has billed the OHC and received no response for ninety (90) days. [DHCS All Plan Letter 22-027]

(Z) This Agreement and any amendments hereto are effective only as set forth in Exhibit A, Section 3.1.8 of the Medi-Cal Contract. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(4); DHCS All Plan Letter 19-001]

(AA) ILS and Subcontractor shall:

- (1) Annually submit evidence of adherence to CMS Emergency Preparedness Final Rule (81 Federal Register 63859);
- (2) Advise Health Plan as part of ILS's emergency plan as defined by the CMS Emergency Preparedness Final Rule; and
- (3) Notify Health Plan within 24 hours of an Emergency if ILS closes down, is unable to meet the demands of a medical surge, or is otherwise affected by an Emergency. An "Emergency" for the purpose of this notification shall mean unforeseen circumstances that require immediate action or assistance to alleviate or prevent harm or damage caused by public health crises, natural and man-made hazards, or disasters.

[Medi-Cal Contract Exhibit A, Attachment III, § 6.3(C)(3)]

## VI. **Medi-Cal Subcontractor Provisions.**

A "Medi-Cal Subcontractor" as defined in 42 CFR § 438.2 is an individual or entity who has a contract with Health Plan or ILS and Subcontractor that relates directly or indirectly to the performance of KP's obligations (*other than rendering clinical services*) under the Medi-Cal Contract with DHCS (a "Medi-Cal Subcontract").

(A) Health Plan may enter into Medi-Cal Subcontracts with other entities in order to fulfill the obligations of the Medi-Cal Contract. Health Plan shall evaluate the prospective Medi-Cal Subcontractor's ability to perform the Medi-Cal Subcontracted services, shall oversee and remain responsible and accountable for any functions and responsibilities delegated and shall meet the subcontracting requirements as stated in 42 CFR §§ 438.230(b)(1)(c)(1)(i)-(iii), (c)(2), (c)(3), 22 CCR § 53867, and the Medi-Cal Contract. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)]

To the extent ILS and/or Subcontractor is a "Medi-Cal Subcontractor" as that term is defined in the Medi-Cal Contract and in 42 CFR § 438.2, the additional provisions of this Section

VI shall apply, as applicable to the particular administrative functions or services delegated to ILS and/or Subcontractor and related to fulfilling KP's obligations to DHCS under the terms of the Medi-Cal Contract. As required to satisfy KP's obligations under applicable Law and the Medi-Cal Contract, any Medi-Cal Subcontract entered between ILS and a subcontractor (a "Downstream Medi-Cal Subcontractor") shall require such Downstream Medi-Cal Subcontractor to comply with all applicable obligations of ILS and/or Subcontractor under this Medi-Cal Program Compliance Exhibit and all obligations imposed on a Downstream Medi-Cal Subcontractor by Law, the Medi-Cal Contract, or DHCS.

(B) ILS and Subcontractor shall comply with (1) all DHCS Medi-Cal Managed Care Program requirements and standards applicable to Medi-Cal Subcontractors; (2) any requirements imposed upon Health Plan by federal and state laws and regulations, DHCS Medi-Cal Managed Care Policy and All-Plan Letters and sub-regulatory guidance, and through the Medi-Cal Contract and subsequent amendments; and (3) KP's compliance program and policies implementing said requirements and standards. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(8)]

(C) Any and all delegated activities, obligations and related reporting responsibilities of ILS and/or Subcontractor shall be documented in a written contract. ILS and Subcontractor shall maintain and make available to DHCS, upon request, copies of all contracts it enters into related to the performance and functions it undertakes pursuant to such contract and shall ensure that such contracts are in writing. ILS and Subcontractor agrees to perform the delegated activities and reporting responsibilities in accordance with applicable Law, the Medi-Cal Contract, and this Agreement and any delegation agreement between Health Plan and ILS and Subcontractor. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(12); DHCS All Plan Letter 23-006]

(D) If Health Plan delegates to ILS and/or Subcontractor any quality improvement, credentialing/recredentialing or utilization management responsibilities, such delegated activities shall be documented in a written contract that contains provisions stipulated in Exhibit A, Attachment III, § 2.2.5, and that satisfy the requirements of Medi-Cal Contract Exhibit A, Attachment III, §§ 2.2.4, 3.1.6.B.20, Including the following:

- (1) The responsibilities and specific delegated functions and activities of Health Plan and ILS and/or Subcontractor.
- (2) Health Plan's oversight, monitoring, and evaluation processes and ILS's agreement to comply with such processes.
- (3) Health Plan's reporting requirements and approval processes. The contract shall include ILS's responsibility to report findings and actions taken as a result of the delegated activities at least quarterly.
- (4) Health Plan's actions/remedies if ILS's obligations are not met.

[Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(20); DHCS All Plan Letter 19-001]

(E) To the extent ILS is delegated any grievance and appeals activities, ILS shall implement a Medi-Cal Member grievance and appeal system satisfactory to Health Plan and shall provide its Medi-Cal Member grievance and appeal system requirements to any of ILS's subcontractors at the time they enter into a Medi-Cal Subcontract. Such Medi-Cal Member grievance and appeal system shall be in accordance with 42 CFR §§ 438.228 and 438.400 – 424, 28 CCR §§ 1300.68

and 1300.68.01, 22 CCR § 53858 for Covered Services and certain Community Supports offered by KFHP to Medi-Cal Members under 42 CFR § 438.3(e)(2); and DHCS All Plan Letter 21-011. [Medi-Cal Contract Exhibit A, Attachment III, § 4.6]

(F) In accordance with 42 CFR § 438.3(u) and as applicable to the functions delegated to ILS and Subcontractor by Health Plan, ILS and Subcontractor shall retain the following information for no less than ten (10) years:

(1) Medi-Cal Member grievance and appeal records as required in 42 CFR § 438.416.

(2) Medical Loss Ratio reports (MLR) and their underlying claims adjudication data as required in 42 CFR § 438.8(k).

(G) To the extent Health Plan delegates responsibility for coverage of services and payment of claims under the Medi-Cal Contract to ILS, ILS shall implement and maintain procedures that are designed to detect and prevent fraud, waste, and abuse. The procedures must include a compliance program, as set forth in 42 CFR § 438.608(a), that at a minimum includes all of the following elements:

(1) Written policies and procedures that articulate a commitment to comply with all applicable requirements and standards under the Medi-Cal Contract, and all applicable federal and State requirements.

(2) The designation of a Compliance Officer who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of the Medi-Cal Contract, and who reports directly to the organization's Chief Executive Officer and the Board of Directors.

(3) The establishment of a Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing the compliance program and compliance with the requirements under the Medi-Cal Contract.

(4) A system for training and educating the Compliance Officer, senior management, and employees on federal and State standards and requirements of the Medi-Cal Contract.

(5) Effective lines of communication between the Compliance Officer and employees.

(6) Enforcement of standards through well-publicized disciplinary guidelines.

(7) Establishment and implementation of a system with dedicated staff for: routine internal monitoring and auditing of compliance risks; promptly responding to compliance issues as they are raised; investigation of potential compliance problems as identified in the course of self-evaluation and audits; correction of such problems promptly and thoroughly, or coordination of suspected criminal acts with law enforcement agencies to reduce the potential for recurrence; and ongoing compliance with the requirements under the Medi-Cal Contract. [42 CFR § 438.608(a)(1)(vii)]

(H) To the extent ILS and/or Subcontractor is/are delegated responsibility for the payment of claims, ILS and/or Subcontractor shall pay 90% of all complete/clean claims from practitioners

within thirty (30) calendar days of the date of receipt and 99% of all complete/clean claims within ninety (90) calendar days. [Medi-Cal Contract Exhibit A, Attachment III, § 3.3.5(B)]

(I) To the extent ILS and/or Subcontractor is/are delegated claims adjudication activities, ILS and/or Subcontractor must provide all underlying data associated with Medical Loss Ratio (MLR) reporting to Health Plan within one hundred eighty (180) days of the end of the MLR reporting year or within thirty (30) days of a request by KP, whichever comes sooner. [42 CFR § 438.8(k)]

(J) In accordance with 42 CFR § 438.608(c), ILS and/or Subcontractor shall provide written disclosure of any prohibited affiliation under 42 CFR § 438.610 (e.g., contracting with a network provider or maintaining in a position of officer or director of the company a person who is debarred or excluded from a federal health care program).

