

**Tuesday, April 02, 2019, 7:00 PM**

City Council Chambers, 333 Civic Center Plaza, Tracy

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

**Americans With Disabilities Act** - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

**Addressing the Council on Items on the Agenda** - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

**Consent Calendar** - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

**Addressing the Council on Items not on the Agenda** - The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

**Presentations to Council** - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed, including those distributed within 72 hours of a regular City Council meeting, to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

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

## CALL TO ORDER

## PLEDGE OF ALLEGIANCE

## INVOCATION

## ROLL CALL

## PRESENTATIONS

1. Employee of the Month
2. Proclamation – National Library Week
3. Proclamation – National Volunteer Week
4. Proclamation – Sexual Assault Awareness Month
5. Proclamation – Boys & Girls Club Week
6. Certificate of Appointment – Tracy Arts Commission

## 1. CONSENT CALENDAR

- 1.A. APPROVAL OF MARCH 19, 2019 CLOSED SESSION AND REGULAR MEETING MINUTES
- 1.B. ACCEPT THE INSTALLATION OF A TRAFFIC SIGNAL AND ASSOCIATED ROADWAY IMPROVEMENTS ON PESCADERO AVENUE FOR THE IPT PESCADERO SHELL BUILDING, CONSTRUCTED BY INDUSTRIAL PROPERTY TRUST, ASSUME RESPONSIBILITY FOR FUTURE MAINTENANCE AND REPAIR, AND AUTHORIZE THE CITY ENGINEER TO RELEASE ALL BONDS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT
- 1.C. ACCEPT THE FY 17/18 STORM DRAIN REPLACEMENT PROJECT (CIP 76068), COMPLETED BY SANACT, INC., DBA ROTO-ROOTER OF LIVERMORE, CALIFORNIA, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT
- 1.D. ACCEPT THE CONSTRUCTION OF THE ELEVENTH STREET BEAUTIFICATION PROJECT, CIP 73162, COMPLETED BY ODYSSEY ENVIRONMENTAL SERVICES, INC., OF LODI, CALIFORNIA, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT
- 1.E. ACCEPT THE CONSTRUCTION OF THE ELEVENTH STREET OVERHEAD BRIDGE PROJECT, CIP 73063 AND BHLS-5192(020), COMPLETED BY TEICHERT / MCM JOINT VENTURE OF DAVIS, CALIFORNIA, AUTHORIZE THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AND AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT



- 1.F. APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3953, TRACY HILLS VILLAGE 6A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.G. APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3943, TRACY HILLS VILLAGE 1B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.H. APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3945, TRACY HILLS VILLAGE 3B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.I. APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3946, TRACY HILLS VILLAGE 4B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.J. APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3948, TRACY HILLS VILLAGE 5B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.K. APPROVE THE PURCHASE OF A NEW SENSUS ANTENNA, UPGRADE EXISTING ANTENNA, PURCHASE CUSTOMER PORTAL AND ANALYTICS OPERATING SOFTWARE THAT IS CLOUD HOSTED FROM GOLDEN STATE FLOW MEASUREMENT, INC. AND AUTHORIZE THE BUDGET OFFICER TO APPROPRIATE A NOT TO EXCEED AMOUNT OF \$200,000 FROM THE WATER (\$80,000 OR 40%), WASTE WATER (\$80,000 or 40%) AND SOLID WASTE FUNDS (\$40,000 OR 20%)

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. DISCUSS AND AUTHORIZE STAFF TO INITIATE TRANSIT-ORIENTED DEVELOPMENT PLANNING IN DOWNTOWN TRACY IN PREPARATION OF FUTURE RAIL SERVICE, INCLUDING VALLEY LINK
- 3.B. RECEIVE THE CITY OF TRACY POLICE DEPARTMENT'S ANNUAL REPORT FOR 2018

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

6.A. APPOINT AN APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY COMMISSION ON AGING

6.B. APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS TO FILL A VACANCY ON THE PARKS AND COMMUNITY SERVICES COMMISSION

7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

**March 19, 2019, 5:45 p.m.**

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Rickman called the meeting to order at 5:45 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young, and Mayor Rickman present. Council Member Vargas arrived at 6:02 p.m.
3. ITEMS FROM THE AUDIENCE – None.
4. CLOSED SESSION
  1. Real Property Negotiations (Gov. Code, § 54956.8)

Discuss terms and conditions of proposed Antenna Farm land swap

Property Location: Legacy Fields, 4901 N. Tracy Blvd, APN# 212-15-004

Negotiators for the City:	Brian MacDonald, Parks & Recreation Director Thomas Watson, City Attorney Midori Lichtwardt, Interim City Manager
Negotiating Parties:	General Service Agency
Under Negotiation:	Terms of Agreement
  2. Conference with Legal Counsel – Potential Litigation (GOV. Code § 54956.9)

Potential litigation pursuant to § 54956.9(e)(3). (One case).
  3. Personnel Matter (Gov. Code, § 54957)

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Attorney
5. RECESS TO CLOSED SESSION - Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to recess the meeting to closed session at 5:45 p.m. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

Council Member Vargas arrived at 6:02 p.m.

6. RECONVENE TO OPEN SESSION – The meeting reconvened to open session at 7:08 p.m.
7. REPORT OF FINAL ACTION – City Council in favor of initiating litigation.
8. ADJOURNMENT – Motion was made by Council Member Vargas and seconded by Council Member Ransom to adjourn. Roll call found all in favor; passed and so ordered. Time: 7:08 p.m

The agenda was posted at City Hall on March 14, 2019. The above are action minutes.

\_\_\_\_\_  
Mayor

ATTEST:

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

**March 19, 2019, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

Mayor Rickman called the meeting to order at 7:15 p.m.

Mayor Rickman led the Pledge of Allegiance.

Deacon Jack Ryan offered the invocation.

Roll call found Council Members Arriola, Ransom, Vargas, Mayor Pro Tem Young and Mayor Rickman present.

Mayor Rickman recognized D.A.R.E. graduating students from Saint Bernard's Catholic School, Jacobson, Bella Vista Christian Academy, West Valley Christian Academy, Delta Charter, Art Freiler, McKinley, and Lammersville Elementary Schools.

Mayor Rickman presented Certificates of Appointment to new Measure V Residents' Oversight Committee members Allan Borwick, Abdul Wahid and Ameni Alexander.

1. CONSENT CALENDAR – Following the removal of Consent items 1.E by Abdul Wahib and 1.F by Council Member Vargas, motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - 1.A. ADOPTION OF FEBRUARY 18, 2019 CLOSED SESSION AND MARCH 5, 2019 CLOSED SESSION AND REGULAR MEETING MINUTES - **Minutes were approved.**
  - 1.B. APPROVE AN IMPROVEMENT AND INSPECTION AGREEMENT FOR TRACT 3958, TRACY HILLS VILLAGE 8B – **Resolution 2019-047** approved the agreement.
  - 1.C. APPROVE THE OFFSITE IMPROVEMENT AGREEMENT FOR THE HARVEST IN TRACY MULTI-FAMILY RESIDENTIAL DEVELOPMENT – **Resolution 2019-048** approved the agreement.
  - 1.D. ACCEPT THE CORRAL HOLLOW ROAD WIDENING AND SANITARY SEWER PROJECT BETWEEN BYRON ROAD AND I-205 – CIPs 73102 AND 74118, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECTS – **Resolution 2019-049** accepted the project.

- 1.G. APPROVE THE PARK IMPROVEMENT AND REIMBURSEMENT AGREEMENT FOR TRACY HILLS NEIGHBORHOOD PARK 3, AND AUTHORIZE THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – **Resolution 2019-050** approved the agreement.
- 1.H. APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3957, TRACY HILLS VILLAGE 8A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – **Resolution 2019-051** approved the amendment to the agreement.
- 1.I. ACCEPT THE TRACY HILLS ZONE 3 WATER MAIN IMPROVEMENTS FROM THE WESTERN BOUNDARY OF THE JOHN JONES WATER TREATMENT PLANT TO THE DELTA MENDOTA CANAL, THE CITY ZONE 3 WATER MAIN IMPROVEMENTS FROM THE WESTERN BOUNDARY OF THE JOHN JONES WATER TREATMENT PLANT TO THE INTERSECTION OF CORRAL HOLLOW ROAD AND MIDDLEFIELD DRIVE, AND THE WHIRLWAY DRIVE ZONE 3 WATER MAIN IMPROVEMENTS CONSTRUCTED BY CALATLANTIC GROUP, INC., ASSUME RESPONSIBILITY FOR THEIR FUTURE MAINTENANCE AND REPAIR, AND AUTHORIZE THE CITY ENGINEER TO RELEASE BONDS – **Resolution 2019-052** accepted the improvements.
- 1.E APPROVE A SITE LEASE AGREEMENT WITH T-MOBILE WEST TO UPDATE ONE LIGHT STANDARD AT RITTER FAMILY BALL PARK, PLACE TELECOMMUNICATION DEVICES ON THE LIGHT STANDARD AND LEASE GROUND SPACE FOR AN INITIAL TERM OF FIVE YEARS, NOT TO EXCEED TWENTY YEARS

Abdul Wahid pulled the item to ask about franchise fees.

Robin Kloepper, Management Analyst provided the staff report.

City Council questions followed.

Staff to bring back information regarding safety/health issues related to cell towers.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Vargas to continue the item. Roll call found all in favor; passed and so ordered.

- 1.F APPROVE POLICY FOR EVENTS IN CITY PARKS

Council Member Vargas pulled the item to request continuation of the item for discussion.

Thomas Watson, City Attorney provided the staff report.

City Council questions followed.

Mary Mitracos, Juana Dement, Eleassia Davis, Alice English and Ray Morelos requested the item be tabled and the policy rewritten.

Patricia Alvarez shared her concerns about events being used as political platforms.

City Council discussion continued.

**ACTION:** Motion was made by Mayor Rickman and seconded by Council Member Vargas directing the City Attorney's office to make amendments and corrections to the Policy for Events in City Parks, present the policy to the Parks and Recreation Commission, and bring back to Council for consideration. Roll call found Council Member Arriola, Vargas and Mayor Rickman in favor; passed and so ordered. Council Member Ransom and Mayor Pro Tem Young opposed. Motion carried 3:2.

2. ITEMS FROM THE AUDIENCE - Robert Tanner expressed concerns regarding not having pedestrian crossings with sound for blind people.

Gerilyn Featherston shared her experience related to the 2018 National Night Out.

Murphy Riddle-Plyon shared her concerns regarding homeless issues by her house.

Rene Riddle spoke about homeless issues in Tracy.

Mark Miller, Parks and Community Services Commissioner commented about the CDBG process presented at the March 5, 2019 meeting.

Martin Evans spoke about not being on television, fences on bridge at Holly Drive and blowing up Holly Sugar towers.

Jim Miller, Private Public Infrastructure Group stated they are still interested in exploring a project to monetize the wastewater stream with the City.

3. REGULAR AGENDA

3.A APPROVE AN EMPLOYMENT AGREEMENT BETWEEN JENNY HARUYAMA AND THE CITY OF TRACY TO SERVE AS CITY MANAGER

Kimberly Murdaugh, Human Resources Director provided the staff report.

There were no comments from the audience.

City Council questions followed.

**ACTION:** Motion was made by Council Member Vargas and seconded by Council Member Ransom to adopt **Resolution 2019-053** approving the Employment Agreement between Jenny Haruyama and the City of Tracy to serve as City Manager. Roll call vote found all in favor; passed and so ordered.

3.B RECEIVE AND AUTHORIZE STAFF TO SUBMIT THE ANNUAL PROGRESS REPORT FOR 2018 AND ANNUAL ELEMENT PROGRESS REPORT FOR 2018 TO THE OFFICE OF PLANNING AND RESEARCH AND STATE HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT REGARDING THE IMPLEMENTATION OF THE GENERAL PLAN AND THE HOUSING ELEMENT

Kimberly Matlock, Associate Planner provided the staff report.

There were no questions from the public.

There were no questions from City Council.

**ACTION:** Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-054** authorizing staff to submit the Annual Progress Report and the Annual Element Progress Report for Calendar Year 2018 to the office of Planning and Research and State Housing and Community Development Department regarding the implementation of the General Plan and Housing Element. Roll call found Council Members Ransom, Vargas, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Arriola absent.

3.C RECEIVE PRESENTATION AND DISCUSS ANIMAL SHELTER SERVICES PROVIDED BY THE CITY OF TRACY'S ANIMAL SERVICES STAFF

Alex Neicu, Interim Police Chief provided the staff report, and Beth Lyons-McCarthy, Support Operations Manager responded to questions.

Michele Valleros shared her first experience with the Tracy Animal Shelter and her attempts to adopt a rescue dog.

Kris Tucker shared her support for the Tracy Animal Shelter and shared her suggestions to help the Animal Shelter.

Susan Manning, President of Humane Society from Amador County urged Council to cooperate with Trish Johnson regarding feral cats return to field program. Ms. Manning provided the Clerk with statistics and intake forms.

Trish Johnson provided information on the Trap, Neuter Return to Field Program, and provided handouts to the Clerk.

Linda Miller, President and Founder of East of Eden provided reforms for the Tracy Animal Shelter.

Ann Guzman spoke in support of the Animal Shelter and staff.

Robert Tanner provided suggestions for updating the Animal Service Manual.

Catherine Hansen-Rush spoke about reporting lost animal reports by telephone.

Ms. Butch addressed concerns regarding animal assessments. Ms. Butch requested Council get back to her regarding not being able to present their powerpoint presentation at the meeting.



Sarah Heinrich spoke about poor outreach to rescue from the Animal Shelter. Ms. Heinrich provided a handout to the Clerk for Council.

Ricky Butch spoke about updating the Animal Service Manual statistics, outreach, and encouraged the Animal Shelter to work with the rescue groups.

Sheri Savage expressed concerns about the Animal Shelter and stated a progressive shelter management program needs to be in place that meets the desire of the community.

Martin Evans spoke about vicious dogs.

Kristina Darling and Cordell Darling shared their experience about taking a dog to the shelter, and expressed support for the Animal Shelter and staff.

Lisa Kirk spoke about free spay and neuter services, backyard breeders and suggested doing a commission or advisory board.

Caroline Gracon shared her experience and concerns regarding harassment from Tracy Animal Shelter staff.

City Council questions and discussion followed.

Council Member Vargas left the meeting at 11:01 p.m.

Benjamin Miller, Animal Services Supervisor answered City Council's questions.

City Council directed staff to coordinate with stakeholders to get feedback and bring an updated Animal Services Manual to Council as soon as possible for consideration. Also meet to discuss the benefits and potentially utilize grants. The report to include whether staff is complying with best practices, costs and pros and cons, and operational assessment on Trap, Neuter and Release. Staff to keep Council apprised on when the item will be returning to Council for discussion. Council Member Vargas absent.

4. ITEMS FROM THE AUDIENCE – Abdul Wahid spoke about hatred and the incident at the Mosques in Christchurch, New Zealand. Mr. Wahid asked what safe guards are in place to stop this from happening in Tracy.
5. STAFF ITEMS - None
6. COUNCIL ITEMS

6.A APPOINT APPLICANT TO THE TRACY ARTS COMMISSION

Council Member Ransom provided the staff report.

No one from the public wished to speak.

City Council comments followed.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Arriola to appoint Jill Taylor to the Tracy Arts Commission and place Rajdeep Singh to the eligibility list serve the remainder of a vacated term beginning March 20, 2019, and ending on December 31, 2019. Roll call vote found all in favor; passed and so ordered.

6.B APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS FOR ONE VACANCY AND ONE UPCOMING TERM EXPIRATION ON THE TRANSPORTATION ADVISORY COMMISSION

Adrianne Richardson, City Clerk provided the staff report.

No one from the public wished to speak.

**ACTION:** Motion was made by Mayor Rickman and seconded by Council Member Ransom to appoint Council Member Arriola and Mayor Pro Tem Young to interview applicants to fill one vacancy and one upcoming term expiration on the Transportation Advisory Commission. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

6.C APPOINT ONE CITY COUNCIL MEMBER TO SERVE AS A LIAISON ON THE TRACY HOMELESS TASK FORCE

Adrianne Richardson, City Clerk provided the staff report.

City Council questions and comments followed.

Vecki Elliott spoke about Homeless Task Force meetings and funding opportunities and encouraged City participation.

Juana Dement spoke about Council appointing a Homeless Task Force stating policy needs to come through Council.

Alice Eversol spoke about the homeless issue stating the City needs to face reality about the situation.

Barbara Sassa described the Task Force, spoke about the homeless issues and urged Council to partner with the Task Force.

City Council discussion followed.

**ACTION:** Motion was made by Council Member Young and seconded by Council Member Ransom to appoint Council Member Ransom to serve as the liaison on the Tracy Homeless Task Force and Council Member Arriola as alternate. Roll call vote found Council Member Arriola, Ransom, and Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed and Council Member Vargas absent.

Council Member Arriola requested a report regarding any ramifications of Measure A Slow Growth Initiative on SB50. Council Member Arriola also requested an agenda item to discuss a City homeless subcommittee with the intent of developing a strategic plan. Council Member Ransom supported the request.

Council Member Ransom spoke about various bills discussed at the League of California Cities dinner. Council Member Ransom requested bringing back discussion on workforce and affordable housing as a community workshop. Council Member Arriola supported the request.

Mayor Pro Tem Young requested looking into sound for crosswalks, and asked when the item regarding monetizing of the City's waste storm drain would return to Council.

Mayor Pro Tem Young requested bringing back the following to Council: A policy regarding city vehicle use and car allowance, and an all inconclusive report on all commissions regarding purpose, liaisons, make up, if we need to keep or dissolve, dealing with schools, roles and functions. Council Member Ransom supported the requests. Mayor Pro Tem Young spoke about residents that have passed away that could have been honored at the State of City including Barbara Fitzpatrick.

Mayor Rickman asked for the report from Mr. Helm's public records' request to be released for discussion in open session. Mayor Rickman's request was not supported. Mayor Rickman thanked everyone for attending and participating in the State of the City. Mayor Rickman requested time limits on Council speaking be included in the Code of Conduct item on April 2, 2019.

7. ADJOURNMENT – Time: 12:27 a.m. Wednesday, March 20, 2019.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to adjourn. Roll call vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on March 14, 2019. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

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Mayor

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City Clerk

AGENDA ITEM 1.B

REQUEST

**ACCEPT THE INSTALLATION OF A TRAFFIC SIGNAL AND ASSOCIATED ROADWAY IMPROVEMENTS ON PESCADERO AVENUE FOR THE IPT PESCADERO SHELL BUILDING, CONSTRUCTED BY INDUSTRIAL PROPERTY TRUST, ASSUME RESPONSIBILITY FOR FUTURE MAINTENANCE AND REPAIR, AND AUTHORIZE THE CITY ENGINEER TO RELEASE ALL BONDS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT**

EXECUTIVE SUMMARY

IPT (Developer) has completed offsite roadway and traffic signal improvements for the IPT Pescadero Shell Building, a 461,810 square foot industrial facility, in accordance with the Offsite Improvement Agreement approved by Council, including project plans and specifications. Staff recommends City Council accept the improvements as complete and enable the City to release the developer's bonds.

DISCUSSION

On October 17, 2017, City Council approved the Offsite Improvement Agreement (Agreement) by Resolution No. 2017-212 for frontage improvements and a traffic signal associated with the IPT Pescadero Shell Building. This facility is generally located on the north side of Pescadero Avenue, east of MacArthur Drive, as shown on Attachment A.

Kier & Wright, Civil Engineers and Surveyors, Inc., of Livermore, California prepared the improvement plans titled "Improvement Plans for IPT Shell Building/Industrial Property Trust at 1305 E. Pescadero Avenue," containing nine (9) sheets.

Developer has completed all the work required to be done in accordance with the Agreement, and has requested acceptance of the public improvements. The City Engineer has inspected the completed work and confirmed that the improvements conform to the Agreement and City specifications and plans. The estimated cost of the infrastructure improvements are as follows:

Cost Breakdown:

Roadway Improvements	\$	408,710
Traffic Signal	\$	264,770
Water Improvements	\$	9,680
Total	\$	683,160

A 10-foot wide public utility easement has been dedicated along the frontage of the property and accepted by the City by Parcel Map 26-PM-78. A traffic signal easement was also dedicated to the City for maintenance of signal loops in the project driveway

and recorded as Document No. 2018-096095. No other land dedications were required of this project.

### STRATEGIC PLAN

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

### FISCAL IMPACT

The Developer, in accordance with the Offsite Improvement Agreement, completed all improvements.

### RECOMMENDATION

That City Council, by resolution, accept the improvements as complete in accordance with the Offsite Improvement Agreement for IPT Pescadero Shell Building including the project plans and specifications, assume responsibility for future maintenance and repair and authorize the City Engineer to release all bonds in accordance with the terms of the Agreement.

Prepared by: Paul Verma, Senior Civil Engineer

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

Approved by: Midori Lichtwardt, Interim City Manager

### ATTACHMENTS

Attachment A – Vicinity Map



# PROJECT TRAFFIC SIGNAL SITE

Write a description for your map.

Attachment A





RESOLUTION 2019-\_\_\_\_\_

ACCEPTING THE INSTALLATION OF A TRAFFIC SIGNAL AND ASSOCIATED ROADWAY IMPROVEMENTS ON PESCADERO AVENUE FOR THE IPT PESCADERO SHELL BUILDING, CONSTRUCTED BY INDUSTRIAL PROPERTY TRUST, ASSUMING RESPONSIBILITY FOR THEIR FUTURE MAINTENANCE AND REPAIR, AND AUTHORIZING THE CITY ENGINEER TO RELEASE BONDS IN ACCORDANCE WITH THE TERMS OF THE OFFSITE IMPROVEMENT AGREEMENT

WHEREAS, On October 17, 2017, City Council approved the Offsite Improvement Agreement (Agreement) by Resolution No. 2017-212 for frontage improvements and traffic signal associated with the IPT Pescadero Shell Building, and

WHEREAS, Industrial Property Trust (Developer), has completed all the work required to be done in accordance with the Agreement, and has requested acceptance of the offsite public improvements, and

WHEREAS, The City Engineer has inspected the completed work and recommends acceptance, and

WHEREAS, The estimated cost of infrastructure improvements is as follows:

Cost Breakdown:

Roadway Improvements	\$ 408,710
Traffic Signal	\$ 264,770
Water Improvements	\$ 9,680
Total	\$ 683,160

WHEREAS, A 10-foot wide public utility easement has been dedicated along the frontage of the property and accepted by the City by Parcel Map 26-PM-78 and a traffic signal easement was also dedicated to the City for maintenance of signal loops in the project driveway;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the improvements as complete in accordance with the Offsite Improvement Agreement for the IPT Pescadero Shell Building, including the project plans and specifications, and assumes responsibility for their future maintenance and repair in accordance with the terms of the Offsite Improvement Agreement;

BE IT FURTHER RESOLVED, That the City Engineer is authorized to release all bonds in accordance with the terms of the Offsite Improvement Agreement.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK



AGENDA ITEM 1.C

REQUEST

**ACCEPT THE FY 17/18 STORM DRAIN REPLACEMENT PROJECT (CIP 76068), COMPLETED BY SANACT, INC., DBA ROTO-ROOTER OF LIVERMORE, CALIFORNIA, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT**

EXECUTIVE SUMMARY

The contractor has completed the repairs of four storm drain inlets and adjacent concrete sidewalk CIP 76068 ("Project"), in accordance with Project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the Project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

This Project, CIP 76068, is part of an annual Storm Drain Replacement Program, with a budget approved for FY 17/18 as part of the annual budget process. The purpose of the program is to have the funds readily available to replace existing storm drains as required and requested by the Public Works Department at various locations throughout the City. Public Works requested the repairs of four storm drain inlets and adjacent concrete sidewalk.