(K) ILS and Subcontractor shall make all of its premises, facilities, equipment, books, records, contracts, computer and other electronic systems pertaining to the obligations and functions undertaken under this Agreement and any delegation agreement, available through ten (10) years from the final date of the Medi-Cal Contract period or from the date of completion of any audit, whichever is later, for the purpose of an audit, inspection, evaluation, examination, or copying, Including those rights and requirements set forth in Exhibit E, Section 1.22 (Inspection and Audit of Records and Facilities), as follows [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(B)(12), 3.1.6(B)(13); 42 CFR § 438.3(h); 22 CCR § 53250(e)]:

(1) In accordance with inspections and audits, as directed by DHCS, CMS, DHHS Inspector General, the Comptroller General, DOJ, DMHC, or their designees [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(13)(a)]

(2) At all reasonable times at ILS and/or Subcontractor's place of business, or at such other mutually agreeable location in California. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(13)(b); Welfare and Institutions Code § 14452(c)]

(L) ILS and Subcontractor shall hold harmless the State of California, other Medi-Cal plans, and Medi-Cal Members, in the event KP, or its Medi-Cal Subcontractor as applicable, cannot or will not pay for the obligations and functions undertaken by ILS and Subcontractor pursuant to any delegation agreement. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(18); 22 CCR § 53250(e)]

(M) ILS and Subcontractor shall perform the obligations and functions of Health Plan undertaken by ILS and Subcontractor pursuant to any delegation agreement, Including reporting responsibilities, in compliance with ILS and Subcontractor's obligations under such delegation agreement in accordance with 42 CFR Section 438.230(c)(1)(ii). [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(28)]

(N) ILS agrees and acknowledges that DHCS is a direct beneficiary of any delegation agreement with respect to all obligations and functions undertaken pursuant to such delegation agreement, and that DHCS may directly enforce any and all provisions of such delegation agreement. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(29)]

(O) To the extent ILS and/or Subcontractor is/are responsible for coordination of care obligations and functions for Medi-Cal Members, Health Plan shall share with ILS and/or Subcontractor any Medi-Cal Member utilization data that DHCS has provided to KP. ILS and/or



Subcontractor agrees to receive the utilization data provided and to use it solely for the purpose of Medi-Cal Members' care coordination. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(21); DHCS All Plan Letter 19-001]

(P) Health Plan shall inform ILS and/or Subcontractor of prospective requirements added by State or federal law or by DHCS related to the Medi-Cal Contract that impact obligations and functions undertaken through this Agreement or any delegation agreement, before the requirements would be effective, and ILS and/or Subcontractor shall comply with the new requirements within thirty (30) calendar days of the effective date, unless otherwise instructed by DHCS and to the extent possible under applicable Law. [Medi-Cal Contract Exhibit A, Attachment III, §§ 3.1.6(B)(22)]

(Q) ILS and Subcontractor, to the extent ILS and Subcontractor communicates with Medi-Cal Members, agrees to provide language assistance services, including interpreter services and translation services for Medi-Cal Members, and to comply with the language assistance standards developed pursuant to Health & Safety Code § 1367.04. [Welfare and Institutions Code § 14029.91; Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(25)]

(R) If ILS and/or Subcontractor is/are obligated to reimburse providers of emergency services, ILS shall comply with the provisions of Medi-Cal Contract Exhibit A, Attachment III, § 3.3.16. [Medi-Cal Contract Exhibit A, Attachment III, § 3.1.6(B)(9)]

(S) ILS and Subcontractor shall comply with the terms of each applicable pass-through payment established pursuant to 42 CFR § 438.6(d) in accordance with the CMS approved rate certification, and in a form and manner specified by DHCS through All Plan Letter or other technical guidance. [Medi-Cal Contract Exhibit A, Attachment III, § 3.3.19.B]

## **SCHEDULE 8**

### **INSURANCE REQUIREMENTS**

#### **Subcontractor Insurance – insurance lines checked are required.**

Subcontractor shall maintain or shall ensure the maintenance of policies of insurance, or self-insurance programs expressly approved by ILS and/or Health Plan, equivalent to or in excess of the amounts specified below to insure Subcontractor, any of its individual provider practitioners, professionals, contractors, employees and agents, as applicable, against any claims for damages arising out of, in connection with, and/or resulting from any acts, failures to act or the performance of or failure to perform obligations under this Agreement.