The Project scope of work consisted of repairing four storm drain inlets located at 1631 Behaven Court, Southbound Tracy Boulevard (south of Mt. Diablo), 1605 Chrisman Road and 192 W. Larch Road. The scope of the Project also included repairing the concrete sidewalk adjacent to the storm drain inlets.

City engineering staff prepared the plans and specifications.

The Project was advertised for bids on the City of Tracy's website and builder's exchanges on April 23, 2018. On May 18, 2018, the City Manager, in accordance with Tracy Municipal Code section 2.20.260, executed the agreement with the lowest responsible bidder, Sanact, Inc., dba Roto-Rooter of Livermore, California, for \$28,000.

Two change orders amounting to \$9,430 were issued for the Project, which included installation of root barriers to preserve trees and installation of additional curb and gutter.

Project costs are as follows:

A.	Construction Contract Amount	\$ 28,000
B.	Approved change orders	\$ 9,430
C.	Design, construction management, inspection,	

testing & miscellaneous project management Expenses	\$ 749
Total Project Costs	\$ 38,179
Total Budget Amount	\$ 45,000

The Project has been completed within the available budget, on schedule, and is consistent with plans, specifications, and City of Tracy standards.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

This Project is part of the annual Storm Drain Replacement Program, whose budget was approved for FY17-18 as a part of the annual budget process. This Project is one of the projects completed as part of Capital Improvement Projects program for Storm Drain Replacement, and the funds in the amount of \$38,179 were used to complete this Project. The remaining funds in the amount of \$6,821 will remain in Storm Drain Fund 541 and will be used for future projects that are part of the Storm Drain Replacement Program.

#### RECOMMENDATION

Staff recommends that City Council, by resolution, accept the Storm Drain Replacement Project CIP 76068, completed by Sanact, Inc., dba Roto-Rooter of Livermore, California, authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, authorize the City Engineer, in accordance with the terms of the construction contract, to release the bonds and retention payment, and authorize the Finance Department to close the Project.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Midori Lichtwardt, Interim City Manager

RESOLUTION 2019-\_\_\_\_\_

ACCEPTING THE FY 17/18 STORM DRAIN REPLACEMENT PROJECT CIP 76068, COMPLETED BY SANACT, INC., DBA ROTO-ROOTER OF LIVERMORE, CALIFORNIA, AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, On May 18, 2018, the City Manager, in accordance with Tracy Municipal Code section 2.20.260, executed the agreement with the lowest responsible bidder, Sanact, Inc., dba Roto-Rooter of Livermore, California, in the amount of \$28,000, and

WHEREAS, CIP 76068 is part of the Storm Drain Replacement Program whose budget was approved for FY 17/18, and

WHEREAS, This Project consisted of replacing storm drains at four locations is one of the projects chosen by the Public Works Department, and

WHEREAS, The scope of work included repairs of four storm drains and adjacent side, and

WHEREAS, Two change orders amounting to \$9,430 were issued for the Project, which included installation of Root Barriers to preserve trees and installation of additional curb and gutter, and

WHEREAS, Project costs are as follows:

A.	Construction Contract Amount	\$ 28,000
B.	Approved Change orders	\$ 9,430
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	\$ 749
	Total Project Costs	\$ 38,179
	Total Budget Amount	\$ 45,000

WHEREAS, The Project has been completed within the available budget and original contract time frame and in accordance with Project plans, specifications, and City of Tracy standards, and

WHEREAS, The Storm Drain Replacement Project, CIP 76068 is part of a project within an approved Capital Improvement Project for Storm Drain Replacement Program with approved funding. The remaining funds will remain in Storm Drain Fund 541 and will be used for future improvement projects;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the Storm Drain Replacement Project, CIP 76068, completed by Sanact, Inc., dba Roto-Rooter of Livermore, California, authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, authorizes the City Engineer to

release the bonds and retention payment, and and authorizes the Finance Department to close the Project.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.D

REQUEST

**ACCEPT THE CONSTRUCTION OF THE ELEVENTH STREET BEAUTIFICATION PROJECT, CIP 73162, COMPLETED BY ODYSSEY ENVIRONMENTAL SERVICES, INC., OF LODI, CALIFORNIA, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT**

EXECUTIVE SUMMARY

The contractor has completed the construction of the Eleventh Street Beautification Project, CIP 73162, in accordance with project plans, specifications, and contract documents. This project created an attractive “gateway” into the City along the Eleventh Street median between Lammers Road and Corral Hollow Road. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor’s bonds and retention.

DISCUSSION

On March 20, 2018, City Council awarded a construction contract to Odyssey Environmental Services, Inc. of Lodi, California, in the total amount of \$865,928, for CIP 73162. The scope of the CIP included: (1) Clearing and removing existing landscaping including the existing trees and ground cover; (2) Removing of portions of hardscape and irrigation lines while protecting certain areas of curb, cobble, streetlights, and other improvements; (3) Installation of new irrigation lines; and finally, (4) Installing new landscaping including trees and ground cover. The project design, improvement plans, specifications, and contract documents were prepared by O’Dell Engineering, of Modesto, California.

Four change orders amounting \$139,810 were issued for the project, which included additional traffic control installation and pick up on daily basis, installation of additional 15-gallon and 1-gallon shrubs, installation of additional irrigation lines and bubblers.

Project costs are as follows:

A.	Construction Contract Amount	\$ 865,928
B.	Approved Change orders	\$ 139,810
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	<u>\$ 124,922</u>
	Total Project Costs	\$1,130,660
	Total Budget Available	\$1,200,000
	Budget Remaining	\$ 69,340

The project has been completed within the available budget and original contract period and in accordance with the plans, specifications, and City of Tracy standards.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

The Eleventh Street Beautification Project, CIP 73162, is an approved Capital Improvement Project with funding in the amount of \$1,200,000 from the General Fund Projects Fund (F301). The project was completed within the available budget for a total cost of \$1,130,660. The remaining funds of \$69,340 will be released back into fund balance and will be used for future General Fund Capital Improvement Projects.

#### RECOMMENDATION

That City Council, by resolution, accept the construction of the Eleventh Street Beautification Project, CIP 73162, completed by Odyssey Environmental Services, Inc. of Lodi, California, authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, authorize the City Engineer to release the bonds and retention payment, and authorize the Finance Department to close the project.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Midori Lichtwardt, Interim City Manager

RESOLUTION 2019-\_\_\_\_\_

ACCEPTING THE CONSTRUCTION OF THE ELEVENTH STREET BEAUTIFICATION PROJECT, CIP 73162, COMPLETED BY ODYSSEY ENVIRONMENTAL SERVICES, INC., OF LODI, CALIFORNIA, AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, On March 20, 2018, City Council awarded a construction contract to Odyssey Environmental Services, Inc. of Lodi, California, in the total amount of \$865,929, CIP 73162, and

WHEREAS, The project consisted of: (1) Clearing and removing existing landscaping including the existing trees and ground cover; (2) Removing portions of hardscape and irrigation lines while protecting certain areas of curb, cobble, street lights, and other improvements; (3) Installing of new irrigation lines; and finally, (4) Installing new landscaping including trees and ground cover, and

WHEREAS, Four change orders amounting \$139,810 were issued for the project, and

WHEREAS, The status of budget costs is as follows:

A.	Construction Contract Amount	\$ 865,928
B.	Approved Change orders	\$ 139,810
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	<u>\$ 124,922</u>
	Total Project Costs	\$1,130,660
	Total Budget Available	\$1,200,000
	Budget Remaining	\$ 69,340

WHEREAS, The project has been completed within the available budget and original contract time frame and in accordance with project plans, specifications, and City of Tracy standards, and

WHEREAS, The Eleventh Street Beautification Project, CIP 73162, is an approved Capital Improvement Project with funding in the amount of \$1,200,000 from the General Fund Projects Fund (F301). The project was completed within the available budget for a total cost of \$1,130,660. The remaining funds of \$69,340 will be released back into fund balance and will be used for future General Fund Capital Improvement Projects;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the Eleventh Street Beautification Project, CIP 73162, completed by Odyssey Environmental Services, Inc. of Lodi, California, authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, authorizes the City Engineer to release the bonds and retention payment, and authorizes the Finance Department to close the project.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April, 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK



AGENDA ITEM 1.E

REQUEST

**ACCEPT THE CONSTRUCTION OF THE ELEVENTH STREET OVERHEAD BRIDGE PROJECT, CIP 73063 AND BHLS-5192(020), COMPLETED BY TEICHERT / MCM JOINT VENTURE OF DAVIS, CALIFORNIA, AUTHORIZE THE CITY CLERK TO RECORD THE NOTICE OF COMPLETION, AND AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT**

EXECUTIVE SUMMARY

The contractor has completed the construction of the Eleventh Street Overhead Bridge Project, CIP 73063 and BHLS-5192(020), in accordance with the project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On March 17, 2015, City Council awarded a construction contract to Teichert / MCM, a Joint Venture of Davis, California, for the Eleventh Street Overhead Bridge Project, CIP 73063 and BHLS-5192(020) in the amount of \$32,204,687. The scope of work included demolition of the existing bridge and construction of four lanes on the new bridge, including modification of the north MacArthur Drive and Eleventh Street intersection and traffic signal, construction of curbs, gutters, sidewalk along Eleventh Street, and street lights.

The project plans and specifications were prepared by Drake Haglan and Associates of Sacramento, California.

Change orders amounting to \$2,118,751 were issued for the project, which included multiple unforeseen conditions, modification of the construction documents based on the site condition, and mostly revolving around unmarked/unknown underground utilities that were not in the construction plans and/or USA (Underground Service Alert) prior to construction.

The project construction contract unit prices are based on estimated engineering quantities. Actual payment is based on field measured quantities installed by the contractor.

Project costs are as follows:

A.	Construction contract amount	\$ 32,204,687
B.	Approved change orders	\$ 2,118,751
C.	Planning, design, right of way, utility relocation, construction management, inspection, testing and miscellaneous project expenses	\$ 11,545,843

Total Project Costs	\$ 45,869,281
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Total Budget	\$ 46,530,349
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The project costs were funded by the following sources:

Highway Bridge Program (Federal Grant)	\$ 40,256,641
Seismic Retrofit Program (State)	\$ 2,206,645
Gas Tax (F245)	\$ 3,405,995

The project has been completed within the available budget and in accordance with the plans, specifications, City of Tracy standards, and Caltrans standards.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

The Eleventh Street Overhead Bridge Project, CIP 73063, is an approved Capital Improvement Project with funding in the amount of \$45,869,281, with \$40,256,641 from the Highway Bridge Program, \$2,206,645 from the Seismic Retrofit Program, and \$3,405,995 from Gas Tax (F245). The project was completed within the available budget for a total cost of \$45,869,281.

#### RECOMMENDATION

That City Council, by resolution, accept the construction of the Eleventh Street Overhead Bridge Project, CIP 73063 and BHLS-5192(020), completed by Teichert / MCM, Joint Venture of Davis, California, authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, and authorize the City Engineer to release the bonds and retention payment.

Prepared by: Zabih Zaca, Senior Civil Engineer

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

Approved by: Midori Lichtwardt, Interim City Manager

RESOLUTION 2019-\_\_\_\_\_

ACCEPTING THE CONSTRUCTION OF THE ELEVENTH STREET OVERHEAD BRIDGE PROJECT, CIP 73063, FEDERAL PROJECT NO. BHLS-5192(020) COMPLETED BY TEICHERT / MCM JOINT VENTURE OF DAVIS, CALIFORNIA, AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER, AND AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, On March 17, 2015, City Council awarded a construction contract to Teichert / MCM Joint Venture of Davis, California, for the construction of Eleventh Street, Overhead Bridge Project, CIP 73063, Federal Project No. BHLS-5192(020) in the amount of \$32,204,687, and

WHEREAS, This project replaced the existing Eleventh Street overhead bridge with two travel lanes in each direction, including median, sidewalk, and bike lanes, and

WHEREAS, The project improved the traffic flow in both east and west directions, including construction of curbs, gutters and sidewalk along north and south direction of Eleventh Street, and

WHEREAS, Change orders amounting to \$2,118,751 were issued for the project which included multiple unforeseen conditions, and

WHEREAS, The status of budget costs is as follows, and

A.	Construction contract amount	\$ 32,204,687
B.	Approved change orders	\$ 2,118,751
C.	Design, construction management, inspection, testing & miscellaneous project management expenses	\$ 11,545,843
	Total Project Costs	\$ 45,869,281
	Total Budget	\$ 46,530,349

WHEREAS, The project was funded from Federal, State, and Local as follows, and

Highway Bridge Program (Federal Grant)	\$ 40,256,641
Seismic Retrofit Program (State)	\$ 2,206,645
Gas Tax (F245)	\$ 3,405,995

WHEREAS, The project has been completed within the available budget and in accordance with project plans, specifications, and City of Tracy standards, and

WHEREAS, The Eleventh Street Overhead Bridge Project, CIP 73063, is an approved Capital Improvement Project with funding in the amount of \$45,869,281, with \$40,256,641 from the Highway Bridge Program, \$2,206,645 from the Seismic Retrofit Program, and \$3,405,995 from Gas Tax (F245). The project was completed within the available budget for a total cost of \$45,869,281;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the Eleventh Street Overhead Bridge Project, CIP 73063, Federal Project No. BHLS-5192(020), completed by Teichert / MCM Joint Venture of Davis, California, authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder, and authorizes the City Engineer to release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.F

REQUEST

**APPROVE THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3953, TRACY HILLS VILLAGE 6A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

Tracy Phase I, LLC ("Subdivider") is responsible for the construction of street improvements and utilities appurtenant to the development of Tract 3953, Tracy Hills Village 6A. The Subdivision Improvement Agreement ("SIA") which authorized the Subdivider to proceed with the construction of said improvements was approved by the City Council on August 21, 2018, pursuant to Resolution No. 2018-165, and was recorded in San Joaquin County Records on August 29, 2018.

Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3953, Tracy Hills Village 6A, were excluded from the SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans. City staff is continuing to review the landscape construction plans and expects to complete the review within the next few weeks.

The Subdivider is requesting approval of the First Amendment to the Subdivision Improvement Agreement for Tract 3953, Tracy Hills Village 6A ("First Amendment") in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3953, Tracy Hills Village 6A, until such time as the landscape construction plans are approved by the City Engineer.

The additional work proposed by the First Amendment is shown on the landscape construction plans entitled "Tracy Hills Landscape Improvement Plans-Neighborhood 6A-Tract 3953 Phase 1A," prepared by FORMA, which are currently under review by the Engineering Division.

DISCUSSION

The SIA which authorized the Subdivider to proceed with the construction of the street improvements and utilities within Tract 3953, Tracy Hills Village 6A was approved by the City Council on August 21, 2018. At the time of the approval of the SIA, the Subdivider requested that the landscape and irrigation improvements within the parkway strips on the public streets throughout Village 8A be excluded from the SIA to allow the Subdivider additional time to resolve several landscape and irrigation design issues and continue to work with City staff to finalize the associated plans.

The landscape construction plans are still undergoing review and have not been approved by the City Engineer. The Subdivider is requesting that the City allow them to commence construction of the landscaping and irrigation improvements before the City

completes its review of the associated plans. Subdivider understands and acknowledges that it will be proceeding with such work at their sole and exclusive risk until such time as the City Engineer ultimately approves the plans. Upon the City Engineer's approval of the plans, work will proceed as normal under the standard terms of the SIA (as modified by the First Amendment).

The Subdivider has executed the First Amendment in order add the landscaping and irrigation improvements within the parkway strips on the public streets throughout Village 6A to the original Scope of Work described in the SIA and will submit the required additional improvement security as set forth in the First Amendment.

The landscaping and irrigation improvements that are the subject of the First Amendment are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement Between the City of Tracy and the Tracy Hills Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement.

#### FISCAL IMPACT

The Subdivider has paid the applicable engineering review fees, which include the cost of the review of the landscape construction plans and the processing of the First Amendment. The maintenance of said improvements will be funded and performed by the HOA pursuant to the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

That the Tracy City Council, by resolution, approve the First Amendment to the Subdivision Improvement Agreement for Tract 3953, Tracy Hills Village 6A, and authorize the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder.

Prepared by: Nanda Gottiparthi, PE, SNG & Associates, Inc.

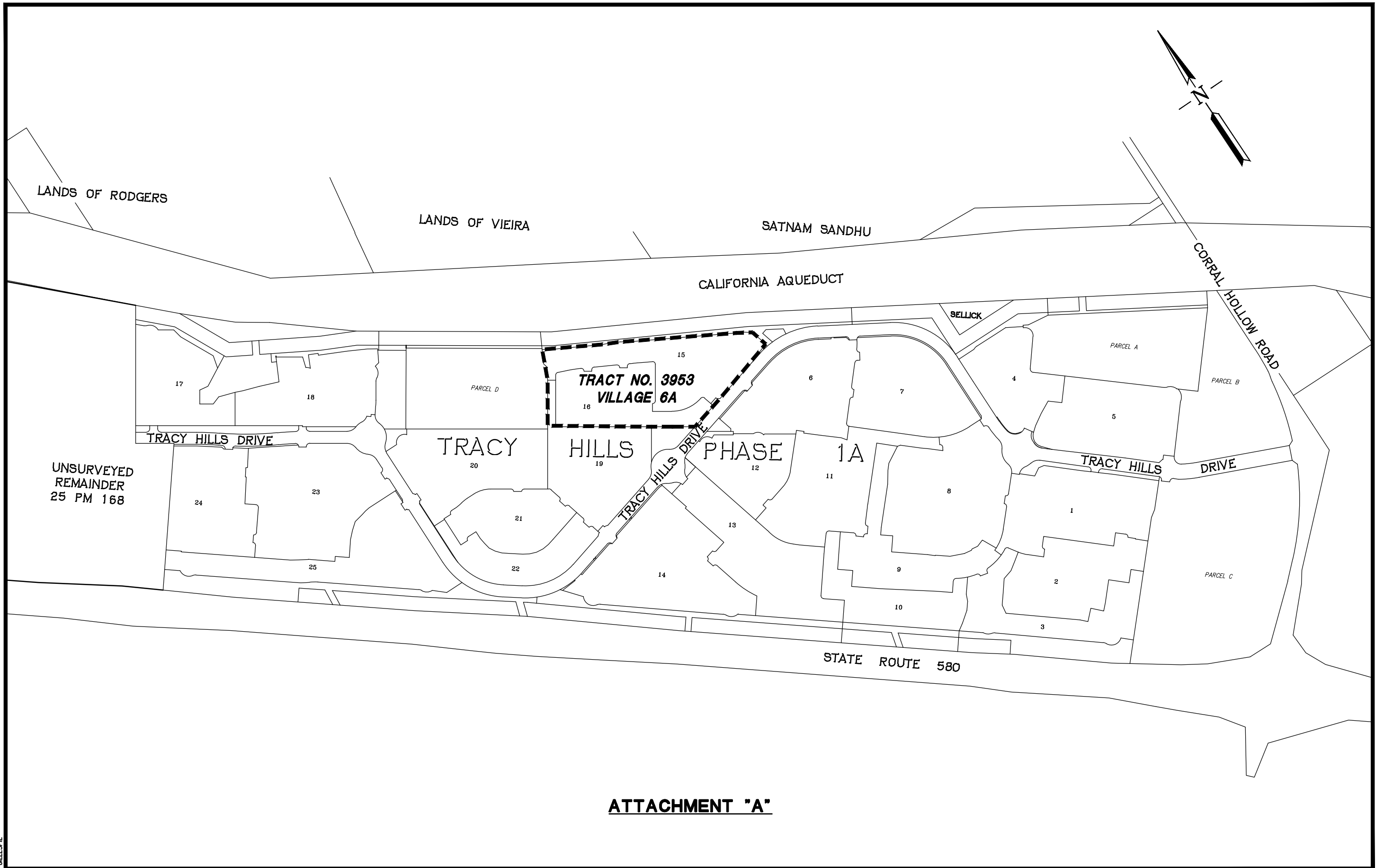
Reviewed by: Robert Armijo, PE, City Engineer / Assistant Development Services Director  
Karin Schnaider, Finance Director  
Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Vicinity Map  
Attachment B – First Amendment to SIA

G:\JOB2012\121083-IP\CAD FILES\00-EXHIBITS\SA EXHIBITS\6A - ATTACH\_A.DWG 6/18/2018 8:55:45 AM ALLYSON GILES



Recording Requested By:

ORIGINAL

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attn: Adrienne Richardson

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SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**CITY OF TRACY  
FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT  
FOR TRACT 3953, TRACY HILLS VILLAGE 6A**

This **FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3953, TRACY HILLS VILLAGE 6A**, (hereinafter "First Amendment") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **TRACY PHASE I, LLC**, a Delaware limited liability company, (hereinafter, "Subdivider").

**RECITALS**

- A. On August 21, 2018, pursuant to Resolution No. 2018-165, the City Council approved a Subdivision Improvement Agreement to authorize the Subdivider to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3953, Tracy Hills Village 6A (the "**SIA**"). The SIA was subsequently executed by the City and Subdivider and was recorded on August 29, 2018 as Document #2018-096097, San Joaquin County Records, and is on file with the City Clerk.
- B. The City and Subdivider now wish to amend the SIA to add the landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3953, Tracy Hills Village 6A, to the Work described in the SIA.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **INCORPORATION BY REFERENCE.** This First Amendment hereby incorporates by reference all terms and conditions set forth in the SIA unless specifically modified by this First Amendment. All terms and conditions set forth in the SIA not specifically modified by this First Amendment shall remain in full force and effect.



2. AMENDMENTS TO THE SUBDIVISION IMPROVEMENT AGREEMENT.

- 2.1. Amendment to Recital E of the SIA. Recital E of the SIA is hereby amended to add the following to the Plans and Specifications listed therein:

"Landscape and irrigation improvements within the parkway strips on the public streets as shown on the twenty-five (25) sheets of landscape construction plans, entitled "Tracy Hills Landscape Improvement Plans-Neighborhood 6A-Tract 3953 Phase 1A", prepared by FORMA, the two (2) sheets of structural details prepared by Harris and Sloan, and the two (2) sheets of electrical plans prepared by Candela Engineering (the "**Additional Work**")."

- 2.2. Amendment to Recital F of the SIA: Recital F of the SIA is deleted in its entirety and replaced by the following:

"The Plans and Specifications for the Additional Work are currently under review and have not been approved by the City Engineer. Subdivider may commence constructing the landscaping and irrigation improvements before the City completes its review and approval of the associated Plans and Specifications. Subdivider understands and acknowledges that they will be proceeding with such improvements at their sole and exclusive risk, and that if the improvements completed by Subdivider do not conform, in the City Engineer's reasonable determination, to the Plans and Specifications ultimately approved by the City the Subdivider will be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at the Subdivider's sole cost."

- 2.3. Amendment to Section 1 of the SIA: Section 1 of the SIA is hereby amended to add the following Subsection 1.1:

"1.1. Subdivider understands and agrees that because the Plans and Specifications for the Additional Work have not been approved by the City Engineer, if any of the completed landscape and irrigation improvements do not conform to the final approved Plans and Specifications the Subdivider will have to remove and reconstruct such improvements to the reasonable satisfaction of the City Engineer at Subdivider's sole cost."

- 2.4. Amendment to Section 5 of the SIA: In addition to the improvement security required by Section 5 of the SIA, Subdivider shall furnish the following security for the Additional Work. The following language shall be added to Section 5 as stated herein:

"5.5. **Faithful Performance** security in the amount of **\$232,824.00** in accordance with the cost estimates approved by City to secure faithful performance of this First Amendment (until the date on which the City Council accepts the Additional Work as complete).

5.6. **Labor and Material** security in the amount of **\$232,824.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims in connection with the Additional Work are required to be made by laborers and materialmen).

5.7. **Warranty** security in the amount of **\$23,282.00** in accordance with the cost estimates approved by City to secure faithful performance of this First Amendment (from the date on which the City Council accepts the Additional Work as complete until one year thereafter."

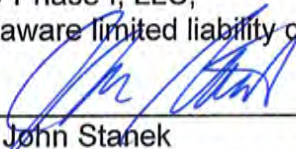
3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of the Subdivider and the City. This First Amendment shall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

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

CITY OF TRACY,  
a municipal corporation

By: Robert Rickman  
Title: MAYOR  
Date: \_\_\_\_\_

SUBDIVIDER:  
Tracy Phase I, LLC,  
a Delaware limited liability company

By:   
Title: AUTHORIZED REPRESENTATIVE  
Date: March 8, 2019

Attest:

By: Adrienne Richardson  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

By: Thomas Watson  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_




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

State of California )  
 ) ss  
County of Orange )

On March 8, 2019, before me, Anne Nguyen, Notary Public, personally appeared John Stanek, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature

(Affix Seal)

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3953, TRACY HILLS VILLAGE 6A, AND AUTHORIZING THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The Subdivision Improvement Agreement for Tract 3953, Tracy Hills Village 6A ("SIA"), executed by the City of Tracy ("City") and Tracy Phase I, LLC ("Subdivider"), was approved by the City Council on August 21, 2018, and was recorded in San Joaquin County Records on August 29, 2018, and

WHEREAS, The SIA authorized the Subdivider to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3953, Tracy Hills Village 6A, and

WHEREAS, The SIA excluded landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3953, Tracy Hills Village 6A, in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans, and

WHEREAS, The landscape construction plans for the parkway landscape and irrigation improvements are still undergoing review by the Engineering Division and have not been approved by the City Engineer, and

WHEREAS, The Subdivider is requesting approval of the First Amendment to the Subdivision Improvement Agreement for Tract 3953, Tracy Hills Village 6A ("First Amendment") in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3953, Tracy Hills Village 6A, until such time as the landscape construction plans are approved by the City Engineer, and

WHEREAS, The City and Subdivider now wish to execute the First Amendment in order add the subject parkway landscaping and irrigation improvements to the original Scope of Work as described in the SIA, and

WHEREAS, The City will periodically inspect Subdivider's work in constructing and installing the parkway landscape and irrigation improvements as shown on the submitted landscape construction plans, will periodically advise Subdivider regarding whether the work appears to be proceeding in conformance with the submitted plans, and will further inspect construction of the improvements after the City Engineer's approval of the plans in accordance with the standard terms of the SIA (as modified by the First Amendment), and

WHEREAS, In order to guarantee the performance of the Subdivider's obligations regarding completion of the parkway landscaping and irrigation improvements within Tract 3953, Tracy Hills Village 6A, the Subdivider has executed the First Amendment and has submitted the required additional improvement security as set forth therein, and

WHEREAS, The parkway landscaping and irrigation improvements that are the subject of the First Amendment are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement between the City of Tracy and the Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement, and

WHEREAS, The Subdivider has paid the cost of engineering, plan review and processing the First Amendment, and will pay all construction and inspection costs associated with the subject parkway landscaping and irrigation improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the First Amendment to the Subdivision Improvement Agreement for Tract 3953, Tracy Hills Village 6A, and authorizes the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April, 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.G

REQUEST

**APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3943, TRACY HILLS VILLAGE 1B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

City staff requests that the City Council approve the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") to provide for completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3943, Tracy Hills Village 1B. Lennar Homes of California, Inc., a California corporation ("Developer"), has signed the SIA and posted the required security to guarantee completion of the parkway landscaping and irrigation improvements.

DISCUSSION

On June 19, 2018, pursuant to Resolution 2018-103, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("Subdivider") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3943, Tracy Hills Village 1B ("Original SIA"). The Original SIA was subsequently recorded on July 19, 2018.

Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3943, Tracy Hills Village 1B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.

The Final Subdivision Map for Tract 3943, Tracy Hills Village 1B, was recorded on June 28, 2018. Subsequent to the recordation of said map, the Subdivider conveyed title to all of the lots within Tract 3943, Tracy Hills Phase 1B, to the Developer. Attachment A shows the location of Tract 3943, Tracy Hills Village 1B, within the overall Tracy Hills Phase 1A project.

The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping in order to provide for the completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3943, Tracy Hills Village 1B.

The Landscape Improvement Plans which describe in detail the landscape and irrigation improvements within the subject parkway strips are still undergoing review and have not been approved by the City Engineer. The Developer is requesting that the City allow them to commence construction of the landscaping and irrigation improvements before the City completes its review of the associated plans. Subdivider understands and acknowledges that it will be proceeding with such work at their sole and exclusive risk until such time as the City Engineer ultimately approves the plans.

The Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications) describe in detail the landscape and irrigation improvements within the subject parkway strips. These plans have been prepared on behalf of the Developer and approved by the City Engineer.

The Developer has executed the SIA and posted the required security to guarantee completion of the improvements.

The landscaping and irrigation improvements that are the subject of this SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement.

#### FISCAL IMPACT

The Developer has paid the applicable engineering review fees, which include the cost of the review of the landscape improvement plans and the processing of the SIA. The maintenance of said improvements will be funded and performed by the HOA pursuant to the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

Staff recommends that the Tracy City Council, by resolution, approve the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3943, Tracy Hills Village 1B, and authorize the City Clerk to file the SIA with the Office of the San Joaquin County Recorder.

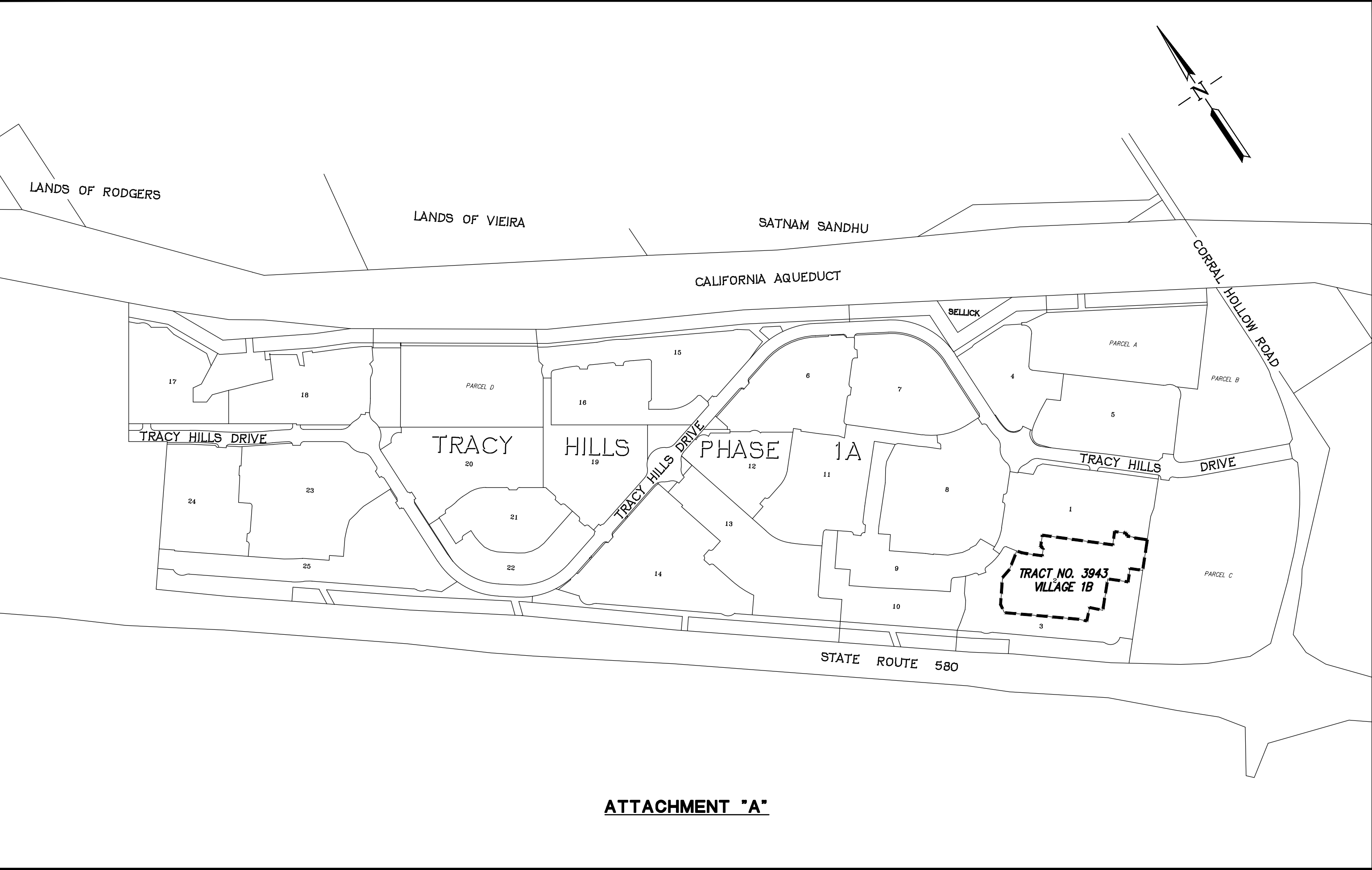
Prepared by: Nanda Gottiparthi, PE, SNG & Associates, Inc.

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

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Subdivision Improvement Agreement





ORIGINAL

Recording Requested By:

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attn: Adrienne Richardson

---

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY  
SUBDIVISION IMPROVEMENT AGREEMENT  
(for Parkway Landscaping)  
TRACT 3943, TRACY HILLS VILLAGE 1B**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **LENNAR HOMES OF CALIFORNIA, INC.**, a California corporation (hereinafter "Developer").

**RECITALS**

- A. On June 19, 2018, pursuant to Resolution No. 2018-103, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("**Subdivider**") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3943, Tracy Hills Village 1B (the "**Original SIA**"). The Original SIA was subsequently executed by the City and Subdivider and was recorded on July 19, 2018, as Document #2018-079695, San Joaquin County Records and is on file with the City Clerk.
- B. Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3943, Tracy Hills Village 1B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.
- C. The Final Subdivision Map for Tract 3943, Tracy Hills Village 1B, was recorded at the request of the Subdivider on June 28, 2018, in Book 43 of Maps and Plats, at Page 40, San Joaquin County Records. Subsequent to the recordation of said map, and by virtue of the Grant Deed recorded September 6, 2018, as Document #2018-099759, San Joaquin County Records, the Subdivider conveyed title to all of the lots within Tract 3943, Tracy Hills Village 1B, to the Developer. The real property

conveyed from the Subdivider to the Developer by said Grant Deed is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

- D. Pursuant to the intent of the Original OIA and in furtherance of the satisfaction of the Conditions of Approval for Tract 3943, Tracy Hills Village 1B, the City and Developer now wish to enter into this Agreement for provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3943, Tracy Hills Village 1B.
- E. Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications), which describe in detail the landscape and irrigation improvements within the subject parkway strips, have been prepared on behalf of the Developer and are under review by the City Engineer. The plans and specifications under review are incorporated herein by reference and include fourteen (14) sheets of landscape construction plans, entitled "Tracy Hills Landscape Improvement Plans-Neighborhood 1B-Tract 3943 Phase 1A", prepared by FORMA (the "**Submitted Plans and Specifications**" or "**Work**").
- F. The Submitted Plans and Specifications are currently under review and have not been approved by the City Engineer. Developer may commence constructing the landscaping and irrigation improvements based on the Submitted Plans and Specifications before the City completes its review and approval of the Submitted Plans and Specifications. Developer understands and acknowledges that they will be proceeding with such improvements at their sole and exclusive risk, and that if the improvements completed by Developer do not conform, in the City Engineer's reasonable determination, to the Plans and Specifications ultimately approved by the City the Developer will be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at the Developer's sole cost.
- G. Since the Work has not been completed in accordance with the Conditions of Approval, the Developer has requested to execute this Agreement as authorized by Government Code section 66462.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f). Any portion(s) of the Work that are performed within existing City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.

- 1.1. Developer understands and agrees that because the Submitted Plans and Specifications have not been approved by the City Engineer, if any of the completed landscape and irrigation improvements do not conform to the final approved Plans and Specifications the Developer will have to remove and reconstruct such improvements to the reasonable satisfaction of the City Engineer at Developer's sole cost.

**2. GRADING AND STREET MAINTENANCE.**

- 2.1. Until all the Work is accepted by the City as complete, the Developer shall diligently perform the necessary maintenance of the entire Project site, including streets constructed within the Project, to the satisfaction of the City Engineer, at the Developer's own cost.
- 2.2. All infrastructure constructed under this Agreement will be maintained by the Developer until accepted by the City.

- 3. DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site or available by cell phone with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. The Authorized Representative shall be on site approximately 60% of the time the Work is occurring. The Developer may designate an employee of its general contractor as the Authorized Representative. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

- 4. LOCATION OF PERFORMANCE.** The Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire at the Developer's sole cost and expense, any easement or right-of-way necessary for the performance of the Work, with no credit or reimbursement from the City.

- 5. IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

- 5.1. **Faithful Performance** security in the amount of **\$96,387.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete).

- 5.2. **Labor and Material** security in the amount of **\$96,387.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen).
- 5.3. **Warranty** security in the amount of **\$9,639.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter).
6. **INSURANCE.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
- 6.1. **General.** The Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 6.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$1,000,000 per occurrence, and \$3,000,000 in the general aggregate for general liability, bodily injury, personal injury, and property damage, including completed operation coverage.
- 6.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto" including "hired autos" and "non-owned autos") coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage. If Developer has no employees, or does not own automobiles, then "hired autos" and "non-owned autos" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6.4. **Workers' Compensation** coverage for employees shall be maintained as required by the State of California.
- 6.5. **Endorsements.** Developer shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 6.5.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 6.5.2. For any claims related to this Agreement, Developer's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider's insurance and shall not contribute with it.



**6.6. Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

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

**6.8. Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.

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

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

**7. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Developer shall obtain a City of Tracy Business License. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.

**8. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.

**8.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Subdivider shall not commence Work until after the notice required by this section Developer is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.

- 8.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 8.3. Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if (a) the Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) the Developer pays all processing fees for such time extension.
- 8.4. Reversion to Acreage.** In the event that the Developer fails to commence the Work prior to the date on which completion is due, the Developer shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Developer shall bear all costs thereof.
- 9. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 10. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2%) of the estimated Project costs (as approved by the City Engineer). In the event that the City requires an independent inspection, the City may retain an independent inspector, Developer shall pay all costs associated with the independent inspection, and the independent inspector shall provide a report directly to the City.
- 11. DEFAULT.**
- 11.1.** In the event that the Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Developer's surety (if any) in which the default is described with appropriate specificity.
- 11.2.** The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:
- 11.2.1.** The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
- 11.2.2.** The Developer abandons the Project site.

- 11.2.3. The Developer fails to perform one or more requirements of this Agreement.
- 11.2.4. The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
- 11.2.5. The Developer violates any legal requirement related to the Work.
- 11.3. In the event that the Developer fails to cure the default within thirty (30) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:
  - 11.3.1. Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.
  - 11.3.2. Demand the Developer to complete performance of the Work.
  - 11.3.3. Demand the Developer's surety (if any) to complete performance of the Work.
  - 11.3.4. Commence a legal action to enforce the terms of this Agreement.
- 12. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the project site. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
- 13. **WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 14. **INDEPENDENT CONTRACTOR STATUS.** Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.

15. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in Auto-CAD format Release-14 or higher in a compact disc (CD).
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
17. **NOTICES.**
- 17.1 All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:
- |  |  |
|--|--|
| <u>To City:</u><br>City of Tracy<br>333 Civic Center Plaza<br>Tracy, CA 95376<br>Attn: City Engineer | <u>To Developer:</u><br>Lennar Homes of California, Inc.<br>2603 Camino Ramon, Suite 525<br>San Ramon, CA 94583<br>Attn: <u>Brent Reed</u> |
|--|--|
- Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
18. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
19. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
20. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
21. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.



22. **INDEMNIFICATION.** Developer shall indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Developer's negligence, recklessness, or willful misconduct in the performance of Work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.
23. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.
24. **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 Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*[remainder of this page intentionally left blank]*

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

CITY OF TRACY,  
a municipal corporation

\_\_\_\_\_  
By: Robert Rickman  
Title: MAYOR  
Date: \_\_\_\_\_

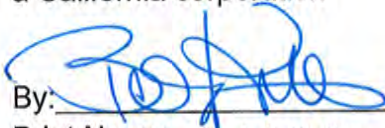
Attest:

\_\_\_\_\_  
By: Adrienne Richardson  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Thomas Watson  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

DEVELOPER:  
Lennar Homes of California, Inc.,  
a California corporation

By: \_\_\_\_\_  
Print Name: Bridgit Koller  
Title: Vice President  
Date: March 14, 2019

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

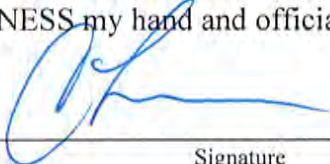
On March 15, 2019, before me, C. Leon, Notary Public  
(here insert name and title of the officer)

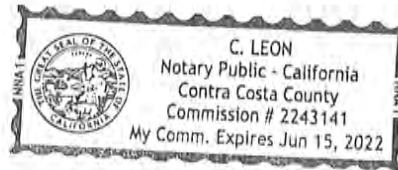
personally appeared Bridgit Koller,

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

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature



(SEAL)

**EXHIBIT "A"**  
(Legal Description of Developer's Property)

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

Lots 64 through 115, inclusive, as shown on the map of Tract No. 3943, Tracy Hills Village 1B, filed June 28, 2018, in Book 43 of Maps and Plats, at Page 40, Official Records of San Joaquin County.

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING  
FOR TRACT 3943, TRACY HILLS VILLAGE 1B, AND AUTHORIZING THE CITY CLERK TO FILE  
THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The original Subdivision Improvement Agreement for Tract 3943, Tracy Hills Village 1B ("Original SIA"), was executed by Tracy Phase I, LLC ("Subdivider"), and was recorded on July 19, 2018, and

WHEREAS, Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3943, Tracy Hills Village 1B, were intentionally excluded from the Original SIA, and

WHEREAS, The Final Subdivision Map for Tract 3943, Tracy Hills Village 1B, was executed by the Subdivider and was recorded on June 28, 2018, and

WHEREAS, Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3943, Tracy Hills Village 1B, to Lennar Homes of California, Inc. ("Developer"), and

WHEREAS, The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") in order to provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3943, Tracy Hills Village 1B, and

WHEREAS, The landscape improvement plans for the parkway landscape and irrigation improvements are still undergoing review by the Engineering Division and have not been approved by the City Engineer, and

WHEREAS, The Developer is requesting approval of the SIA in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3943, Tracy Hills Village 1B, until such time as the landscape improvement plans are approved by the City Engineer, and

WHEREAS, The City will periodically inspect Developer's work in constructing and installing the parkway landscape and irrigation improvements as shown on the submitted landscape improvement plans, will periodically advise Developer regarding whether the work appears to be proceeding in conformance with the submitted plans, and will further inspect construction of the improvements after the City Engineer's approval of the plans in accordance with the terms of the SIA, and

WHEREAS, In order to guarantee the performance of the Developer's obligations regarding completion of the parkway landscaping and irrigation improvements within Tract 3943, Tracy Hills Village 1B, the Subdivider has executed the SIA and has submitted the required improvement security as set forth therein, and

WHEREAS, The parkway landscaping and irrigation improvements that are the subject of the SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement Between the City of Tracy and the Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement, and

WHEREAS, The Developer has paid the cost of engineering, plan review and processing the SIA, and will pay all construction and inspection costs associated with the subject parkway landscaping and irrigation improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3943, Tracy Hills Village 1B and authorizes the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.H

REQUEST

**APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3945, TRACY HILLS VILLAGE 3B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

City staff requests that the City Council approve the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") to provide for completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3945, Tracy Hills Village 3B. Lennar Homes of California, Inc., a California corporation ("Developer"), has signed the SIA and posted the required security to guarantee completion of the parkway landscaping and irrigation improvements.