- a) ☒ **Workers Compensation insurance** – providing workers compensation benefits, as required by the Labor Code of the jurisdiction where Services are to be provided, and for which Subcontractor is responsible.
- b) ☒ **Employers Liability insurance** – with limits not less than \$1,000,000 per occurrence.
- c) ☒ **Commercial General Liability insurance** – on the most current Insurance Services Office (ISO) occurrence Policy, or equivalent, providing coverage for bodily injury, property damage, personal injury, and advertising injury, including contractual liability and products/completed operations liability coverage with limits not less than:
  - \$1,000,000 Each Occurrence
  - \$3,000,000 General Aggregate
  - \$3,000,000 Products/Completed Operations Aggregate
- d) ☐ **Business Auto Policy (BAP) Liability insurance** – coverage shown as symbol #1, “any” auto, with a combined single limit not less than \$1,000,000.
- e) ☐ **Umbrella/Excess Liability insurance** – in excess of (b), (c), and (d), with limits not less than:
  - \$5,000,000 Each Occurrence
  - \$5,000,000 General Aggregate
- f) ☐ **Sexual Misconduct Liability insurance** – with limits of not less than \$1,000,000 providing coverage for sexual assault, sexual abuse, molestation, sexual exploitation, sexual misconduct, sexual injury, and illicit conduct of a sexual nature.
- g) ☒ **All-Risk Property insurance** – covering real and personal property of (Subcontractor, and use of any property, facility or location to provide Services under the Agreement, at full replacement cost in the event of damage, loss, or theft.
- h) ☒ **Professional Liability insurance** – covering actual or alleged claims resulting from Services rendered under this Agreement with limits not less than \$1,000,000 each claim and \$3,000,000 in the aggregate. To the extent that Subcontractor is unable to obtain Professional Liability insurance, ILS will accept an Errors and Omissions insurance policy covering actual or alleged claims resulting from Services rendered under this Agreement with limits not less than

\$1,000,000 each claim and \$3,000,000 in the aggregate in lieu of Professional Liability insurance.

- i) ☐ **Crime insurance** – covering loss of assets resulting directly from employee dishonesty, theft, fraud with limits not less than \$1,000,000.
- j) ☒ **Cyber Liability insurance** – privacy liability, data breach, and media liability with limits of not less than \$2,000,000 per claim and \$5,000,000 in aggregate.

#### **Other Terms and Conditions**

1. Commercial insurance policies must be issued by insurance carriers with an A.M. Best rating of A-, VIII, or better, or equivalent.
2. The following parties to be added as Additional Insureds under the Commercial General Liability: Kaiser Foundation Health Plan, Inc. (the “Additional Insureds”).
3. The Commercial General Liability insurance policy must provide separation of insureds or severability of interest provisions (cross liability coverage), except as respect to policy limits.
4. The Commercial General Liability insurance policy shall include no third-party-over action exclusions or similar endorsements or limitations.
5. Coverage for the Additional Insureds shall apply on a primary and non-contributory basis irrespective of any other insurance, whether collectible or not.
6. Any and all self-insured retentions (SIRs) and deductibles shall be the sole responsibility of the Subcontractor and shall not apply to ILS.
7. Significant deductibles and SIRs are subject to review by ILS, and documentation of financial strength may be required.
8. A waiver of subrogation for property insurance in favor of ILS is required for property coverage.
9. A waiver of subrogation for workers compensation in favor of ILS is required.
10. Subcontractor shall provide the ILS with at least 30 days’ notice if any of the required policies are cancelled or not renewed in accordance with the notice provisions of the Agreement.
11. Subcontractor shall furnish ILS with certificates of insurance evidencing compliance with all insurance provisions noted above prior to the commencement of Services under this Agreement, and thereafter at renewal of such coverages.
12. If Subcontractor obtains one or more claims-made insurance policies to fulfill its obligation under Exhibit 5, Subcontractor will (i) maintain coverage with the same company during the Term of this Agreement and for at least five (5) years following termination of this Agreement, or (ii) purchase or provide coverage that assures protection against claims based on acts or omissions that occur during the period of this Agreement but which are asserted after the claims-made insurance policy has expired.