DISCUSSION

On June 19, 2018, pursuant to Resolution No. 2018-104, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("Subdivider") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3945, Tracy Hills Village 3B ("Original SIA"). The Original SIA was subsequently recorded on August 7, 2018.

Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3945, Tracy Hills Village 3B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.

The Final Subdivision Map for Tract 3945, Tracy Hills Village 3B, was recorded on June 28, 2018. Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3945, Tracy Hills Phase 3B, to the Developer. Attachment A shows the location of Tract 3945, Tracy Hills Village 3B, within the overall Tracy Hills Phase 1A project.

The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping in order to provide for the completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3945, Tracy Hills Village 3B.

The Landscape Improvement Plans, which describe in detail the landscape and irrigation improvements within the subject parkway strips, are still undergoing review and have not been approved by the City Engineer. The Developer is requesting that the City allow them to commence construction of the landscaping and irrigation improvements before the City completes its review of the associated plans. Subdivider understands and acknowledges that it will be proceeding with such work at their sole and exclusive risk until such time as the City Engineer ultimately approves the plans.

The Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications) describe in detail the landscape and irrigation improvements within the subject parkway strips. These plans have been prepared on behalf of the Developer and approved by the City Engineer.

The Developer has executed the SIA and posted the required security to guarantee completion of the improvements.

The landscaping and irrigation improvements that are the subject of this SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement.

#### FISCAL IMPACT

The Developer has paid the applicable engineering review fees, which include the cost of the review of the landscape improvement plans and the processing of the SIA. The maintenance of said improvements will be funded and performed by the HOA pursuant to the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

Staff recommends that the Tracy City Council, by resolution, approve the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3945, Tracy Hills Village 3B, and authorize the City Clerk to file the SIA with the Office of the San Joaquin County Recorder.

Prepared by: Nanda Gottiparthi, PE, SNG & Associates, Inc.

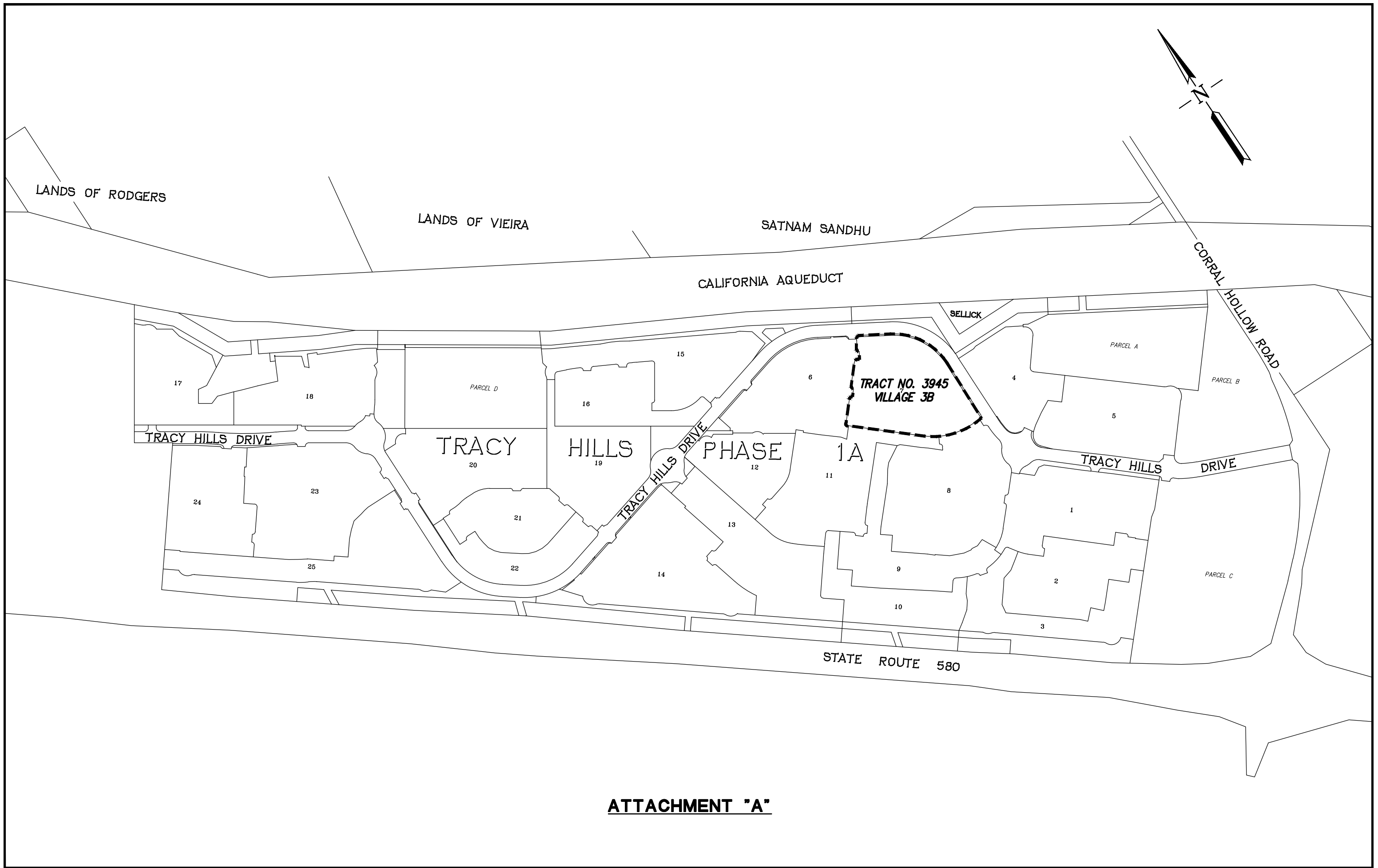
Reviewed by: Robert Armijo, PE, City Engineer / Assistant Development Services Director  
Karin Schnaider, Finance Director  
Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Subdivision Improvement Agreement





**ATTACHMENT "A"**

ORIGINAL

Recording Requested By:

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attn: Adrienne Richardson

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**CITY OF TRACY  
SUBDIVISION IMPROVEMENT AGREEMENT  
(for Parkway Landscaping)  
TRACT 3945, TRACY HILLS VILLAGE 3B**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **LENNAR HOMES OF CALIFORNIA, INC.**, a California corporation (hereinafter "Developer").

**RECITALS**

- A. On June 19, 2018, pursuant to Resolution No. 2018-104, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("**Subdivider**") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3945, Tracy Hills Village 3B (the "**Original SIA**"). The Original SIA was subsequently executed by the City and Subdivider and was recorded on August 7, 2018, as Document #2018-087265, San Joaquin County Records and is on file with the City Clerk.
- B. Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3945, Tracy Hills Village 3B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.
- C. The Final Subdivision Map for Tract 3945, Tracy Hills Village 3B, was recorded at the request of the Subdivider on June 28, 2018, in Book 43 of Maps and Plats, at Page 41, San Joaquin County Records. Subsequent to the recordation of said map, and by virtue of the Grant Deed recorded September 6, 2018, as Document #2018-099759, San Joaquin County Records, the Subdivider conveyed title to all of the lots within Tract 3945, Tracy Hills Village 3B, to the Developer. The real property conveyed from the Subdivider to the Developer by said Grant Deed is more

particularly described in Exhibit “A” attached hereto and incorporated herein by reference.

- D. Pursuant to the intent of the Original OIA and in furtherance of the satisfaction of the Conditions of Approval for Tract 3945, Tracy Hills Village 3B, the City and Developer now wish to enter into this Agreement for provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3945, Tracy Hills Village 3B.
- E. Landscape Improvement Plans and Specifications (incorporating portions of the City’s Standard Specifications), which describe in detail the landscape and irrigation improvements within the subject parkway strips, have been prepared on behalf of the Developer and are under review by the City Engineer. The plans and specifications under review are incorporated herein by reference and include thirteen (13) sheets of landscape construction plans, entitled “Tracy Hills Landscape Improvement Plans- Neighborhood 3B-Tract 3945 Phase 1A”, prepared by FORMA (the “**Submitted Plans and Specifications**” or “**Work**”).
- F. The Submitted Plans and Specifications are currently under review and have not been approved by the City Engineer. Developer may commence constructing the landscaping and irrigation improvements based on the Submitted Plans and Specifications before the City completes its review and approval of the Submitted Plans and Specifications. Developer understands and acknowledges that they will be proceeding with such improvements at their sole and exclusive risk, and that if the improvements completed by Developer do not conform, in the City Engineer’s reasonable determination, to the Plans and Specifications ultimately approved by the City the Developer will be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at the Developer’s sole cost.
- G. Since the Work has not been completed in accordance with the Conditions of Approval, the Developer has requested to execute this Agreement as authorized by Government Code section 66462.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer’s expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f). Any portion(s) of the Work that are performed within existing City’s right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.

- 1.1. Developer understands and agrees that because the Submitted Plans and Specifications have not been approved by the City Engineer, if any of the completed landscape and irrigation improvements do not conform to the final approved Plans and Specifications the Developer will have to remove and reconstruct such improvements to the reasonable satisfaction of the City Engineer at Developer's sole cost.

**2. GRADING AND STREET MAINTENANCE.**

- 2.1. Until all the Work is accepted by the City as complete, the Developer shall diligently perform the necessary maintenance of the entire Project site, including streets constructed within the Project, to the satisfaction of the City Engineer, at the Developer's own cost.
- 2.2. All infrastructure constructed under this Agreement will be maintained by the Developer until accepted by the City.

3. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site or available by cell phone with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. The Authorized Representative shall be on site approximately 60% of the time the Work is occurring. The Developer may designate an employee of its general contractor as the Authorized Representative. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **LOCATION OF PERFORMANCE.** The Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire at the Developer's sole cost and expense, any easement or right-of-way necessary for the performance of the Work, with no credit or reimbursement from the City.

5. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

- 5.1. **Faithful Performance** security in the amount of **\$74,640.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete).

- 5.2. **Labor and Material** security in the amount of **\$74,640.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen).
- 5.3. **Warranty** security in the amount of **\$7,464.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter).
6. **INSURANCE.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
- 6.1. **General.** The Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 6.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$1,000,000 per occurrence, and \$3,000,000 in the general aggregate for general liability, bodily injury, personal injury, and property damage, including completed operation coverage.
- 6.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto” including “hired autos” and “non-owned autos”) coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage. If Developer has no employees, or does not own automobiles, then “hired autos” and “non-owned autos” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6.4. **Workers’ Compensation** coverage for employees shall be maintained as required by the State of California.
- 6.5. **Endorsements.** Developer shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 6.5.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 6.5.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider’s insurance and shall not contribute with it.

- 6.6. Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 6.7. Authorized Insurers.** All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 6.8. Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 6.9. Substitute Certificates.** No later than thirty calendar (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 6.10. Developer's Obligation.** Maintenance of insurance by the Developer as specified in this Agreement shall in no way be interpreted as relieving the Developer of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Developer may carry, at its own expense, such additional insurance as it deems necessary.
- 7. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Developer shall obtain a City of Tracy Business License. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 8. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 8.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Subdivider shall not commence Work until after the notice required by this section Developer is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.

- 8.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 8.3. Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if (a) the Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) the Developer pays all processing fees for such time extension.
- 8.4. Reversion to Acreage.** In the event that the Developer fails to commence the Work prior to the date on which completion is due, the Developer shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Developer shall bear all costs thereof.
- 9. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 10. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2%) of the estimated Project costs (as approved by the City Engineer). In the event that the City requires an independent inspection, the City may retain an independent inspector, Developer shall pay all costs associated with the independent inspection, and the independent inspector shall provide a report directly to the City.
- 11. DEFAULT.**
- 11.1.** In the event that the Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Developer's surety (if any) in which the default is described with appropriate specificity.
- 11.2.** The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:
- 11.2.1.** The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
- 11.2.2.** The Developer abandons the Project site.

- 11.2.3. The Developer fails to perform one or more requirements of this Agreement.
- 11.2.4. The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
- 11.2.5. The Developer violates any legal requirement related to the Work.
- 11.3. In the event that the Developer fails to cure the default within thirty (30) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:
  - 11.3.1. Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.
  - 11.3.2. Demand the Developer to complete performance of the Work.
  - 11.3.3. Demand the Developer's surety (if any) to complete performance of the Work.
  - 11.3.4. Commence a legal action to enforce the terms of this Agreement.
- 12. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the project site. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
- 13. **WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 14. **INDEPENDENT CONTRACTOR STATUS.** Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.



15. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in Auto-CAD format Release-14 or higher in a compact disc (CD).
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
17. **NOTICES.**
- 17.1 All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:
- |  |  |
|--|--|
| <u>To City:</u><br>City of Tracy<br>333 Civic Center Plaza<br>Tracy, CA 95376<br>Attn: City Engineer | <u>To Developer:</u><br>Lennar Homes of California, Inc.<br>2603 Camino Ramon, Suite 525<br>San Ramon, CA 94583<br>Attn: <u>Brent Reed</u> |
|--|--|
- Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
18. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
19. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
20. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
21. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

22. **INDEMNIFICATION.** Developer shall indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Developer's negligence, recklessness, or willful misconduct in the performance of Work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.
23. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.
24. **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 Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*[remainder of this page intentionally left blank]*

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

CITY OF TRACY,  
a municipal corporation

\_\_\_\_\_  
By: Robert Rickman  
Title: MAYOR  
Date: \_\_\_\_\_

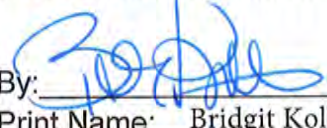
Attest:

\_\_\_\_\_  
By: Adrienne Richardson  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Thomas Watson  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

DEVELOPER:  
Lennar Homes of California, Inc.,  
a California corporation

\_\_\_\_\_  
By:   
Print Name: Bridgit Koller  
Title: Vice President  
Date: March 14, 2019

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

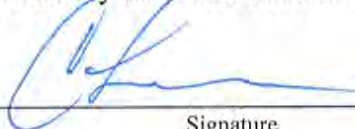
On March 15, 2019, before me, C. Leon, Notary Public  
(here insert name and title of the officer)

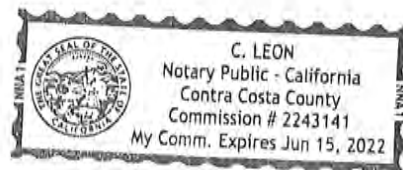
personally appeared Bridgit Koller,

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

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature



(SEAL)

**EXHIBIT "A"**  
(Legal Description of Developer's Property)

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

Lots 42 through 103, inclusive, as shown on the map of Tract No. 3945, Tracy Hills Village 3B, filed June 28, 2018, in Book 43 of Maps and Plats, at Page 41, Official Records of San Joaquin County.

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING  
FOR TRACT 3945, TRACY HILLS VILLAGE 3B, AND AUTHORIZING THE CITY CLERK TO FILE  
THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The original Subdivision Improvement Agreement for Tract 3945, Tracy Hills Village 3B ("Original SIA"), was executed by Tracy Phase I, LLC ("Subdivider"), and was recorded on August 7, 2018, and

WHEREAS, Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3945, Tracy Hills Village 3B, were intentionally excluded from the Original SIA, and

WHEREAS, The Final Subdivision Map for Tract 3945, Tracy Hills Village 3B, was executed by the Subdivider and was recorded on June 28, 2018, and

WHEREAS, Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3945, Tracy Hills Village 3B, to Lennar Homes of California, Inc. ("Developer"), and

WHEREAS, The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") in order to provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3945, Tracy Hills Village 3B, and

WHEREAS, The landscape improvement plans for the parkway landscape and irrigation improvements are still undergoing review by the Engineering Division and have not been approved by the City Engineer, and

WHEREAS, The Developer is requesting approval of the SIA in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3945, Tracy Hills Village 3B, until such time as the landscape improvement plans are approved by the City Engineer, and

WHEREAS, The City will periodically inspect Developer's work in constructing and installing the parkway landscape and irrigation improvements as shown on the submitted landscape improvement plans, will periodically advise Developer regarding whether the work appears to be proceeding in conformance with the submitted plans, and will further inspect construction of the improvements after the City Engineer's approval of the plans in accordance with the terms of the SIA, and

WHEREAS, In order to guarantee the performance of the Developer's obligations regarding completion of the parkway landscaping and irrigation improvements within Tract 3945, Tracy Hills Village 3B, the Subdivider has executed the SIA and has submitted the required improvement security as set forth therein, and

WHEREAS, The parkway landscaping and irrigation improvements that are the subject of the SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement Between the City of Tracy and the Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement, and

WHEREAS, The Developer has paid the cost of engineering, plan review and processing the SIA, and will pay all construction and inspection costs associated with the subject parkway landscaping and irrigation improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of City of Tracy approves the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3945, Tracy Hills Village 3B and authorizes the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.I

REQUEST

**APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3946, TRACY HILLS VILLAGE 4B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

City staff requests that the City Council approve the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") to provide for completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3946, Tracy Hills Village 4B. Lennar Homes of California, Inc., a California corporation ("Developer"), has signed the SIA and posted the required security to guarantee completion of the parkway landscaping and irrigation improvements.

DISCUSSION

On June 19, 2018, pursuant to Resolution No. 2018-105, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("Subdivider") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3946, Tracy Hills Village 4B ("Original SIA"). The Original SIA was subsequently recorded on July 19, 2018.

Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3946, Tracy Hills Village 4B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.

The Final Subdivision Map for Tract 3946, Tracy Hills Village 4B, was recorded on June 28, 2018. Subsequent to the recordation of said map, the Subdivider conveyed title to all of the lots within Tract 3946, Tracy Hills Phase 4B, to the Developer. Attachment A shows the location of Tract 3946, Tracy Hills Village 4B, within the overall Tracy Hills Phase 1A project.

The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping in order to provide for the completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3946, Tracy Hills Village 4B.

The Landscape Improvement Plans which describe in detail the landscape and irrigation improvements within the subject parkway strips are still undergoing review and have not been approved by the City Engineer. The Developer is requesting that the City allow them to commence construction of the landscaping and irrigation improvements before the City completes its review of the associated plans. Subdivider understands and acknowledges that it will be proceeding with such work at their sole and exclusive risk until such time as the City Engineer ultimately approves the plans.



The Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications) describe in detail the landscape and irrigation improvements within the subject parkway strips. These plans have been prepared on behalf of the Developer and approved by the City Engineer.

The Developer has executed the SIA and posted the required security to guarantee completion of the improvements.

The landscaping and irrigation improvements that are the subject of this SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement Between the City of Tracy and the Tracy Hills Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement.

#### FISCAL IMPACT

The Developer has paid the applicable engineering review fees, which include the cost of the review of the landscape improvement plans and the processing of the SIA. The maintenance of said improvements will be funded and performed by the HOA pursuant to the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

Staff recommends that the Tracy City Council, by resolution, approve the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3946, Tracy Hills Village 4B, and authorize the City Clerk to file the SIA with the Office of the San Joaquin County Recorder.

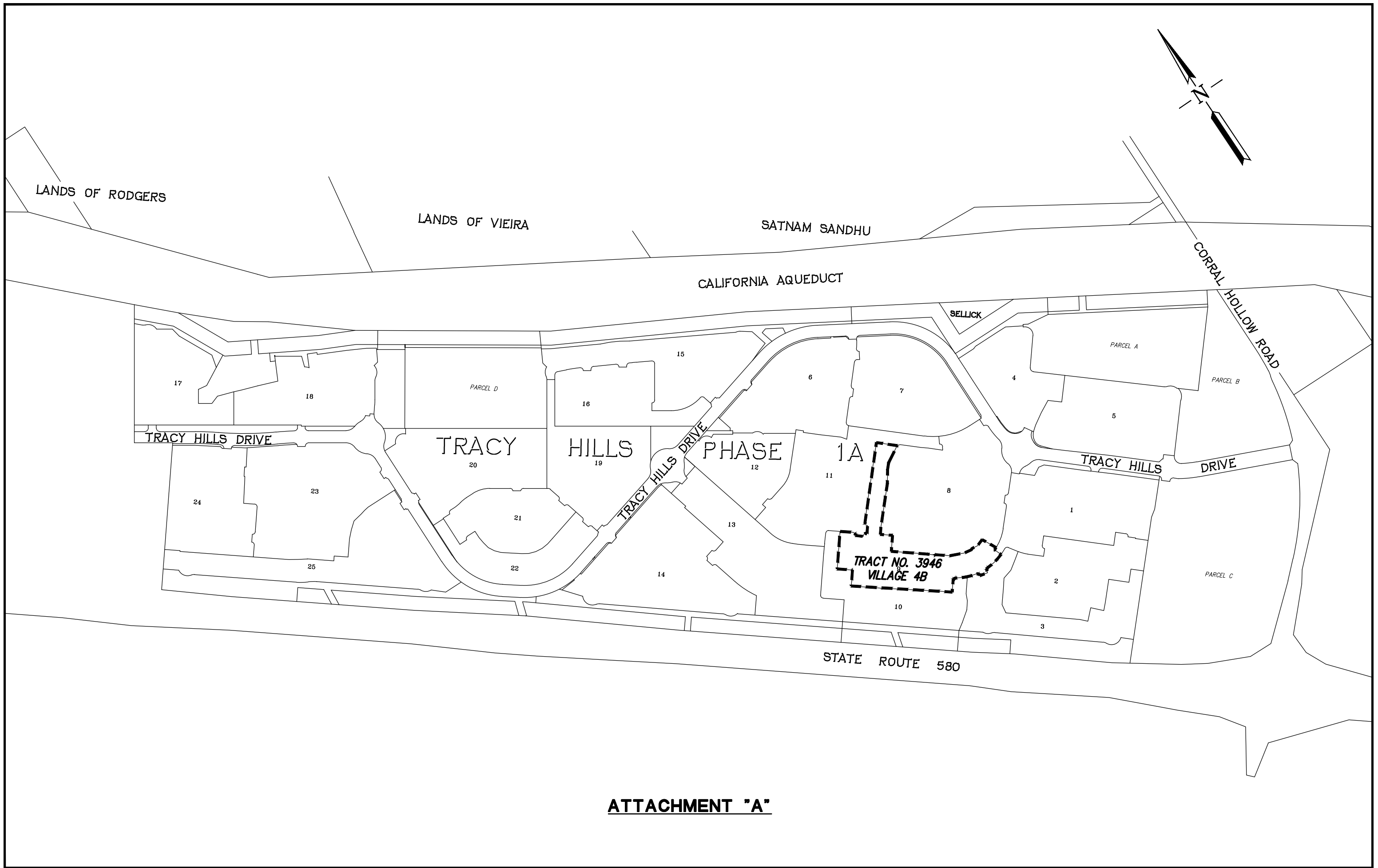
Prepared by: Nanda Gottiparthi, PE, SNG & Associates, Inc.

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

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Subdivision Improvement Agreement



**ATTACHMENT "A"**

ORIGINAL

Recording Requested By:

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attn: Adrienne Richardson

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**CITY OF TRACY  
SUBDIVISION IMPROVEMENT AGREEMENT  
(for Parkway Landscaping)  
TRACT 3946, TRACY HILLS VILLAGE 4B**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **LENNAR HOMES OF CALIFORNIA, INC.**, a California corporation (hereinafter "Developer").

**RECITALS**

- A. On June 19, 2018, pursuant to Resolution No. 2018-105, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("**Subdivider**") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3946, Tracy Hills Village 4B (the "**Original SIA**"). The Original SIA was subsequently executed by the City and Subdivider and was recorded on July 19, 2018, as Document #2018-179696, San Joaquin County Records and is on file with the City Clerk.
- B. Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3946, Tracy Hills Village 4B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.
- C. The Final Subdivision Map for Tract 3946, Tracy Hills Village 4B, was recorded at the request of the Subdivider on June 28, 2018, in Book 43 of Maps and Plats, at Page 42, San Joaquin County Records. Subsequent to the recordation of said map, and by virtue of the Grant Deed recorded September 6, 2018, as Document #2018-099759, San Joaquin County Records, the Subdivider conveyed title to all of the lots within Tract 3946, Tracy Hills Village 4B, to the Developer. The real property

conveyed from the Subdivider to the Developer by said Grant Deed is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

- D. Pursuant to the intent of the Original OIA and in furtherance of the satisfaction of the Conditions of Approval for Tract 3946, Tracy Hills Village 4B, the City and Developer now wish to enter into this Agreement for provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3946, Tracy Hills Village 4B.
- E. Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications), which describe in detail the landscape and irrigation improvements within the subject parkway strips, have been prepared on behalf of the Developer and are under review by the City Engineer. The plans and specifications under review are incorporated herein by reference and include twelve (12) sheets of landscape construction plans, entitled "Tracy Hills Landscape Improvement Plans-Neighborhood 4B-Tract 3946 Phase 1A", prepared by FORMA (the "**Submitted Plans and Specifications**" or "**Work**").
- F. The Submitted Plans and Specifications are currently under review and have not been approved by the City Engineer. Developer may commence constructing the landscaping and irrigation improvements based on the Submitted Plans and Specifications before the City completes its review and approval of the Submitted Plans and Specifications. Developer understands and acknowledges that they will be proceeding with such improvements at their sole and exclusive risk, and that if the improvements completed by Developer do not conform, in the City Engineer's reasonable determination, to the Plans and Specifications ultimately approved by the City the Developer will be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at the Developer's sole cost.
- G. Since the Work has not been completed in accordance with the Conditions of Approval, the Developer has requested to execute this Agreement as authorized by Government Code section 66462.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f). Any portion(s) of the Work that are performed within existing City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.

- 1.1. Developer understands and agrees that because the Submitted Plans and Specifications have not been approved by the City Engineer, if any of the completed landscape and irrigation improvements do not conform to the final approved Plans and Specifications the Developer will have to remove and reconstruct such improvements to the reasonable satisfaction of the City Engineer at Developer's sole cost.

**2. GRADING AND STREET MAINTENANCE.**

- 2.1. Until all the Work is accepted by the City as complete, the Developer shall diligently perform the necessary maintenance of the entire Project site, including streets constructed within the Project, to the satisfaction of the City Engineer, at the Developer's own cost.

- 2.2. All infrastructure constructed under this Agreement will be maintained by the Developer until accepted by the City.

3. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site or available by cell phone with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. The Authorized Representative shall be on site approximately 60% of the time the Work is occurring. The Developer may designate an employee of its general contractor as the Authorized Representative. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **LOCATION OF PERFORMANCE.** The Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire at the Developer's sole cost and expense, any easement or right-of-way necessary for the performance of the Work, with no credit or reimbursement from the City.

5. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

- 5.1. **Faithful Performance** security in the amount of **\$57,755.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete).

- 5.2. **Labor and Material** security in the amount of **\$57,755.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen).
- 5.3. **Warranty** security in the amount of **\$5,775.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter).
6. **INSURANCE.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
- 6.1. **General.** The Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 6.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$1,000,000 per occurrence, and \$3,000,000 in the general aggregate for general liability, bodily injury, personal injury, and property damage, including completed operation coverage.
- 6.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto” including “hired autos” and “non-owned autos”) coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage. If Developer has no employees, or does not own automobiles, then “hired autos” and “non-owned autos” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6.4. **Workers’ Compensation** coverage for employees shall be maintained as required by the State of California.
- 6.5. **Endorsements.** Developer shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 6.5.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 6.5.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider’s insurance and shall not contribute with it.

- 6.6. Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 6.7. Authorized Insurers.** All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 6.8. Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 6.9. Substitute Certificates.** No later than thirty calendar (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 6.10. Developer's Obligation.** Maintenance of insurance by the Developer as specified in this Agreement shall in no way be interpreted as relieving the Developer of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Developer may carry, at its own expense, such additional insurance as it deems necessary.
- 7. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Developer shall obtain a City of Tracy Business License. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 8. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 8.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Subdivider shall not commence Work until after the notice required by this section Developer is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.

- 8.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 8.3. Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if (a) the Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) the Developer pays all processing fees for such time extension.
- 8.4. Reversion to Acreage.** In the event that the Developer fails to commence the Work prior to the date on which completion is due, the Developer shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Developer shall bear all costs thereof.
- 9. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 10. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2%) of the estimated Project costs (as approved by the City Engineer). In the event that the City requires an independent inspection, the City may retain an independent inspector, Developer shall pay all costs associated with the independent inspection, and the independent inspector shall provide a report directly to the City.
- 11. DEFAULT.**
- 11.1.** In the event that the Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Developer's surety (if any) in which the default is described with appropriate specificity.
- 11.2.** The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:
- 11.2.1.** The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
- 11.2.2.** The Developer abandons the Project site.



- 11.2.3. The Developer fails to perform one or more requirements of this Agreement.
- 11.2.4. The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
- 11.2.5. The Developer violates any legal requirement related to the Work.
- 11.3. In the event that the Developer fails to cure the default within thirty (30) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:
  - 11.3.1. Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.
  - 11.3.2. Demand the Developer to complete performance of the Work.
  - 11.3.3. Demand the Developer's surety (if any) to complete performance of the Work.
  - 11.3.4. Commence a legal action to enforce the terms of this Agreement.
- 12. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the project site. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
- 13. **WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 14. **INDEPENDENT CONTRACTOR STATUS.** Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.

15. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in Auto-CAD format Release-14 or higher in a compact disc (CD).
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
17. **NOTICES.**
- 17.1 All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:
- |  |  |
|--|--|
| <u>To City:</u><br>City of Tracy<br>333 Civic Center Plaza<br>Tracy, CA 95376<br>Attn: City Engineer | <u>To Developer:</u><br>Lennar Homes of California, Inc.<br>2603 Camino Ramon, Suite 525<br>San Ramon, CA 94583<br>Attn: <u>Brent Reed</u> |
|--|--|
- Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
18. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
19. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
20. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
21. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

22. **INDEMNIFICATION.** Developer shall indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Developer's negligence, recklessness, or willful misconduct in the performance of Work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.
23. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.
24. **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 Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*[remainder of this page intentionally left blank]*

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

CITY OF TRACY,  
a municipal corporation

By: Robert Rickman  
Title: MAYOR  
Date: \_\_\_\_\_


Attest:

By: Adrienne Richardson  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

By: Thomas Watson  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

DEVELOPER:  
Lennar Homes of California, Inc.,  
a California corporation

By:   
Print Name: Bridgit Koller  
Title: Vice President  
Date: March 14, 2019

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

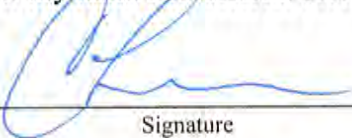
On March 15, 2019, before me, C. Leon, Notary Public  
(here insert name and title of the officer)

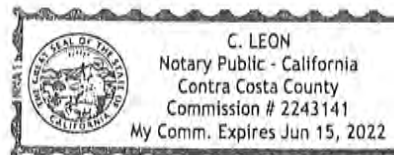
personally appeared Bridgit Koller,

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

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature



(SEAL)

**EXHIBIT "A"**  
(Legal Description of Developer's Property)

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

Lots 57 through 104, inclusive, as shown on the map of Tract No. 3946, Tracy Hills Village 4B, filed June 28, 2018, in Book 43 of Maps and Plats, at Page 42, Official Records of San Joaquin County.

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING  
FOR TRACT 3946, TRACY HILLS VILLAGE 4B, AND AUTHORIZING THE CITY CLERK TO FILE  
THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The original Subdivision Improvement Agreement for Tract 3946, Tracy Hills Village 4B ("Original SIA"), was executed by Tracy Phase I, LLC ("Subdivider"), and was recorded on July 19, 2018, and

WHEREAS, Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3946, Tracy Hills Village 4B, were intentionally excluded from the Original SIA, and

WHEREAS, The Final Subdivision Map for Tract 3946, Tracy Hills Village 4B, was executed by the Subdivider and was recorded on June 28, 2018, and

WHEREAS, Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3946, Tracy Hills Village 4B, to Lennar Homes of California, Inc. ("Developer"), and

WHEREAS, The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") in order to provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3946, Tracy Hills Village 4B, and

WHEREAS, The landscape improvement plans for the parkway landscape and irrigation improvements are still undergoing review by the Engineering Division and have not been approved by the City Engineer, and

WHEREAS, The Developer is requesting approval of the SIA in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3946, Tracy Hills Village 4B, until such time as the landscape improvement plans are approved by the City Engineer, and

WHEREAS, The City will periodically inspect Developer's work in constructing and installing the parkway landscape and irrigation improvements as shown on the submitted landscape improvement plans, will periodically advise Developer regarding whether the work appears to be proceeding in conformance with the submitted plans, and will further inspect construction of the improvements after the City Engineer's approval of the plans in accordance with the terms of the SIA, and

WHEREAS, In order to guarantee the performance of the Developer's obligations regarding completion of the parkway landscaping and irrigation improvements within Tract 3946, Tracy Hills Village 4B, the Subdivider has executed the SIA and has submitted the required improvement security as set forth therein, and

WHEREAS, The parkway landscaping and irrigation improvements that are the subject of the SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement Between the City of Tracy and the Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement, and

WHEREAS, The Developer has paid the cost of engineering, plan review and processing the SIA, and will pay all construction and inspection costs associated with the subject parkway landscaping and irrigation improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3946, Tracy Hills Village 4B and authorizes the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK



AGENDA ITEM 1.J

REQUEST

**APPROVE THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING FOR TRACT 3948, TRACY HILLS VILLAGE 5B, AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

City staff requests that the City Council approve the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") to provide for completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3948, Tracy Hills Village 5B. Lennar Homes of California, Inc., a California corporation ("Developer"), has signed the SIA and posted the required security to guarantee completion of the parkway landscaping and irrigation improvements.

DISCUSSION

On June 19, 2018, pursuant to Resolution No. 2018-106, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("Subdivider") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3948, Tracy Hills Village 5B (the "Original SIA"). The Original SIA was subsequently recorded on July 19, 2018.

Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3948, Tracy Hills Village 5B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.

The Final Subdivision Map for Tract 3948, Tracy Hills Village 5B, was recorded on June 28, 2018. Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3948, Tracy Hills Phase 5B, to the Developer. Attachment A shows the location of Tract 3948, Tracy Hills Village 5B, within the overall Tracy Hills Phase 1A project.

The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping in order to provide for the completion of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3948, Tracy Hills Village 5B.

The Landscape Improvement Plans, which describe in detail the landscape and irrigation improvements within the subject parkway strips are still undergoing review and have not been approved by the City Engineer. The Developer is requesting that the City allow them to commence construction of the landscaping and irrigation improvements before the City completes its review of the associated plans. Subdivider understands and acknowledges that it will be proceeding with such work at their sole and exclusive risk until such time as the City Engineer ultimately approves the plans.

The Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications) describe in detail the landscape and irrigation improvements within the subject parkway strips. These plans have been prepared on behalf of the Developer and approved by the City Engineer.

The Developer has executed the SIA and posted the required security to guarantee completion of the improvements.

The landscaping and irrigation improvements that are the subject of this SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association, and therefore the maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement.

#### FISCAL IMPACT

The Developer has paid the applicable engineering review fees, which include the cost of the review of the landscape improvement plans and the processing of the SIA. The maintenance of said improvements will be funded and performed by the HOA pursuant to the Public Landscaping Maintenance Agreement between the City of Tracy and the Tracy Hills Community Association.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

Staff recommends that the Tracy City Council, by resolution, approve the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3948, Tracy Hills Village 5B, and authorize the City Clerk to file the SIA with the Office of the San Joaquin County Recorder.

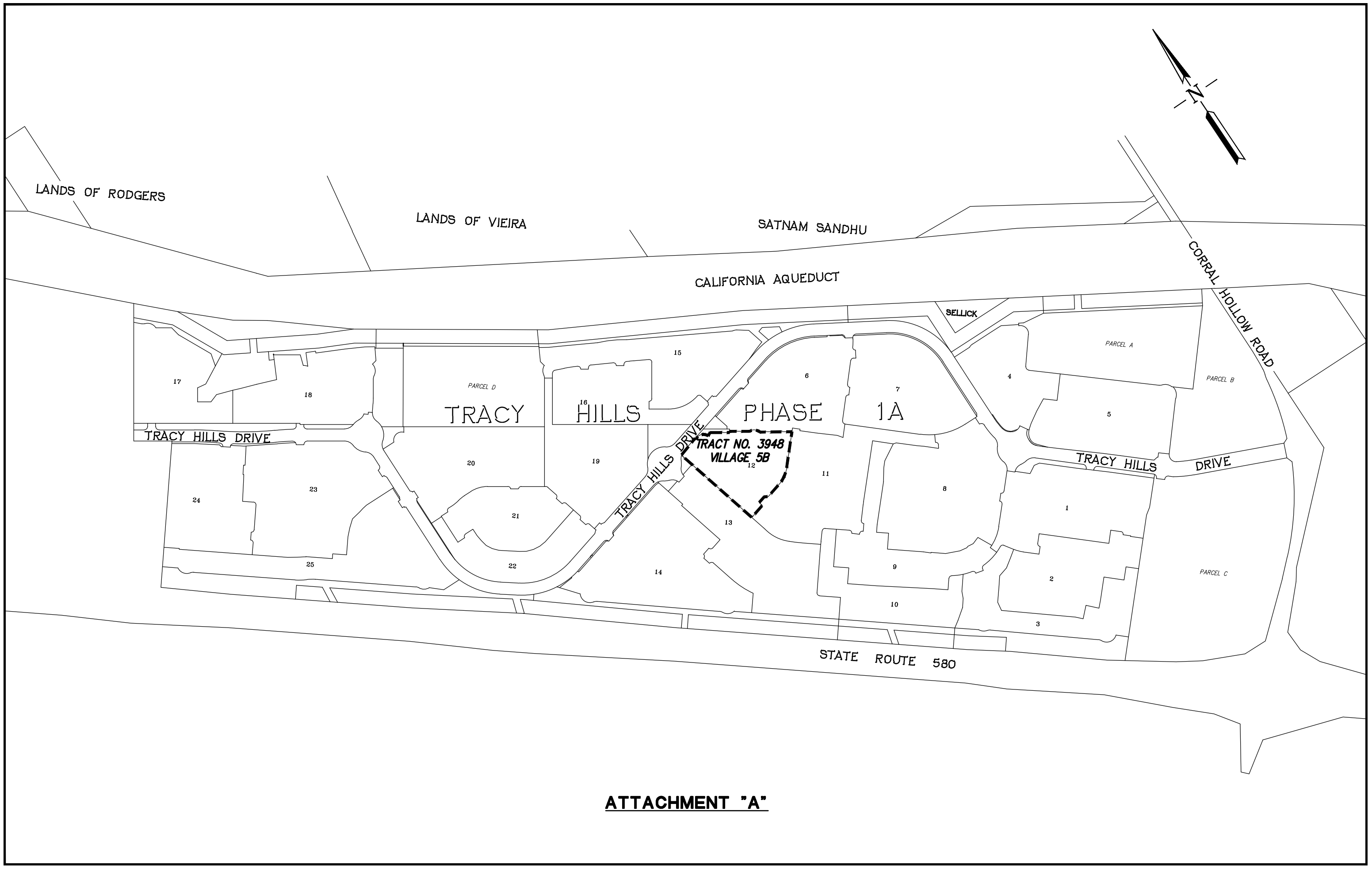
Prepared by: Nanda Gottiparthi, PE, SNG & Associates, Inc.

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

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Subdivision Improvement Agreement



**ATTACHMENT "A"**

ORIGINAL

Recording Requested By:

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attn: Adrienne Richardson

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SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**CITY OF TRACY  
SUBDIVISION IMPROVEMENT AGREEMENT  
(for Parkway Landscaping)  
TRACT 3948, TRACY HILLS VILLAGE 5B**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **LENNAR HOMES OF CALIFORNIA, INC.**, a California corporation (hereinafter "Developer").

**RECITALS**

- A. On June 19, 2018, pursuant to Resolution No. 2018-106, the City Council approved a Subdivision Improvement Agreement to authorize Tracy Phase I, LLC ("**Subdivider**") to proceed with the construction of street improvements and utilities appurtenant to the development of Tract 3948, Tracy Hills Village 5B (the "**Original SIA**"). The Original SIA was subsequently executed by the City and Subdivider and was recorded on July 19, 2018, as Document #2018-079697, San Joaquin County Records and is on file with the City Clerk.
- B. Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3948, Tracy Hills Village 5B, were excluded from the Original SIA in order to give the Subdivider additional time to complete the landscape and irrigation design and continue to work with City staff to finalize the associated plans.
- C. The Final Subdivision Map for Tract 3948, Tracy Hills Village 5B, was recorded at the request of the Subdivider on June 28, 2018, in Book 43 of Maps and Plats, at Page 43, San Joaquin County Records. Subsequent to the recordation of said map, and by virtue of the Grant Deed recorded September 6, 2018, as Document #2018-099759, San Joaquin County Records, the Subdivider conveyed title to all of the lots within Tract 3948, Tracy Hills Village 5B, to the Developer. The real property

conveyed from the Subdivider to the Developer by said Grant Deed is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

- D. Pursuant to the intent of the Original OIA and in furtherance of the satisfaction of the Conditions of Approval for Tract 3948, Tracy Hills Village 5B, the City and Developer now wish to enter into this Agreement for provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets within Tract 3948, Tracy Hills Village 5B.
- E. Landscape Improvement Plans and Specifications (incorporating portions of the City's Standard Specifications), which describe in detail the landscape and irrigation improvements within the subject parkway strips, have been prepared on behalf of the Developer and are under review by the City Engineer. The plans and specifications under review are incorporated herein by reference and include twelve (12) sheets of landscape construction plans, entitled "Tracy Hills Landscape Improvement Plans-Neighborhood 5B-Tract 3948 Phase 1A", prepared by FORMA (the "**Submitted Plans and Specifications**" or "**Work**").
- F. The Submitted Plans and Specifications are currently under review and have not been approved by the City Engineer. Developer may commence constructing the landscaping and irrigation improvements based on the Submitted Plans and Specifications before the City completes its review and approval of the Submitted Plans and Specifications. Developer understands and acknowledges that they will be proceeding with such improvements at their sole and exclusive risk, and that if the improvements completed by Developer do not conform, in the City Engineer's reasonable determination, to the Plans and Specifications ultimately approved by the City the Developer will be required to remove or correct any non-conformities to the reasonable satisfaction of the City Engineer at the Developer's sole cost.
- G. Since the Work has not been completed in accordance with the Conditions of Approval, the Developer has requested to execute this Agreement as authorized by Government Code section 66462.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f). Any portion(s) of the Work that are performed within existing City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.

- 1.1. Developer understands and agrees that because the Submitted Plans and Specifications have not been approved by the City Engineer, if any of the completed landscape and irrigation improvements do not conform to the final approved Plans and Specifications the Developer will have to remove and reconstruct such improvements to the reasonable satisfaction of the City Engineer at Developer's sole cost.

2. **GRADING AND STREET MAINTENANCE.**

- 2.1. Until all the Work is accepted by the City as complete, the Developer shall diligently perform the necessary maintenance of the entire Project site, including streets constructed within the Project, to the satisfaction of the City Engineer, at the Developer's own cost.
- 2.2. All infrastructure constructed under this Agreement will be maintained by the Developer until accepted by the City.

3. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site or available by cell phone with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. The Authorized Representative shall be on site approximately 60% of the time the Work is occurring. The Developer may designate an employee of its general contractor as the Authorized Representative. The Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **LOCATION OF PERFORMANCE.** The Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire at the Developer's sole cost and expense, any easement or right-of-way necessary for the performance of the Work, with no credit or reimbursement from the City.

5. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

- 5.1. **Faithful Performance** security in the amount of **\$52,285.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete).

- 5.2. **Labor and Material** security in the amount of **\$52,285.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen).
- 5.3. **Warranty** security in the amount of **\$5,228.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter).
6. **INSURANCE.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
- 6.1. **General.** The Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 6.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$1,000,000 per occurrence, and \$3,000,000 in the general aggregate for general liability, bodily injury, personal injury, and property damage, including completed operation coverage.
- 6.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto” including “hired autos” and “non-owned autos”) coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage. If Developer has no employees, or does not own automobiles, then “hired autos” and “non-owned autos” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6.4. **Workers’ Compensation** coverage for employees shall be maintained as required by the State of California.
- 6.5. **Endorsements.** Developer shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 6.5.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 6.5.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider’s insurance and shall not contribute with it.

- 6.6. Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 6.7. Authorized Insurers.** All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 6.8. Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 6.9. Substitute Certificates.** No later than thirty calendar (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 6.10. Developer's Obligation.** Maintenance of insurance by the Developer as specified in this Agreement shall in no way be interpreted as relieving the Developer of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Developer may carry, at its own expense, such additional insurance as it deems necessary.
- 7. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Developer shall obtain a City of Tracy Business License. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 8. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 8.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Subdivider shall not commence Work until after the notice required by this section Developer is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.