\_\_\_\_\_  
CITY ATTORNEY'S OFFICE

**TRACY CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

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**APPROVING A SUBCONTRACTOR SERVICES AGREEMENT WITH INDEPENDENT LIVING SYSTEMS, LLC., TO PROVIDE BILLABLE SERVICES FOR ELIGIBLE PERSONS RECEIVING CARE AT THE TEMPORARY EMERGENCY HOUSING FACILITY SHELTER SITE LOCATION OF 370 ARBOR AVENUE, TRACY, CA 95304 SO THAT THE CITY CAN RECEIVE REIMBURSEMENTS FOR SUCH SERVICES THROUGH INDEPENDENT LIVING SYSTEMS, LLC AS THE MANAGED CARE PLAN PROVIDER FOR CALAIM BILLABLE SERVICES.**

**WHEREAS**, on March 10, 2020, City Council adopted Resolution No. 2020-050, which declared a shelter crisis pursuant to California Government Code Section 8698.2; and

**WHEREAS**, on September 1, 2020, 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; and

**WHEREAS**, in August of 2022, Pursuant to Council's reaffirmation of the emergency shelter crisis, the City Manager authorized staff to identify permanent and emergency alternative housing options for the unsheltered population within the city limits. This effort not only focuses on 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 at the 370 Arbor Avenue; and

**WHEREAS**, current site plan for the Temporary Emergency Housing Facility (TEHF) includes a total of 86 non-congregate beds serving adults in a low barrier housing first model. This interim shelter setting consisting of Phase III and Phase IV has been in operation for over two years while waiting for the Navigation Center and auxiliary buildings to come online; and

**WHEREAS**, in February 2025, City Council was presented with a workshop regarding future alternatives for the full site plans of the Temporary Emergency Housing Facility shelter project, one of which included the onboarding of the CalAIM Initiative through the Department of Health Care Services (DHCS); and

**WHEREAS**, staff has pursued opportunities to implement Council recommendations and returned directly to Council as grants and program opportunities have arisen. This initiative seeks to work with organizations in communities that are providing services to the lowest-income residents; and

**WHEREAS**, on October 7, 2025, the City Council approved the acceptance of a grant from the DHCS for Technical Assistance to support the onboarding of a medical respite program; and

**WHEREAS**, in March 2025, City staff hired a consultant with Health Management Associates (HMA) to utilize a portion of the Kaiser grant funds (Resolution No. 2024-162), to begin the contracting process and planning of a Medical Respite program. This consultant is our DHCS approved vendor; and

**WHEREAS**, part of the contracting process consists of working with Managed Care Plans (MCP's) which will provide the ability to bill for contracted services at the shelter site. The Managed Care Plans the City is working towards partnering with are Independent Living Systems, LLC (ILS), and Health Plan of San Joaquin. This is part of the process in reframing services at the shelter site to make shelter operations cost-recoverable in nature through Medi-Cal or Medi-Caid reimbursements; and

**WHEREAS**, through this agreement, ILS will reimburse the City for CalAIM billable services for covered services to covered persons to members of participating health plans, including Independent Living Systems, LLC. This subcontractor agreement provides a timely and strategic mechanism to recoup costs for existing services enabling a new revenue stream to help offset the expanded site's operational costs; and

**WHEREAS**, under the agreement, the City must comply with state and federal requirements, including timely service delivery, cultural and linguistic competency, care coordination with other providers, and maintaining appropriate staffing levels. These obligations align with the City's current service standards and operations at the TEHF. Further, they are consistent with upcoming Request for Proposal's which is seeking a shelter operator to implement the full site plan and vision as approved and may be approved by the Council, and which includes the additional space made available by Phase II and the associated revised Scope of Work. Our RFP selection and future operator for the site and services expansion is set to come online Spring of 2026 year; and