- 8.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 8.3. Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if (a) the Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) the Developer pays all processing fees for such time extension.
- 8.4. Reversion to Acreage.** In the event that the Developer fails to commence the Work prior to the date on which completion is due, the Developer shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Developer shall bear all costs thereof.
- 9. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 10. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2%) of the estimated Project costs (as approved by the City Engineer). In the event that the City requires an independent inspection, the City may retain an independent inspector, Developer shall pay all costs associated with the independent inspection, and the independent inspector shall provide a report directly to the City.
- 11. DEFAULT.**
- 11.1.** In the event that the Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Developer's surety (if any) in which the default is described with appropriate specificity.
- 11.2.** The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:
- 11.2.1.** The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
- 11.2.2.** The Developer abandons the Project site.

- 11.2.3. The Developer fails to perform one or more requirements of this Agreement.
- 11.2.4. The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
- 11.2.5. The Developer violates any legal requirement related to the Work.
- 11.3. In the event that the Developer fails to cure the default within thirty (30) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:
  - 11.3.1. Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7%) per annum from the date of default.
  - 11.3.2. Demand the Developer to complete performance of the Work.
  - 11.3.3. Demand the Developer's surety (if any) to complete performance of the Work.
  - 11.3.4. Commence a legal action to enforce the terms of this Agreement.
- 12. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the project site. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
- 13. **WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 14. **INDEPENDENT CONTRACTOR STATUS.** Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.

15. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in Auto-CAD format Release-14 or higher in a compact disc (CD).
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
17. **NOTICES.**
- 17.1 All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:
- |  |  |
|--|--|
| <u>To City:</u><br>City of Tracy<br>333 Civic Center Plaza<br>Tracy, CA 95376<br>Attn: City Engineer | <u>To Developer:</u><br>Lennar Homes of California, Inc.<br>2603 Camino Ramon, Suite 525<br>San Ramon, CA 94583<br>Attn: <u>Brent Reed</u> |
|--|--|
- Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
18. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
19. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
20. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
21. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

22. **INDEMNIFICATION.** Developer shall indemnify and hold harmless City, its officers, employees, agents and volunteers from and against all liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Developer's negligence, recklessness, or willful misconduct in the performance of Work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.
23. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.
24. **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 Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*[remainder of this page intentionally left blank]*

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

CITY OF TRACY,  
a municipal corporation

By: Robert Rickman

Title: MAYOR

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

Attest:

By: Adrienne Richardson

Title: CITY CLERK

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

Approved As To Form:

By: Thomas Watson

Title: CITY ATTORNEY

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

DEVELOPER:

Lennar Homes of California, Inc.,  
a California corporation

By: 

Print Name: Bridgit Koller

Title: Vice President

Date: March 14, 2019

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

On March 15, 2019, before me, C. Leon, Notary Public  
(here insert name and title of the officer)

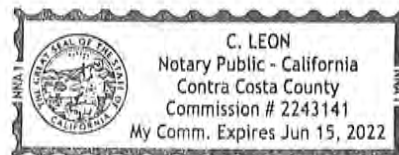
personally appeared Bridgit Koller,

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

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

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Signature



(SEAL)

**EXHIBIT "A"**  
(Legal Description of Developer's Property)

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

Lots 45 through 75, inclusive, as shown on the map of Tract No. 3948, Tracy Hills Village 5B, filed June 28, 2018, in Book 43 of Maps and Plats, at Page 43, Official Records of San Joaquin County.

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT FOR PARKWAY LANDSCAPING  
FOR TRACT 3948, TRACY HILLS VILLAGE 5B, AND AUTHORIZING THE CITY CLERK TO FILE  
THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The original Subdivision Improvement Agreement for Tract 3948, Tracy Hills Village 5B ("Original SIA"), was executed by Tracy Phase I, LLC ("Subdivider"), and was recorded on July 19, 2018, and

WHEREAS, Landscape and irrigation improvements within the parkway strips on the public streets throughout Tract 3948, Tracy Hills Village 5B, were intentionally excluded from the Original SIA, and

WHEREAS, The Final Subdivision Map for Tract 3948, Tracy Hills Village 5B, was executed by the Subdivider and was recorded on June 28, 2018, and

WHEREAS, Subsequent to the recordation of said map the Subdivider conveyed title to all of the lots within Tract 3948, Tracy Hills Village 5B, to Lennar Homes of California, Inc. ("Developer"), and

WHEREAS, The Developer is now requesting approval of the Subdivision Improvement Agreement for Parkway Landscaping ("SIA") in order to provide for the completion by the Developer of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3948, Tracy Hills Village 5B, and

WHEREAS, The landscape improvement plans for the parkway landscape and irrigation improvements are still undergoing review by the Engineering Division and have not been approved by the City Engineer, and

WHEREAS, The Developer is requesting approval of the SIA in order to allow them to proceed at their sole and exclusive risk with the construction of the landscape and irrigation improvements within the parkway strips on the public streets in Tract 3948, Tracy Hills Village 5B, until such time as the landscape improvement plans are approved by the City Engineer, and

WHEREAS, The City will periodically inspect Developer's work in constructing and installing the parkway landscape and irrigation improvements as shown on the submitted landscape improvement plans, will periodically advise Developer regarding whether the work appears to be proceeding in conformance with the submitted plans, and will further inspect construction of the improvements after the City Engineer's approval of the plans in accordance with the terms of the SIA, and

WHEREAS, In order to guarantee the performance of the Developer's obligations regarding completion of the parkway landscaping and irrigation improvements within Tract 3948, Tracy Hills Village 5B, the Subdivider has executed the SIA and has submitted the required improvement security as set forth therein, and

WHEREAS, The parkway landscaping and irrigation improvements that are the subject of the SIA are part of the HOA Public Landscaping as defined in the Public Landscaping Maintenance Agreement between the City of Tracy and the Community Association, and therefore the



maintenance of said improvements will be funded and performed by the HOA pursuant to that Agreement, and

WHEREAS, The Developer has paid the cost of engineering, plan review and processing the SIA, and will pay all construction and inspection costs associated with the subject parkway landscaping and irrigation improvements;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Subdivision Improvement Agreement for Parkway Landscaping for Tract 3948, Tracy Hills Village 5B and authorizes the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2<sup>nd</sup> day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 1.K

REQUEST

**APPROVE THE PURCHASE OF A NEW SENSUS ANTENNA, UPGRADE EXISTING ANTENNA, PURCHASE CUSTOMER PORTAL AND ANALYTICS OPERATING SOFTWARE THAT IS CLOUD HOSTED FROM GOLDEN STATE FLOW MEASUREMENT, INC. AND AUTHORIZE THE BUDGET OFFICER TO APPROPRIATE A NOT TO EXCEED AMOUNT OF \$200,000 FROM THE WATER (\$80,000 OR 40%), WASTE WATER (\$80,000 OR 40%) AND SOLID WASTE FUNDS (\$40,000 OR 20%)**

EXECUTIVE SUMMARY

The Public Works and Finance Department is requesting approval to purchase a new Sensus antenna, upgrade an existing antenna, and update operating software with a cloud based platform and a customer portal. This would allow the City to continue to update its water meter infrastructure and billing software, realize improved efficiencies and accuracy in data collection, and provide improved customer service and transparency for residents and businesses.

The City has standardized the meter infrastructure to Sensus systems and the sole provider is Golden State Flow Measurement, Inc.

DISCUSSION

The City has three methods for collecting meter reads- a truck route, manual reads, and a FlexNet Smartpoint (fixed antenna). Combined, these three methods, account for approximately 25,000 water meter reads per month. Half of the meters are on the FlexNet Smartpoint (Smartpoint) system, the remaining are on the two other more labor-intensive forms. Currently, these three collections systems feed into one operating system, Sensus FlexNet AMI, which is currently hosted on two outdated computer servers.

Sensus FlexNet AMI Systems (operating system) is used to collect and store meter reads by the three collection methods. The operating system allows the City to quickly access water meter reads for billing, to determine usage for customer service needs, and for mandated State reporting.

The City's current operating system is stored locally on a Microsoft Server – Microsoft ended its support of this product in July, 2017. Due to Microsoft's decision to no longer support the local server, Sensus is discontinuing future updates to the current operating system. Their new version called Sensus Analytics, is more stable, provides better security, and is more user friendly.

### Funding

Staff is requesting funding to update the operating system, to update/raise the existing antenna, to install an additional antenna, to purchase a customer portal, and to provide contingency costs. Table-1 list the cost estimate.

Table 1		
Item	Initial Cost	Annual Cost
New & Upgrade Antennas	\$80,000	-
Software & Hosting	\$68,387	\$42,426
Customer Portal	\$28,225	\$7,432
Contingency	\$23,388	
<b>Total</b>	<b>\$200,000</b>	<b>\$49,858</b>

### Sole Source

Lastly, the City of Tracy specifies in its Standard Plans that Sensus water meters must be used for all new City water meter installations. Per Resolution 2015-016 (Exhibit A), the formal bidding process was waived in the best interest of the City to allow the purchase of Sensus water meters, related parts and equipment from the exclusive distributor - Golden State Flow Measurement, Inc.

### STRATEGIC PLAN

This item achieves the goal of the Strategic Plan of Governance from Goal 2 to “ensure continued fiscal sustainability through financial and budgetary stewardship”

Point 4: Identify opportunities to reduce expenditures.

Point 5: Identify fiscal sustainability programs.

In addition, the customer portal will achieve Goal 3 “Identify technological resources to promote communication, enhance City service and promote organization productivity.”

Point 2: Identify and implement methods to improve organizational productivity.

### FISCAL IMPACT

Funding is available in the Fiscal Year 2018-19 operating budget for the upgrade and purchase of the software and equipment from Water (\$80,000 or 40%), Wastewater (\$80,000 or 40%), and Solid Waste (\$40,000 or 20%) for a not to exceed amount of \$200,000. Funding to support the software and equipment will be incorporated in future operating budgets using the same funding ratio.

RECOMMENDATION

That the City Council, by resolution, approve the purchase of a new Sensus antenna, upgrade existing antenna, purchase customer portal and Analytics operating software that is cloud hosted from Golden State Flow Measurement, Inc. and authorize the Budget Officer to appropriate \$200,000 from the Water (\$80,000 or 40%), Waste Water (\$80,000 or 40%), and Solid Waste funds (\$40,000 or 20%).

Prepared by: Robin Kloepper, Management Analyst  
Martha Garcia, Finance Manager

Reviewed by: Karin Schnaider, Finance Director  
Don Scholl, Public Works Director  
Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager

ATTACHMENTS

Exhibit A - Resolution 2015-016  
Attachment A – Advanced Metering Infrastructure (AMI) Agreement

RESOLUTION 2015-016

FINDING THAT IT IS IN THE BEST INTEREST OF THE CITY OF TRACY TO DISPENSE WITH THE FORMAL BIDDING PROCESS PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.180(b)(4) AND AUTHORIZING PURCHASE OF SENSUS WATER METERS AND RELATED PARTS AND EQUIPMENT FROM GOLDEN STATE FLOW MEASUREMENT

WHEREAS, All City water users are required to have their water metered for billing and data collection purposes, and

WHEREAS, The City's Standard Plans require that only Sensus water meters be installed, and

WHEREAS, Sensus has been utilized by the City for over 16 years due to overall quality and accuracy, vendor responsiveness, competitive pricing, and for standardization purposes, and

WHEREAS, The City has periodically evaluated other water meter brands, but has consistently determined that Sensus best meets the needs of the City, and

WHEREAS, Tracy Municipal Code section 2.20.180(b)(4) provides that the City may dispense with the formal bidding process for purchases in excess of \$50,000 when the City Council finds it is in the best interest of the City to do so, and

WHEREAS, It has been determined that it is in the best interest of the City to do so here because Golden State Flow Measurement is the exclusive distributor of Sensus automated meter read water meters in Northern California and Sensus water meters best meet the needs of the City, and

WHEREAS, City staff has the authority to acquire Sensus water meters and related parts and equipment from Golden State Flow Measurement on an annual basis. This is primarily for replacing and repairing old or non-functioning meters for Fiscal Year 2014-15 through 2017-18, and

WHEREAS, This request has no impact on the General Fund and funding is appropriated (approximately \$250,000-\$300,000) in the Public Works operating budget on an annual basis for the acquisition of water meters and supplies (Water Fund 511);

NOW, THEREFORE, BE IT RESOLVED, That City Council finds under Tracy Municipal Code section 2.20.180(b)(4) that it is in the best interest of the City to dispense with the formal bidding process and authorizes staff to purchase Sensus water meters and related parts and equipment from Golden State Flow Measurement for Fiscal Year 2014-15 through 2017-18.

\*\*\*\*\*

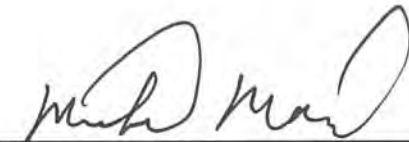
The foregoing Resolution 2015-016 was adopted by Tracy City Council on the 3rd day of February, 2015, by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, RICKMAN, VARGAS, YOUNG, MACIEL

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK



## Advanced Metering Infrastructure (AMI) Agreement

between

**City of Tracy**  
**("Customer")**

and  
**Sensus USA Inc.**  
**("Sensus")**

IN WITNESS WHEREOF, the parties have caused this AMI Agreement ("Agreement") to be executed by their duly authorized representatives as of the day and year written below. The date of the last party to sign is the "Effective Date."

This Agreement shall commence on the Effective Date and continue for/until: 5 Years ("Initial Term"). At the end of the Initial Term, this Agreement shall automatically renew for an additional term of 5 years ("Renewal Term"). The "Term" shall refer to both the Initial Term and the Renewal Term.

This Agreement contains two parts: Part (1) is The FCC Notification for Spectrum Manager Lease, to be filed with the FCC by Sensus on behalf of the Customer and Part (2) is a AMI Agreement between Sensus and Customer. Together, these two parts create the Agreement.

**Sensus USA Inc.** Thomas Galuska  
By: Thomas Galuska (Mar 26, 2019)

**Customer: City of Tracy**  
By: \_\_\_\_\_

Name: Thomas Galuska

Name: \_\_\_\_\_

Title: Sr. Product Manager - Water

Title: \_\_\_\_\_

Date: March 26, 2019

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

Contents of this Agreement:  
Part 1: Notification for Spectrum Manager Lease  
Part 2: AMI Agreement  
Exhibit A Software  
Exhibit B Technical Support

## Part 1: Notification for Spectrum Manager Lease

In order for Sensus to apply to the FCC on the Customer's behalf for a spectrum manager lease, Customer must complete the information below in boxes one (1) through ten (10) and certify via authorized signature. Customer's signature will indicate that Customer authorizes Sensus to file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum Lessee, and if Customer does not already have one, ownership disclosure information on FCC Form 602.

1.

Customer/Lessee Name:			
Attention To:		Name of Real Party in Interest:	
Street Address:			City:
State:	Zip:	Phone:	
Fax:	Email:		

Is Customer contact information same as above? ☐ Yes ☐ No (If No, complete box 2 below)

2.

### Additional Customer/Lessee Contact Information

Company Name:			
Attention To:			
Street Address:			City:
State:	Zip:	Phone:	
Fax:	Email:		

3.

Customer/Lessee is a(n) (Select one): <input type="checkbox"/> Individual <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Trust <input type="checkbox"/> Government Entity <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Consortium <input type="checkbox"/> Other _____	
---	--

4.

FCC Form 602: FCC File Number of Customer's Form 602 Ownership Information: _____. If Customer has not filed a Form 602, Sensus will file one for Customer. Please complete questions 5, 6, and 7 below if Customer does not have a Form 602 on file. Customer must complete items 8, 9 and 10 irrespective of whether Customer has an ownership report on file.
---

5.

Customer Tax ID:
------------------

6.

### Individual Contact For FCC Matters

Please designate one individual (the Director of Public Works or similar person) who is responsible to the FCC for the operation of the FlexNet radio system.	
Name	
Title:	
Email:	Phone:

7.

### Ownership Disclosure Information

If Customer/Lessee is a government entity, list the names of the Mayor and all Council Members below, as well as verify citizenship and ownership interests in any entity regulated by the FCC. Such ownership must be disclosed where a mayor/council member owns 10% or more, directly or indirectly, or has operating control of any entity subject to FCC regulation. If any answer to Ownership question is Yes, or any answer to Citizenship question is No, provide an attachment with further explanation.

	US Citizen?	Ownership Disclosure?
Mayor:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No



Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council Member:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

## 8.

Alien Ownership Questions (if the answer is Yes, provide an attachment explaining the circumstances)

1) Is the Customer/Lessee a foreign government or the representative of any foreign government?	<input type="checkbox"/> Yes <input type="checkbox"/> No
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## 9.

Basic Qualification Information

1) Has the Customer or any party to this application had any FCC station authorization, license, or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license or construction permit denied by the Commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2) Has the Customer or any party to this filing, or any party directly or indirectly controlling the Customer or any party to this filing ever been convicted of a felony by any state or federal court?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3) Has any court finally adjudged the Customer or any party directly or indirectly controlling the Customer guilty of unlawfully monopolizing or attempting to unlawfully monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	<input type="checkbox"/> Yes <input type="checkbox"/> No

## 10.

Customer/Lessee Certification Statements

1) The Customer/Lessee agrees that the Lease is not a sale or transfer of the license itself.	<input type="checkbox"/> Yes
2) The Customer/Lessee acknowledges that it is required to comply with the Commission's Rules and Regulations and other applicable law at all times, and if the Customer/Lessee fails to so comply, the Lease may be revoked, cancelled, or terminated by either the Licensee or the Commission.	<input type="checkbox"/> Yes
3) The Customer/Lessee certifies that neither it nor any other party to the Application/Notification is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C § 862, because of a conviction for possession or distribution of a controlled substance (See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.)	<input type="checkbox"/> Yes
4) The Customer/Lessee hereby accepts Commission oversight and enforcement consistent with the license and lease authorization. The Lessee acknowledges that it must cooperate fully with any investigation or inquiry conducted either by the Commission or the Licensee, allow the Commission or the Licensee to conduct on-site inspections of transmission facilities, and suspend operations at the direction of the Commission or the Licensee and to the extent that such suspension of operation would be consistent with applicable Commission policies.	<input type="checkbox"/> Yes
5) The Customer/Lessee acknowledges that in the event an authorization held by a Licensee that has associated with it a spectrum leasing arrangement that is the subject of this filing is revoked, cancelled, terminated, or otherwise ceases to be in effect, the Customer/Lessee will have no continuing authority to use the leased spectrum and will be required to terminate its operations no later than the date on which the Licensee ceases to have any authority to operate under the license, unless otherwise authorized by the Commission.	<input type="checkbox"/> Yes
6) The Customer/Lessee agrees the Lease shall not be assigned to any entity that is not eligible or qualified to enter into a spectrum leasing arrangement under the Commission's Rules and Regulations.	<input type="checkbox"/> Yes
7) The Customer/Lessee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by spectrum lease or otherwise.	<input type="checkbox"/> Yes
8) The Customer/Lessee certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.	<input type="checkbox"/> Yes

The Customer/Lessee certifies that all of its statements made in this Application/Notification and in the schedules, exhibits, attachments, or documents incorporated by reference are material, are part of this Application/Notification, and are true, complete, correct, and made in good faith. The Customer/Lessee shall notify Sensus in writing in the event any information supplied on this form changes.

Type or Printed Name of Party Authorized to Sign

First Name:	MI:	Last Name:	Suffix:
Title:		Customer Name:	
Signature:			Date:
FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.			
WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)) AND/OR FORFEITURE (U.S. Code Title 47, Section 503).			



## Part 2: AMI Agreement

1. **Equipment.**
  - A. **Purchase of Equipment.** Customer shall purchase all Field Devices, RF Field Equipment, and other goods (collectively, "Equipment") from Sensus' authorized distributor pursuant to the terms and conditions (including any warranties on such Equipment) agreed by Customer and Sensus' authorized distributor. This Agreement shall not affect any terms and conditions, including any warranty terms, agreed by Customer and Sensus' authorized distributor. If Customer elects to purchase any equipment or services directly from Sensus, or if Customer pays any fees or other costs to Sensus, then Sensus' Terms of Sale shall apply. The "Terms of Sale" are available at: <http://na.sensus.com/TC/TermsConditions.pdf>, or 1-800-METER-IT.
  - B. THERE ARE NO WARRANTIES IN THIS AGREEMENT, EXPRESS OR IMPLIED. SENSUS EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESSED, IMPLIED, STATUTORY OR OTHERWISE, REGARDING ANY MATTER IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, WARRANTIES AS TO FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT AND TITLE.
2. **Services.**
  - A. **Installation of Equipment.** Installation services will be as agreed between the Customer and Sensus' authorized distributor. Sensus will not provide installation services pursuant to this Agreement.
  - B. **Software Implementation.** Sensus shall install and configure the Software on the Server Hardware.
  - C. **IT Systems Integration Services.** Integration of the Software into Customer's new or existing internal IT systems is not included in this Agreement. Any integration work shall be subject to a separate agreement which describes the scope and pricing for such work.
  - D. **Technical Support.** Sensus shall provide Customer the technical support set forth in Exhibit B.
  - E. **Project Management.** Project management of the FlexNet System is not included in this Agreement. Any project management shall be subject to a separate agreement which describes the scope and pricing for such work.
  - F. **Training.** Training on the use of the FlexNet System is not included in this Agreement. Any training shall be subject to a separate agreement which describes the scope and pricing for such work.
3. **Software.**
  - A. **Software as a Service (SaaS).** Sensus shall provide Customer with Software as a Service, as defined in Exhibit A, only so long as Customer is current in its payments for such services.
  - B. **UCITA.** To the maximum extent permitted by law, the Parties agree that the Uniform Computer Information Transaction Act as enacted by any state shall not apply, in whole or in part, to this Agreement.
4. **Spectrum**
  - A. **Definitions in this Section 4.** In this Section 4 only, "Sensus" shall mean Sensus USA Inc. and its wholly owned subsidiary, Sensus Spectrum LLC.
  - B. **Spectrum Lease.** Sensus hereby grants to Customer, and Customer accepts, a spectrum manager lease ("Spectrum Lease") over the frequencies of certain FCC license(s) ("FCC License") solely within Customer's Service Territory. (The frequencies of the FCC License within Customer's geographic Service Territory are called the "Leased Spectrum"). Customer shall pay the Ongoing Fees for use of the Leased Spectrum.
  - C. **FCC Forms.** At the Federal Communications Commission (FCC), Sensus will; (1) obtain an FCC Registration Number (FRN) for Customer; (2) submit on behalf of Customer the FCC Form 602 Ownership Disclosure Information if Customer has not already done so; and (3) file a FCC Form 608, notification/application for long-term spectrum manager lease. This Lease becomes effective when the FCC accepts the FCC Form 608.
  - D. **Lease Application.** In order to complete the FCC lease application, Customer will promptly:
    - i. Complete and sign the representations in Part 1 of this Agreement such that Customer demonstrates it qualifies for a spectrum lease under FCC rules. Customer's signature will indicate that Customer authorizes Sensus to; (1) obtain an FRN on behalf of Customer; (2) submit the FCC Form 602 Ownership Disclosure Information on behalf of Customer if Customer has not already done so; and (3) file the spectrum manager lease notification on FCC Form 608 with the Customer as spectrum lessee.
    - ii. Give Sensus the coordinates of the boundaries of Customer's Service Territory or, alternatively, approve Sensus' estimation of the same.
    - iii. If Customer has not already done so; Customer hereby authorizes Sensus to apply on Customer's behalf and obtain for Customer a Federal Registration Number (FRN, the FCC's unique identifier for each licensee) and shall supply Sensus with Customer's Taxpayer Identification Number (TIN).
    - iv. Provide any other information or other cooperation reasonably necessary for the Parties to perform as set forth herein.
  - E. **Permitted Use of Spectrum Lease.** Customer may transmit or receive over the Leased Spectrum only in the Service Territory and only using FlexNet equipment manufactured by Sensus and used in accordance with Sensus' specifications. Customer may use the Leased Spectrum only to read and direct meters in support of Customer's primary utility business or any other operation approved by Sensus in writing. Without limiting the foregoing, Customer is prohibited from reselling, subleasing or sublicensing the Leased Spectrum or from transmitting voice communications over the Leased Spectrum. For each piece of RF Field Equipment used by Customer, Customer shall affix a Sensus-supplied label to the exterior of the RF Field Equipment cabinet or other appropriate visible place to indicate that RF operation is conducted under authority of FCC License(s) issued to Sensus.
  - F. **Term of Spectrum Lease.** Unless terminated earlier (because, for example, Customer stops using the FlexNet equipment or because this Agreement terminates or expires for any reason), this Spectrum Lease will have the same term as the FCC license. If Customer is operating in compliance with this Agreement and is current on any payments owed to Sensus, when the FCC License renews, the Parties will apply to the FCC to renew this Spectrum Lease.
  - G. **Termination of Spectrum Lease.** The Spectrum Lease will terminate: (a) two months after Customer stops transmitting with FlexNet equipment manufactured by Sensus; (b) upon termination, revocation or expiration of the FCC License; (c) upon Customer's breach of this Agreement; or (d) upon termination or expiration of this Agreement for any reason.
  - H. **FCC Compliance.** The following FCC requirements apply
    - i. Pursuant to 47 CFR 1.9040(a);
      - (a) Customer must comply at all times with applicable FCC rules. This Agreement may be revoked by Sensus or the FCC if Customer fails to so comply;
      - (b) If the FCC License is terminated, Customer has no continuing right to use the Leased Spectrum unless otherwise authorized by the FCC;
      - (c) This Agreement is not an assignment, sale or other transfer of the FCC License;
      - (d) This Agreement may not be assigned except upon written consent of Sensus, which consent may be withheld in its discretion; and
      - (e) In any event, Sensus will not consent to an assignment that does not satisfy FCC rules.
    - ii. Referencing 47 CFR 1.9010, Sensus retains *de jure* and *de facto* control over the applicable radio facilities, including that,



- (a) Sensus will be responsible for Customer's compliance with FCC policies and rules. Sensus represents and warrants that it has engineered the FlexNet equipment and accompanying software and other programs to comply with FCC rules. Customer will operate the FlexNet equipment subject to Sensus' supervision and control and solely in accordance with Sensus' specifications. Sensus retains the right to inspect Customer's radio operations hereunder and to terminate this Agreement or take any other necessary steps to resolve a violation of FCC rules, including to order Customer to cease transmission. Sensus will act as spectrum manager in assigning spectrum under the FCC License so as to avoid any harmful interference or other violation of FCC rules. Sensus will be responsible for resolving any interference complaints or other FCC rule violations that may arise; and
    - (b) Sensus will file any necessary FCC forms or applications and Customer agrees to reasonably assist Sensus with such filing by providing any necessary information or other cooperation. Sensus will otherwise interact with the FCC with respect to this Agreement, the FCC License or FlexNet equipment.
  - I. **Interference.** Customer agrees to report to Sensus promptly, and in no event later than 72 hours afterward, any incident related to the Leased Spectrum, including where Customer experiences harmful interference, receives a complaint or other notice of having caused harmful interference, or receives any type of communication from the FCC or other government agency regarding radio transmission.
- 5. **General Terms and Conditions.**
  - A. **Infringement Indemnity.** Sensus shall indemnify and hold harmless Customer from and against any judgment by a court of competent jurisdiction or settlement reached from any litigation instituted against Customer in the United States by a third party which alleges that the FlexNet System provided hereunder infringes upon the patents or copyrights of such third party, provided that Sensus shall have the right to select counsel in such proceedings and control such proceedings. Notwithstanding the foregoing, Sensus shall have no liability under this indemnity unless Customer cooperates with and assists Sensus in any such proceedings and gives Sensus written notice of any claim hereunder within fourteen (14) days of receiving it. Further, Sensus shall have no liability hereunder if such claim is related to; (i) any change, modification or alteration made to the FlexNet System by Customer or a third party, (ii) use of the FlexNet System in combination with any goods or services not provided by Sensus hereunder, (iii) Customer's failure to use the most recent version of the Software or to otherwise take any corrective action as reasonably directed by Sensus, (iv) compliance by Sensus with any designs, specifications or instructions provided by Customer or compliance by Sensus with an industry standard, or (v) any use of the FlexNet System other than for the Permitted Use. In the event the FlexNet System is adjudicated to infringe a patent or copyright of a third party and its use is enjoined, or, if in the reasonable opinion of Sensus, the FlexNet System is likely to become the subject of an infringement claim, Sensus, at its sole discretion and expense, may; (i) procure for Customer the right to continue using the FlexNet System or (ii) modify or replace the FlexNet System so that it becomes non-infringing. **THIS SECTION STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND SENSUS' ENTIRE LIABILITY FOR ANY CLAIM OF INFRINGEMENT.**
  - B. **Limitation of Liability.**
    - i. Sensus' aggregate liability in any and all causes of action arising under, out of or in relation to this Agreement, its negotiation, performance, breach or termination (collectively "Causes of Action") shall not exceed the greater of; (a) the total amount paid by Customer directly to Sensus under this Agreement; or (b) ten thousand US dollars (USD 10,000.00). This is so whether the Causes of Action are in tort, including, without limitation, negligence or strict liability, in contract, under statute or otherwise. As separate and independent limitations on liability, Sensus' liability shall be limited to direct damages. Sensus shall not be liable for; (i) any indirect, incidental, special or consequential damages; nor (ii) any revenue or profits lost by Customer or its Affiliates from any End User(s), irrespective whether such lost revenue or profits is categorized as direct damages or otherwise; nor (iii) any In/Out Costs; nor (iv) manual meter read costs and expenses; nor (v) claims made by a third party; nor (vi) damages arising from maincase or bottom plate breakage caused by freezing temperatures, water hammer conditions, or excessive water pressure. The limitations on liability set forth in this Agreement are fundamental inducements to Sensus entering into this Agreement. They apply unconditionally and in all respects. They are to be interpreted broadly so as to give Sensus the maximum protection permitted under law.
    - ii. To the maximum extent permitted by law, no Cause of Action may be instituted by Customer against Sensus more than TWELVE (12) MONTHS after the Cause of Action first arose. In the calculation of any damages in any Cause of Action, no damages incurred more than TWELVE (12) MONTHS prior to the filing of the Cause of Action shall be recoverable.
  - C. **Termination.** Either party may terminate this Agreement earlier if the other party commits a material breach of this Agreement and such material breach is not cured within forty-five (45) days of written notice by the other party. Upon any expiration or termination of this Agreement, Sensus' and Customer's obligations hereunder shall cease and the software as a service and Spectrum Lease shall immediately cease.
  - D. **Force Majeure.** If either party becomes unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligations affected by the event of Force Majeure will be suspended during the continuance of that inability. The party affected by the force majeure will take reasonable steps to mitigate the Force Majeure.
  - E. **Intellectual Property Rights.**
    - i. **Software and Materials.** No Intellectual Property is assigned to Customer hereunder. Excluding Customer Data, Sensus shall own or continue to own all right, title, and interest in and to the Intellectual Property associated with the Software and related documentation, including any derivations and/or derivative works (the "Sensus IP"). To the extent, if any, that any ownership interest in and to such Sensus IP does not automatically vest in Sensus by virtue of this Agreement or otherwise, and instead vests in Customer, Customer agrees to grant and assign and hereby does grant and assign to Sensus all right, title, and interest that Customer may have in and to such Sensus IP. Customer agrees not to reverse engineer any Sensus Products purchased or provided hereunder.
    - ii. **Customer Data.** Notwithstanding the prior paragraph, as between Customer and Sensus, Customer remains the owner of all right, title or interest in or to any Customer Data. "Customer Data" means solely usage data collected by the Field Devices. To avoid doubt, Customer Data does not include non-End User usage data collected by the Field Devices, Software, or FlexNet System, such as network and equipment status information or the like.
    - iii. **Consent to Use of Customer Data.** Customer hereby irrevocably grants to Sensus a royalty-free, non-exclusive, irrevocable right and license to access, store, and use such Customer Data and any other data or information provided to Sensus, to (1) provide the Service; (2) analyze and improve the Service; (3) analyze and improve any Sensus or affiliate equipment, software, or service; or (4) for any other internal use. As used herein, "Service" means Sensus' obligations under this Agreement.
    - iv. **Copy of Customer Data.** Upon Customer's written request, Sensus will provide Customer a quote to deliver a CMEP file consisting of the most recent 60 days of CMEP interval file data. Sensus will deliver the CMEP file in accordance with the quote upon Customer's acceptance of the quote.
  - F. **Confidentiality.** Both parties shall (and shall cause their employees and contractors to) keep all Confidential Information strictly confidential and shall not disclose it to any third party, except to the extent reasonably required to perform and enforce this Agreement or as required under applicable law, court order or regulation. The Confidential Information may be transmitted orally, in writing, electronically or otherwise observed by either party. Notwithstanding the foregoing, "Confidential Information" shall not include; (i) any information that is in the public domain other than due to Recipient's breach of this Agreement; (ii) any information in the possession of the Recipient without restriction prior to disclosure by the Discloser; or (iii) any information independently developed by the Recipient without reliance on the information disclosed hereunder by the Discloser. "Discloser" means either party that discloses Confidential Information, and "Recipient" means either party that receives it.



- G. **Compliance with Laws.** Customer shall comply with all applicable country, federal, state, and local laws and regulations, as set forth at the time of acceptance and as may be amended, changed, or supplemented. Customer shall not take any action, or permit the taking of any action by a third party, which may render Sensus liable for a violation of applicable laws.
- i. **Export Control Laws.** Customer shall; (i) comply with all applicable U.S. and local laws and regulations governing the use, export, import, re-export, and transfer of products, technology, and services; and (ii) obtain all required authorizations, permits, and licenses. Customer shall immediately notify Sensus, and immediately cease all activities with regards to the applicable transaction, if the Customer knows or has a reasonable suspicion that the equipment, software, or services provided hereunder may be directed to countries in violation of any export control laws. By ordering equipment, software or services, Customer certifies that it is not on any U.S. government export exclusion list.
  - ii. **Anti-Corruption Laws.** Customer shall comply with the United States Foreign Corrupt Practices Act (FCPA), 15 U.S.C. §§ 78dd-1, et seq.; laws and regulations implementing the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the U.N. Convention Against Corruption; the Inter-American Convention Against Corruption; and any other applicable laws and regulations relating to anti-corruption in the Customer's country or any country where performance of this Agreement, or delivery or use of equipment, software or services will occur.
- H. **Non-Waiver of Rights.** A waiver by either party of any breach of this Agreement or the failure or delay of either party to enforce any of the articles or other provisions of this Agreement will not in any way affect, limit or waive that party's right to enforce and compel strict compliance with the same or other articles or provisions.
- I. **Assignment and Sub-contracting.** Either party may assign, transfer or delegate this Agreement without requiring the other party's consent; (i) to an Affiliate; (ii) as part of a merger; or (iii) to a purchaser of all or substantially all of its assets. Apart from the foregoing, neither party may assign, transfer or delegate this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld. Furthermore, Customer acknowledges Sensus may use subcontractors to perform RF Field Equipment installation, the systems integration work (if applicable), or project management (if applicable), without requiring Customer's consent.
- J. **Amendments.** No alteration, amendment, or other modification shall be binding unless in writing and signed by both Customer and by a vice president (or higher) of Sensus.
- K. **Governing Law and Dispute Resolution.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California. Any and all disputes arising under, out of, or in relation to this Agreement, its negotiation, performance or termination ("Disputes") shall first be resolved by the Parties attempting mediation in California. If the Dispute is not resolved within sixty (60) days of the commencement of the mediation, it shall be litigated in the state or federal courts located in Sacramento, California.
- L. **Restriction on Discovery.** The Parties acknowledge the abundance of documents, data, and other information stored in an electronic manner and the time and costs associated with retrieving relevant electronic data from the Parties during the Discovery portion of a claim. Accordingly, the Parties shall utilize only printed or hard-copy documents, data, and other information in Discovery and shall not use or request electronic or e-Discovery methods for any claim, demand, arbitration or litigation subject to this Agreement. All relevant and unprivileged printed or hard-copy materials shall be subject to Discovery, but neither Party has an obligation to maintain printed or hard-copy files in anticipation of a claim, demand, litigation, or arbitration proceeding.
- M. **Survival.** The provisions of this Agreement that are applicable to circumstances arising after its termination or expiration shall survive such termination or expiration.
- N. **Severability.** In the event any provision of this Agreement is held to be void, unlawful or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
- O. **Four Corners.** This written Agreement, including all of its exhibits, represents the entire understanding between and obligations of the parties and supersedes all prior understandings, agreements, negotiations, and proposals, whether written or oral, formal or informal between the parties. Any additional writings shall not modify any limitations or remedies provided in the Agreement. There are no other terms or conditions, oral, written, electronic or otherwise. There are no implied obligations. All obligations are specifically set forth in this Agreement. Further, there are no representations that induced this Agreement that are not included in it. The ONLY operative provisions are set forth in writing in this Agreement. Without limiting the generality of the foregoing, no purchase order placed by or on behalf of Customer shall alter any of the terms of this Agreement. The parties agree that such documents are for administrative purposes only, even if they have terms and conditions printed on them and even if and when they are accepted and/or processed by Sensus. Any goods, software or services delivered or provided in anticipation of this Agreement (for e.g., as part of a pilot or because this Agreement has not yet been signed but the parties have begun the deployment) under purchase orders placed prior to the execution of this Agreement are governed by this Agreement upon its execution and it replaces and supersedes any such purchase orders.
- P. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Additionally, this Agreement may be executed by facsimile or electronic copies, all of which shall be considered an original for all purposes.
6. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:
- A. **"Affiliate"** of a party means any other entity controlling, controlled by, or under common control with such party, where "control" of an entity means the ownership, directly or indirectly, of 50% or more of either; (i) the shares or other equity in such entity; or (ii) the voting rights in such entity.
  - B. **"FlexNet System"** identifies the Sensus FlexNet Advanced Meter Infrastructure System comprised of the SmartPoint Modules, RF Field Equipment, Server Hardware, software licenses, FCC licenses, and other equipment provided to Customer hereunder. The FlexNet System only includes the foregoing, as provided by Sensus. The FlexNet System does not include goods, equipment, software, licenses or rights provided by a third party or parties to this Agreement.
  - C. **"Confidential Information"** means any and all non-public information of either party, including the terms of this agreement, all technical information about either party's products or services, pricing information, marketing and marketing plans, Customer's End Users' data, FlexNet System performance, FlexNet System architecture and design, FlexNet System software, other business and financial information of either party, and all trade secrets of either party.
  - D. **"Echo Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them by radio frequency to the relevant FlexNet Base Station.
  - E. **"End User"** means any end user of electricity, water, and/or gas (as applicable) that pays Customer for the consumption of electricity, water, and/or gas, as applicable.
  - F. **"Field Devices"** means the meters and SmartPoint Modules.
  - G. **"FlexNet Base Station"** identifies the Sensus manufactured device consisting of one transceiver, to be located on a tower that receives readings from the SmartPoint Modules (either directly or via an Echo Transceiver) by radio frequency and passes those readings to the RNI by TCP/IP backhaul communication. For clarity, FlexNet Base Stations include Metro Base Stations.
  - H. **"Force Majeure"** means an event beyond a party's reasonable control, including, without limitation, acts of God, hurricane, flood, volcano, tsunami, tornado, storm, tempest, mudslide, vandalism, illegal or unauthorized radio frequency interference, strikes, lockouts, or other industrial disturbances, unavailability of component parts of any goods provided hereunder, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, restraints or prohibitions by any court, board, department, commission or agency of the United States or any States, any arrests and restraints, civil disturbances and explosion.
  - I. **"Hosted Software"** means those items listed as an Application in Exhibit A.
  - J. **"In/Out Costs"** means any costs and expenses incurred by Customer in transporting goods between its warehouse and its End User's premises and any costs and



- expenses incurred by Customer in installing, uninstalling and removing goods.
- K. **"Intellectual Property"** means patents and patent applications, inventions (whether patentable or not), trademarks, service marks, trade dress, copyrights, trade secrets, know-how, data rights, specifications, drawings, designs, maskwork rights, moral rights, author's rights, and other intellectual property rights, including any derivations and/or derivative works, as may exist now or hereafter come into existence, and all renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or of any other state, country or jurisdiction, any registrations or applications thereof, and all goodwill pertinent thereto.
  - L. **"LCM"** identifies the load control modules.
  - M. **"Ongoing Fee"** means the annual or monthly fees, as applicable, to be paid by Customer to Sensus' authorized distributor during the Term of this Agreement.
  - N. **"Patches"** means patches or other maintenance releases of the Software that correct processing errors and other faults and defects found previous versions of the Software. For clarity, Patches are not Updates or Upgrades.
  - O. **"Permitted Use"** means only for reading and analyzing data from Customer's Field Devices in the Service Territory. The Permitted Use does not include reading third party meters or reading meters outside the Service Territory.
  - P. **"Release"** means both Updates and Upgrades.
  - Q. **"Remote Transceiver"** identifies the Sensus standalone, mounted relay device that takes the radio frequency readings from the SmartPoint Modules and relays them directly to the RNI by TCP/IP backhaul communication.
  - R. **"RF Field Equipment"** means, collectively, FlexNet Base Stations, Echo Transceivers and Remote Transceivers.
  - S. **"RNI"** identifies the regional network interfaces consisting of hardware and software used to gather, store, and report data collected by the FlexNet Base Stations from the SmartPoint Modules. The RNI hardware specifications will be provided by Sensus upon written request from Customer.
  - T. **"RNI Software"** identifies the Sensus proprietary software used in the RNI and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement.
  - U. **"Service Territory"** identifies the geographic area where Customer provides electricity, water, and/or gas (as applicable) services to End Users as of the Effective Date. This area will be described on the propagation study in the parties' Spectrum Lease filing with the FCC.
  - V. **"Server Hardware"** means the RNI hardware.
  - W. **"SmartPoint™ Modules"** identifies the Sensus transmission devices installed on devices such as meters, distribution automation equipment and demand/response devices located at Customer's End Users' premises that take the readings of the meters and transmit those readings by radio frequency to the relevant FlexNet Base Station, Remote Transceiver or Echo Transceiver.
  - X. **"Software"** means all the Sensus proprietary software provided pursuant to this Agreement, and any Patches, Updates, and Upgrades that are provided to Customer pursuant to the terms of this Agreement. The Software does not include any third party software.
  - Y. **"TouchCoupler Unit"** identifies an inductive coupler connection from a water register to the SmartPoint Module.
  - Z. **"Updates"** means releases of the Software that constitute a minor improvement in functionality.
  - AA. **"Upgrades"** means releases of the Software which constitute a significant improvement in functionality or architecture of the Software.
  - BB. **"WAN Backhaul"** means the communication link between FlexNet Base Stations and Remote Transceivers and RNI.

Exhibit A  
Software

Software as a Service

I. Description of Services

This exhibit contains the details of the Software as a Service that Sensus shall provide to Customer if both; (i) pricing for the application of Software as a Service has been provided to the Customer; and (ii) the Customer is current in its payments for such application of Software as a Service.

A. Software as a Service Generally.

Software as a Service is a managed service in which Sensus will be responsible for the day-to-day monitoring, maintenance, management, and supporting of Customer's software applications. In a Software as a Service solution, Sensus owns all components of the solution (server hardware, storage, network equipment, Sensus software, and all third-party software) required to run and operate the application. These software applications consist of the following (each an "Application"):

- Regional Network Interface (RNI) Software
- Sensus Analytics
  - Essential Package
- Consumer Portal

The managed application systems consist of the hardware, Sensus Software, and other third-party software that is required to operate the software applications. Each Application will have a production, and Disaster Recovery (as described below) environment. Test environments are not provided unless otherwise specifically agreed by Sensus in writing. Sensus will manage the Applications by providing 24 x 7 x 365 monitoring of the availability and performance of the Applications.

B. **Usage License.** Subject to all the terms and conditions of this Agreement, Sensus hereby gives Customer a license under Sensus' intellectual property rights to use the Sensus Applications for the Permitted Use for so long as Customer is current in its payments for the Applications ("Usage License"). This Usage License shall commence on the Effective Date and shall terminate upon the earlier of: (i) the expiration or termination of this Agreement for any reason; (ii) if Customer uses the Applications provided hereunder other than for the Permitted Use; and (iii) the Application is terminated as set forth below.

C. **Termination of Software as a Service.** Customer shall have the option at any time after full deployment but before the end of the Term to terminate any Application by giving Sensus one hundred twenty (120) days prior written notice. Such notice, once delivered to Sensus, is irrevocable. Should Customer elect to terminate any Application, Customer acknowledges that: (a) Customer shall pay all applicable fees, including any unpaid Software as a Service fees; and (b) Software as a Service for such Application shall immediately cease. If Customer elects to terminate the RNI Application in the Software as a Service environment but does not terminate the Agreement generally, then upon delivery of the notice to Sensus, Customer shall purchase the necessary (a) RNI hardware and (b) RNI software license, each at Sensus' then-current pricing. No portion of the Software as a Service fees shall be applied to the purchase of the RNI hardware or software license.