**WHEREAS**, timing of this agreement is contingent on the direction of Council from the item earlier tonight and aligns with the completion of Phase II construction at the TEHF, which will significantly increase shelter capacity and support service demands, and which allow staff to begin the building the program components that are necessary for the full site operation. Participation in CalAIM offers a viable and timely funding solution to support the expanded site and ensure continuity of care for the unhoused in the City of Tracy; and

**WHEREAS**, the City's pursuit of the CalAIM initiative provides an ongoing benefit to the City because the City can bill for eligible services received at the shelter, which can subsidize the cost of operating the shelter. The City will need additional infrastructure to bill for these services and is working with our current contracted vendor to assist us with this process. This contract with ILS, would assist us in moving forward with the ability to reimburse for costs of eligible services; and

**WHEREAS**, there is no procurement process needed to begin the contracting process with our Managed Care Plans. There are only a few MCPs in this area. Most of our Medi-Cal beneficiaries who reside at the shelter are under the MCP Health Plan of San Joaquin. Other MCPs in this area are Health Net and Independent Living Systems (ILS), which is a Kaiser MCP. Our goal is to eventually contract with all the MCPs in the Medi-Cal coverage area; and



**NOW THEREFORE, be it**

**RESOLVED:** That the City Council finds that this action is exempt from California Environmental Quality Act (CEQA) pursuant to the 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 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; and be it

**FURTHER RESOLVED:** That the City Council of the City of Tracy adopts a resolution approving a Subcontractor Services Agreement with Independent Living Systems, LLC., to provide billable services for eligible persons receiving care at the Temporary Emergency Housing Facility shelter site location of 370 Arbor Avenue, Tracy, CA 95304 so that the City can receive reimbursements for such services through Independent Living Systems, LLC as the Managed Care Plan provider for CalAIM billable services, attached hereto as Attachment 1.

\* \* \* \* \*

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

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

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DAN ARRIOLA  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
APRIL QUINTANILLA  
City Clerk and Clerk of the Council of the  
City of Tracy, California

Attachments:

- (1) Subcontractor Services Agreement with Independent Living Systems, LLC

Agenda Item 4.G

RECOMMENDATION

**Staff recommends that the City Council consider, and by motion provide direction to staff, the naming of the reception area, or another designated room, within the Tracy Recreation Activity Center (TRAC), in honor of Dr. Nancy D. Young.**

EXECUTIVE SUMMARY

At the October 7, 2025, City Council meeting, during Council Items, Mayor Dan Arriola made a motion requesting support for a future agenda item for the naming of a Dr. Nancy D. Young reception area or similar portion of the recently named Tracy Recreation Activity Center (TRAC). The motion was seconded by Council Member Dotty Nygard.

In response, staff prepared this item for Council discussion and by motion direction on the proposed naming of the reception area, or another suitable space within the TRAC, in recognition of Dr. Nancy D. Young's contributions to the community and the development of the TRAC facility.

BACKGROUND AND LEGISLATIVE HISTORY

The City Council's Policy D-2 (Resolution No. 2021-013) establishes procedures for the selection and approval of names for public buildings, parks, and recreation facilities (Attachment A). In accordance with this policy, the Parks, Recreation & Community Services Department conducted a 30-day public naming process for the new Multi-Generational Recreation Center on May 1, 2025. The Council's naming policy also provides, in Section 7, for the Council's ability to name "[r]ooms within public buildings"... "for individuals who have made exceptional contributions to the community".

ANALYSIS

At its August 7, 2025, meeting, the Parks & Community Services Commission voted on the top three (3) name options, in priority order, for the City Council's consideration. Subsequently, at the October 7, 2025, City Council meeting, the Council selected Tracy Recreation Activity Center (TRAC) as the official name of the facility.

During that same meeting, under Council Items, Mayor Arriola made a motion, which was seconded by Council Member Nygard, to consider naming a reception area or similar portion of the TRAC in honor of Dr. Nancy D. Young.

The TRAC is a multi-use recreation center designed to integrate indoor and outdoor spaces, offering flexible and inclusive amenities for users of all ages. In addition to the reception area, the following spaces within the TRAC may also be considered by the City Council for potential naming opportunities:

- Gymnasium
- Teen Lounge
- Maker's Space
- Bouldering and Climbing Area
- Outdoor Courtyard
- Multi-Purpose Rooms (2)
- Conference Rooms (2)
- Kitchen
- Elevated Indoor Running Track

The City Council's Policy D-2 establishes separate procedures for naming public buildings and for naming parks and recreation facilities. Under the policy, requests involving public buildings are typically reviewed and evaluated by a City Council subcommittee, while parks and recreation facility names are considered by the Parks and Community Services Commission, which then provides a recommendation to the City Council.

Because a room or interior space within the TRAC does not clearly fall within the definitions of either category, of "Public Building" or "Parks & Recreation Facility," the rooms and interior portions of an already named facility would not be subject to the procedures of the policy for consideration of names. As such, staff believes that pursuant to section 7 of the policy, the City Council has discretion to determine the most appropriate process for how the naming of "[r]ooms within public buildings may be named for individuals who have made exceptional contributions to the community".

Staff would note that the Council has previously used a similar approach under the Park Naming Policy, for example, in 2012, when naming The Plaza at City Hall in honor of former Mayor Dan Bilbrey and naming the Administrative Services Department area within City Hall after retiring Finance and Administrative Services Director Zane Johnston. Therefore, the Council may choose to adopt a similar approach for the naming of rooms within the TRAC and exercise their authority pursuant to their policy under section 7.

#### PUBLIC OUTREACH/INTEREST

N/A

#### FISCAL IMPACT

There is no direct fiscal impact associated with this action.

#### CEQA DETERMINATION

This item is exempt from the California Environmental Quality Act based on CEQA Guidelines Section 15061(b)(3), the commonsense exemption, which states that a project is not subject to CEQA "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".

#### STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority, which is to provide an outstanding quality of life by enhancing the City's amenities, business mix, and services, and cultivating connections to promote positive change and progress in our community.

#### ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council consider, and by motion provide direction to staff, the naming of the reception area, or another designated room, within the Tracy Recreation Activity Center (TRAC), in honor of Dr. Nancy D. Young.

Prepared by: Brian MacDonald, Parks, Recreation & Community Services Director

Reviewed by: Sara Castro, Finance Director  
L. David Nefouse, City Attorney

Approved by: Arturo M. Sanchez, Assistant City Manager

ATTACHMENTS

Attachment A: Naming Public Buildings, Parks, and Facilities Policy

RESOLUTION 2021-013

AMENDING COUNCIL POLICY D-2, NAMING  
PUBLIC BUILDINGS, PARKS AND FACILITIES

WHEREAS, On June 4, 2019, the City Council directed staff to review and revise Council Policy D-2 regarding the naming of public buildings, parks and facilities, and

WHEREAS, On December 5, 2019, the Parks and Community Services Commission discussed the need to amend Council Policy D-2 to include additional criteria, and

WHEREAS, The Parks and Community Services Commission reviewed, approved, and recommended to the City Council an amendment to Council Policy D-2;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby adopts the attached amended Council Policy D-2, Naming Public Buildings, Parks and Facilities as recommended by the Parks and Community Services Commission.

BE IT FURTHER RESOLVED, that this resolution rescinds and replaces resolutions 2004-096 and 2017-179.

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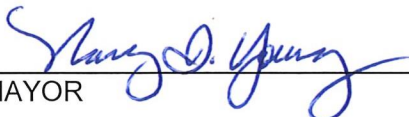
The foregoing Resolution 2021-013 was passed and adopted by the Tracy City Council on the 2nd of February, 2021 by the following vote:

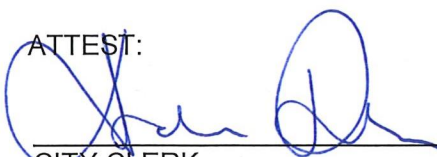
AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

  
MAYOR

ATTEST:  
  
CITY CLERK



**Naming Public Buildings, Parks and Recreation Facilities**  
**Policy Number: D-2**  
**Amended by resolution Date: 2/2/21**

PURPOSE:

The purpose of this policy is to establish a set of standard procedures and guidelines for the naming of Public Buildings, Parks and Recreation Facilities.

DEFINITIONS:

1. "Public Buildings" are City-owned facilities that house employees or are otherwise used to conduct City business. Buildings may include, but are not limited to, the Civic Center, City Council Chambers, and Police facility. This also includes "Support Facilities" that are City-owned facilities that are used to support field operations. Support facilities may include, but are not limited to, the corporation yard and pump stations.
2. "Parks & Recreation Facilities" are all City parks, community buildings and grounds, athletic facilities, open space areas and other grounds and facilities owned or operated by the City for park, recreation or open space purposes.

POLICY:

Consideration for Names:

1. When named for an individual family or person, strong consideration should be given to:
  - a. The level of involvement and commitment to the Tracy community over a span of years that are sufficient for accomplishments and contributions to have taken place;
  - b. Individuals or families who have been involved in many facets of the community such as through service clubs, civic organizations, school community, multi-cultural events and organizations, elected/appointed positions, military service, church community and non-profit groups; the nature of their involvement should be beyond that done in the normal course of their employment (i.e., voluntary);
  - c. The local significance and relationship of this individual or family to the City of Tracy, or to the parks and recreation systems or programs.
2. Public building, park and facility names should reflect both the current and past heritage and historical significance of the community that is now serviced. Strong consideration should be given to:
  - a. Maintaining names that represent the current and past cultural diversity of the community.
  - b. Any relevant California history that is part of the Tracy community, such as the period covered by the Spanish land grants, Native American tribal history, etc.

3. Park names should reflect the geographical significance of the park site's topography or other natural amenities that exist in or near the park property. Strong consideration should be given to:
  - a. Vistas and view corridors.
  - b. Native plants or trees
  - c. Adjacencies to creeks, streams, open space, hills, etc.
4. Public building, park and facility names should incorporate the functionality of the building, park or facility by simply stating its purpose without further description (for example the "John Smith Community Center"), especially, when a specialized facility may be a part of the park such as sports fields, etc. Special features for the park should be considered in the park name.
5. Consideration should also be given to public building, park and facility names that reflect the geographic location or adjacencies to other City facilities or schools in order to avoid confusion about the geographic location of the building.
6. If a public building, park or facility improvement is acquired or constructed by means of a substantial gift, financial contribution or financial donation by an individual, family or corporation, consideration should be given to recognizing the contribution by incorporating the benefactor's name into the facility name.
7. Rooms within public buildings may be named for individuals who have made exceptional contributions to the community such as:
  - a. The individual must have made a significant contribution to the community which resulted in the improved well-being of the citizens of Tracy.
  - b. The individual must have been involved in Tracy community affairs over a span of years that are sufficient for accomplishments and contributions to have taken place.
  - c. Individuals or families who have been involved in many facets of the community such as through service clubs, civic organizations, school community, multicultural events and organizations, elected/appointed positions, military service, church community and non-profit groups; the nature of their involvement should be beyond that done in the normal course of their employment (i.e., voluntary).
8. If a public building that has previously been named is proposed to have its function be moved, or is proposed for relocation, or demolition, or is destroyed through a natural disaster or other act, the City Council shall be provided an opportunity to name the replacement building.

#### PROCEDURES:

##### Parks and Recreation Facilities:

1. The Parks and Community Services Commission shall hold a public meeting that allows for community input and will follow a process for naming parks and recreational facilities that includes:

- a. The Parks and Recreation Director shall receive a naming request from a developer, resident or other interested groups for a new park or new recreational facility.
  - b. Staff will conduct a public solicitation of names (Example: social media & newspapers) for 30 days and submit all names to the Commission for review.
  - c. The Commission shall schedule a regular or special meetings to screen, review, evaluate and prioritize the requests submitted by residents and other interested groups such as developers, the West Side Pioneers, Chamber of Commerce, etc.
  - d. The Commission shall forward the top three names (In priority order) to City Council for final approval.
2. Depending on the special nature, size or location of a park, the Commission may also consider the following ideas for park naming:
  - a. Development of a community-based naming process such as a contest.
  - b. Receive input from an adjacent homeowner's association; receive input from future facility user group as identified through design process.

#### Public Buildings

1. The City Council will form a sub-committee to review and evaluate requests for naming public buildings from residents, interested groups and staff.
2. The sub-committee will bring forth screened, evaluated and recommended selections for authorization by the full City Council at a regularly scheduled Council meeting.