D. **"Software as a Service" means only the following services:**

- i. Sensus will provide the use of required hardware, located at Sensus' or a third-party's data center facility (as determined by Sensus), that is necessary to operate the Application.
- ii. Sensus will provide production and disaster recovery environments for Application.
- iii. Sensus will provide patches, updates, and upgrades to latest Sensus Hosted Software release.
- iv. Sensus will configure and manage the equipment (server hardware, routers, switches, firewalls, etc.) in the data centers:
  - a. Network addresses and virtual private networks (VPN)
  - b. Standard time source (NTP or GPS)
  - c. Security access points
  - d. Respond to relevant alarms and notifications
- v. Capacity and performance management. Sensus will:
  - a. Monitor capacity and performance of the Application server and software applications 24x7 using KPI metrics, thresholds, and alerts to proactively identify any potential issues related to system capacity and/or performance (i.e. database, backspool, logs, message broker storage, etc.)
  - b. If an issue is identified to have a potential impact to the system, Sensus will open an incident ticket and manage the ticket through resolution per Exhibit B, Technical Support.
  - c. Manage and maintain the performance of the server and perform any change or configuration to the server, in accordance to standard configuration and change management policies and procedures.
  - d. Manage and maintain the server storage capacity and performance of the Storage Area Network (SAN), in accordance to standard configuration and change management policies and procedures.
  - e. Exceptions may occur to the system that require Sensus to take immediate action to maintain the system capacity and performance levels, and Sensus has authority to make changes without Customer approval as needed, in accordance to standard configuration and change management policies and procedures.
- vi. Database management. Sensus will:
  - a. Define data retention plan and policy.
  - b. Monitor space and capacity requirements.
  - c. Respond to database alarms and notifications.
  - d. Install database software upgrades and patches.
  - e. Perform routine database maintenance and cleanup of database to improve capacity and performance, such as rebuilding indexes, updating indexes, consistency checks, run SQL query/agent jobs, etc.
- vii. Incident and Problem Management. Sensus will:
  - a. Proactively monitor managed systems (24x7x365) for key events and thresholds to proactively detect and identify incidents.
  - b. Respond to incidents and problems that may occur to the Application(s).
  - c. Maintain policies and procedures for responding to incidents and performing root cause analysis for ongoing problems.
  - d. Correlate incidents and problems where applicable.
  - e. Sensus personnel will use the Salesforce Self Service Portal to document and track incidents.
  - f. In the event that a Sensus personnel is unable to resolve an issue, the issue will be escalated to the appropriate Subject Matter Expert (SME).
  - g. Maintain responsibility for managing incident and problems through resolution and will coordinate with Customer's personnel and/or any



- required third-party vendor to resolve the issue.
        - h. Provide telephone support consistent with Exhibit B, Technical Support in the case of undetected events.
  - viii. Security Management. Sensus will:
    - a. Monitor the physical and cyber security of the server and Application(s) 24x7 to ensure system is highly secure in accordance with NIST Security Standards.
    - b. Perform active intrusion prevention and detection of the data center network and firewalls, and monitor logs and alerts.
    - c. Conduct period penetration testing of the network and data center facilities.
    - d. Conduct monthly vulnerability scanning by both internal staff and external vendors.
    - e. Perform Anti-Virus and Malware patch management on all systems.
    - f. Install updates to virus protection software and related files (including Virus signature files and similar files) on all servers from the update being generally available from the anti-virus software provider.
    - g. Respond to any potential threat found on the system and work to eliminate Virus or Malware found.
    - h. Sensus adheres to and submits certification to NERC/CIP Cyber Security standards.
    - i. Sensus actively participates/monitors industry regulation/standards regarding security – NERC, FERC, NIST, OpenSG, etc. through the dedicated Sensus Security team.
    - j. Provide secure web portal access (SSL) to the Application(s).
  - ix. Backup and Disaster Recovery Management. Sensus will:
    - a. Perform daily backups of data providing one (1) year of history for auditing and restoration purposes.
    - b. Back-up and store data (on tapes or other storage media as appropriate) off-site to provide protection against disasters and to meet file recovery needs.
    - c. Conduct incremental and full back-ups to capture data, and changes to data, on the Application(s).
    - d. Sensus will replicate the Application(s) environments to a geographically separated data center location to provide a full disaster recovery environment for the Application production system.
    - e. Provide disaster recovery environment and perform fail-over to DR environment within forty-eight (48) hours of declared event.
    - f. Generate a report following each and any disaster measuring performance against the disaster recovery plan and identification of problem areas and plans for resolution.
    - g. Maintain a disaster recovery plan. In the event of a disaster, Sensus shall provide the services in accordance with the disaster recovery plan.
    - h. In the case of a disaster and loss of access to or use of the Application, Sensus would use commercially reasonable efforts per the Recovery Time Objectives and Recovery Point Objectives specified herein to restore operations at the same location or at a backup location within forty-eight (48) hours.
    - i. The Application shall have a Recovery Time Objective (RTO) of forty-eight (48) hours.
    - j. The Recovery Point Objective (RPO) shall be a full recovery of the Application(s), with an RPO of one (1) hours, using no more than a twenty-four (24) hour old backup. All meter-related data shall be pushed from each Base Station/TGB restoring the database to real-time minus external interfaced systems from the day prior.
    - k. Data from external interfaced systems shall be recreated within a forty-eight (48) hour period with the assistance of Customer personnel and staff, as needed.
- E. Customer Responsibilities:
- i. Coordinate and schedule any changes submitted by Sensus to the system in accordance with standard configuration and change management procedures.
  - ii. Participate in all required configuration and change management procedures.
  - iii. Customer will log incidents related to the managed Application with Sensus personnel via email, web portal ticket entry, or phone call.
  - iv. Responsible for periodic processing of accounts or readings (i.e. billing files) for Customer's billing system for billing or other analysis purposes.
  - v. Responsible for any field labor to troubleshoot any SmartPoint modules or smart meters in the field in populations that have been previously deployed and accepted.
  - vi. First response labor to troubleshoot FlexNet Base Station, Echo Transceivers, Remote Transceivers or other field network equipment.
  - vii. Responsible for local area network configuration, management, and support.
  - viii. Identify and research problems with meter reads and meter read performance.
  - ix. Create and manage user accounts.
  - x. Customize application configurations.
  - xi. Support application users.
  - xii. Investigate application operational issues (e.g. meter reads, reports, alarms, etc.).
  - xiii. Respond to alarms and notifications.
  - xiv. Perform firmware upgrades over-the-air, or delegate and monitor field personnel for on-site upgrades.
- F. "Software as a Service" does not include any of the following services:
- i. Parts or labor required to repair damage to any field network equipment that is the result of a Force Majeure event.
  - ii. Any integration between applications, such as Harris MeterSense, would require a Professional Services contract agreement to be scoped, submitted, and agreed in a signed writing between Sensus and all the applicable parties.

If an item is not listed in subparagraphs in item (D) above, such item is excluded from the Software as a Service and is subject to additional pricing.

## II. Further Agreements

### A. System Uptime Rate

- i. Sensus (or its contractor) shall manage and maintain the Application(s) on computers owned or controlled by Sensus (or its contractors) and shall provide Customer access to the managed Application(s) via internet or point to point connection (i.e., Managed-Access use), according to the terms below. Sensus endeavors to maintain an average System Uptime Rate equal to ninety-nine (99.0) per Month (as defined below). The System Uptime Rate, cumulative across all Applications, shall be calculated as follows:

$$\text{System Uptime Rate} = 100 \times \frac{\text{TMO} - \text{Total Non-Scheduled Downtime minutes in the Month}}{\text{TMO}}$$

- i. Calculations
  - a. "Targeted Minutes of Operation" or "TMO" means total minutes cumulative across all Applications in the applicable month ("Month")



- minus the Scheduled Downtime in the Month.
- b. "**Scheduled Downtime**" means the number of minutes during the Month, as measured by Sensus, in which access to any Application is scheduled to be unavailable for use by Customer due to planned system maintenance. Sensus shall provide Customer notice (via email or otherwise) at least seven (7) days in advance of commencement of the Scheduled Downtime.
- c. "**Non-Scheduled Downtime**" means the number of minutes during the Month, as measured by Sensus, in which access to any Application is unavailable for use by Customer due to reasons other than Scheduled Downtime or the Exceptions, as defined below (e.g., due to a need for unplanned maintenance or repair).
- ii. **Exceptions.** "**Exceptions**" mean the following events:
  - a. Force Majeure;
  - b. Emergency Work, as defined below; and
  - c. Lack of Internet Availability, as described below.
- i. **Emergency Work.** In the event that Force Majeure, emergencies, dangerous conditions or other exceptional circumstances arise or continue during TMO, Sensus shall be entitled to take any actions that Sensus, in good faith, determines is necessary or advisable to prevent, remedy, mitigate, or otherwise address actual or potential harm, interruption, loss, threat, security or like concern to any of the Application(s) ("**Emergency Work**"). Such Emergency Work may include, but is not limited to: analysis, testing, repair, maintenance, re-setting and other servicing of the hardware, cabling, networks, software and other devices, materials and systems through which access to and/or use of the Application(s) by the Customer is made available (the "**Managed Systems**"). Sensus shall endeavor to provide advance notice of such Emergency Work to Customer when practicable and possible.
- ii. **Lack of Internet Availability.** Sensus shall not be responsible for any deterioration of performance attributable to latencies in the public internet or point-to-point network connection operated by a third party. Customer expressly acknowledges and agrees that Sensus does not and cannot control the flow of data to or from Sensus' networks and other portions of the Internet, and that such flow depends in part on the performance of Internet services provided or controlled by third parties, and that at times, actions or inactions of such third parties can impair or disrupt data transmitted through, and/or Customer's connections to, the Internet or point-to-point data connection (or portions thereof). Although Sensus will use commercially reasonable efforts to take actions Sensus may deem appropriate to mitigate the effects of any such events, Sensus cannot guarantee that such events will not occur. Accordingly, Sensus disclaims any and all liability resulting from or relating to such events.
- B. **Data Center Site-Security.** Although Sensus may modify such security arrangements without consent or notice to Customer, Customer acknowledges the following are the current arrangements regarding physical access to and support of the primary hardware components of the Managed Systems:
  - i. The computer room(s) in which the hardware is installed is accessible only to authorized individuals.
  - ii. Power infrastructure includes one or more uninterruptible power supply (UPS) devices and diesel generators or other alternative power for back-up electrical power.
  - iii. Air-conditioning facilities (for humidity and temperature controls) are provided in or for such computer room(s) and can be monitored and adjusted for humidity and temperature settings and control. Such air systems are supported by redundant, back-up and/or switch-over environmental units.
  - iv. Such electrical and A/C systems are monitored on an ongoing basis and personnel are available to respond to system emergencies (if any) in real time.
  - v. Dry pipe pre-action fire detection and suppression systems are provided.
  - vi. Data circuits are available via multiple providers and diverse paths, giving access redundancy.
- C. **Responsibilities of Customer**
  - i. Customer shall promptly pay all Software as a Service fees.
  - ii. Customer may not (i) carelessly, knowingly, intentionally or maliciously threaten, disrupt, harm, abuse or interfere with the Application(s), Managed Systems or any of their functionality, performance, security or integrity, nor attempt to do so; (ii) impersonate any person or entity, including, but not limited to, Sensus, a Sensus employee or another user; or (iii) forge, falsify, disguise or otherwise manipulate any identification information associated with Customer's access to or use of the Application(s).
  - iii. The provisioning, compatibility, operation, security, support, and maintenance of Customer's hardware and software ("**Customer's Systems**") is exclusively the responsibility of Customer. Customer is also responsible, in particular, for correctly configuring and maintaining (i) the desktop environment used by Customer to access the Application(s) managed by Sensus; and (ii) Customer's network router and firewall, if applicable, to allow data to flow between the Customer's Systems and Sensus' Managed Systems in a secure manner via the public Internet.
  - iv. Upon receiving the system administrator account from Sensus, Customer shall create username and passwords for each of Customer's authorized users and complete the applicable Sensus registration process ("**Authorized Users**"). Such usernames and passwords will allow Authorized Users to access the Application(s). Customer shall be solely responsible for maintaining the security and confidentiality of each user ID and password pair associated with Customer's account, and Sensus will not be liable for any loss, damage or liability arising from Customer's account or any user ID and password pairs associated with Customer. Customer is fully responsible for all acts and omissions that occur through the use of Customer's account and any user ID and password pairs. Customer agrees (i) not to allow anyone other than the Authorized Users to have any access to, or use of Customer's account or any user ID and password pairs at any time; (ii) to notify Sensus immediately of any actual or suspected unauthorized use of Customer's account or any of such user ID and password pairs, or any other breach or suspected breach of security, restricted use or confidentiality; and (iii) to take the Sensus-recommended steps to log out from and otherwise exit the Application(s) and Managed Systems at the end of each session. Customer agrees that Sensus shall be entitled to rely, without inquiry, on the validity of the user accessing the Application(s) application through Customer's account, account ID, usernames or passwords.
  - v. Customer shall be responsible for the day-to-day operations of the Application(s) and FlexNet System. This includes, without limitation, (i) researching problems with meter reads and system performance, (ii) creating and managing user accounts, (iii) customizing application configurations, (iv) supporting application users, (v) investigating application operational issues, (vi) responding to alarms and notifications, and (vii) performing over-the-air commands (such as firmware updates or configuration changes).

### III. Sensus Analytics

#### A. **Essential Package.** The Essential Package of the Sensus Analytics Application shall consist of the following modules:

- i. **Device Access**
  - a. Allows search for meter details by using data imported from the Billing system or the Sensus Device ID or AMI ID.
  - b. Allows a view of the meter interval or register reads.
  - c. Meter data is available to be copied, printed, or saved to certain user programs or file formats, specifically CSV, PDF, and Spreadsheet.
  - d. Allows the current and historical data to be viewed.
  - e. Allows the current usage to be compared to historical distribution averages.
  - f. Allows the user to see the meter location on a map view.
  - g. Allows notifications for an event on a single meter to be forwarded to a Customer employee.
  - h. Allows details to be viewed about a meter – (dependent on the data integrated from other systems).



- ii. Meter Insight (provides the following)
  - a. # of active meters.
  - b. # of orphaned meters with drill down to the list of meters.
  - c. # of inactive meters with drill down to the list of meters.
  - d. # of stale meters with drill down to the list of meters.
  - e. # of almost stale meters with drill down to the list of meters.
  - f. # of meters where no read is available with drill down to the list of meters.
  - g. # of meters with high threshold exceptions with drill down to the list of meters.
  - h. # of unknown radios with drill down to the list of meters.
- iii. Report Access
  - a. Allows the user to see meter alarms and choose a report from a list of standard reports.
  - b. Master Route Register Reads: Shows the latest reads for all meters within specified time window.
  - c. Meter Route Intervals Reads: Allows users to inspect intervals of a single meter over a period of time.
  - d. Master Route No Readings: List all meters that are active in the system, but have not been sending reads within the specified time window.
  - e. Consumption Report: List meters' consumption based on meter readings within the specified time window.
  - f. Zero Consumption for Period: List meters whose readings do not change over a period of time.
  - g. Negative Consumption: Shows the number of occurrences and readings of negative consumption for the last 24hr, 48hr and 72hr from the entered roll up date.
  - h. High Low Exception Report: Displays meters whose reads exceed minimum or/and maximum threshold, within a time range.
  - i. Consumption vs Previous Reported Read: Compares latest reading (from RNI) with last known read received from CIS.
  - j. Consumption Exception 24 hour Report: This report shows meters that satisfy these two conditions: (1) The daily average consumptions exceed entered "daily consumption threshold;" (2) The number of days when daily thresholds are exceeded are greater than the entered "exception per day threshold."
  - k. Endpoint Details: Shows the current state of meters that are created within the specified time range.
  - l. Orphaned Meters: List meters that are marked as 'orphaned', which are created as of entered "Created as of" parameter.
  - m. Billing Request Mismatch: Displays meters in a billing request that have different AMR id with the ones sent by RNI. It also shows AMR id in billing request that have different meter id in the RNI.
  - n. Users need to enter which billing request file prior to running the report.
  - o. Alarms Report: List all alarms occurred during a time window. Users can select which alarm to show.
- iv. Billing Access
  - a. Initiate the creation of billing export files formatted to the import needs of the billing system.
  - b. Receive billing request files from the billing system to identify what meters to include in the billing export file in the case where billing request file option is used.
  - c. Provides a repository of past billing files that were either used for billing preparation or actually send to the billing system.
  - d. Will store created billing files for a period of three years unless otherwise denoted.
  - e. The system will allow creation of test files before export to the billing system.
- v. Billing Adaptor
  - a. The underlying configurator and tools mapping the extraction of billing data to enable integration to the utility's billing system.
- vi. Data Store
  - a. Allows storage of meter reading data including Intervals, Registers, and Alarms to be stored.
  - b. Stored data is available online for reports and analysis.
  - c. Data will be retained for 3 years. Additional duration can be purchased.
- D. Integration of Sensus Analytics. Sensus shall provide integration support services to Customer only to the extent specifically provided below:
  - i. Sensus shall provide Customer with a simple flat file specification known as VFlex for the integration of the Customer's back office system to the Sensus Analytics modules. This flat file may be delimited or fixed width. This specification allows Customer to transmit each day or as needed: the devices and end users in the system, end user status, end user account information, end user name, and other end user details. When sent to the Sensus FTP servers, this file exchange will enable the system to become operational with the Customer's systems. Customer shall produce this file and transmit it to the FTP location designated by Sensus. Sensus will provide reasonable support to explain to Customer the required vs. optional fields that are in the specification, testing and validation of the file format and content.
    - a. In scope of the included integration efforts is the mapping the Customer's fields to the VFlex specification.
    - b. Out of scope and subject to additional charges will be the transformation of data where business logic including code must be written to modify the field content or format of the data to meet the VFlex specification.
  - ii. Sensus' integration services consists of four (4) hours of assistance (remote or on-site, as determined by Sensus). If additional time is needed to complete the integration efforts, Sensus shall invoice Customer for additional fees on an actual time and materials basis.
  - iii. If an item is not listed in subparagraphs (i) or (ii) above, such item is excluded from the integration of Sensus Analytics Support and is subject to additional pricing.
- E. Data Import. The Sensus Analytics Application contains adapters for the import of data from; (a) Customer's FlexNet FlexNet System; and/or (b) AutoRead application for handheld and drive by systems, as applicable.
- F. Customer Acknowledgements.
  - i. Customer acknowledges that the Sensus Analytics Application provides up to fifty (50) user logins for Customer's use.
  - ii. Customer acknowledges and agrees the Sensus Analytics Application is based upon the actual number of End Users within Customer's Service Territory. Pricing may increase if Customer's Service Territory or actual number of End Users expands.
  - iii. Customer acknowledges that all data related to the Sensus Analytics Applications is geographically hosted within the United States of America. Customer accepts the geographic location of such hosting.
  - iv. Customer acknowledges and agrees that the Intellectual Property provisions of this Agreement apply in all respects to Customer's access to and use of the Sensus Analytics Applications.
  - v. Customer is responsible for validating the data analyzed by the Sensus Analytics Applications. Sensus makes no promises of improving Customer's operations or saving Customer money, nor is Sensus liable for any damages resulting from decisions made by Customer related to Customer's use of Sensus Analytics.

#### IV. Third Party Software.

- A. RedHat Linux. If Sensus is providing Customer with a license to use RedHat Linux Software, Customer agrees to the following:



By entering into this Agreement, Customer agrees to abide by and to be legally bound by the terms and conditions of the Red Hat End User License Agreements identified below, each of which are incorporated into this Agreement by reference and are available at the websites identified below. Please read the Red Hat End User License Agreements and incorporated references carefully.

Subscription:	End User License Agreement:
Red Hat Enterprise Linux	<a href="http://www.redhat.com/licenses/rhel_rha_eula.html">http://www.redhat.com/licenses/rhel_rha_eula.html</a>
JBoss Enterprise Middleware	<a href="http://www.redhat.com/licenses/jboss_eula.html">http://www.redhat.com/licenses/jboss_eula.html</a>



## Exhibit B Technical Support

### 1. Introduction

Sensus Technical Services provides utility customers with a single point of contact for Tier 1 support of technical issues as well as any coordination of additional resources required to resolve the issue. Requests that require specialized skills are to be forwarded to a senior support engineer or Technical Advisor within the team for further analysis. If Technical Services has exhausted all troubleshooting efforts for the product type, the issue will escalate to the Engineering Support Team. Occasionally, on-site troubleshooting/analysis may be required. The preferred order of on-site support is:

- a) The Customer (for assistance with the easiest and lowest time-consuming activities such as power on/power off).
- b) The local distributor.
- c) Sensus employees or contracted personnel, if required to fulfill a contract commitment.

### 2. Support Categories

- 2.1. General questions regarding functionality, use of product, how-to, and requests for assistance on Sensus AMR, AMI, RF Network Equipment, Metering Products and Sensus Lighting Control.
- 2.2. Proactive reporting and resolution of problems.
- 2.3. Reactive reporting to isolate, document, and solve reported hardware/software defects.
- 2.4. Responding to service requests and product changes.
- 2.5. Addressing customer inquiries with printed or electronic documentation, examples, or additional explanation/clarification.

### 3. Support Hours

- 3.1. Standard Support Hours: Toll-free telephone support (1-800-638-3748 option #2) is available Monday thru Friday from 8:00AM EST to 8:00PM EST. After-hours, holiday and weekend support for Severity 1 and Severity 2 issues is available by calling 1-800-638-3748, option #8.

### 4. Support Procedures

- 4.1. Customer identifies an issue or potential problem and calls Technical Services at 1-800-638-3748 Option #2. The Customer Service Associate or Technical Support Engineer will submit a Support ticket.
- 4.2. The Customer Service Associate or Technical Support Engineer will identify the caller name and utility by the assigned software serial number, city, and state in which the call originated. The nature of the problem and severity levels will be agreed upon by both parties (either at the time the issue is entered or prior to upgrading or downgrading an existing issue) using the severity definitions below as a guideline. The severity level is then captured into a support ticket for creation and resolution processing. Any time during the processing of this ticket, if the severity level is changed by Sensus, the customer will be updated.

#### Severity Levels Description:

**Sev1** Customer's production system is down. The system is unusable resulting in total disruption of work. No workaround is available and requires immediate attention.

Example: Network mass outage, all reading collection devices inoperable, inoperable head end software (e.g., RNI Software, Sensus MDM).

**Sev2** Major system feature/function failure. Operations are severely restricted; there is a major disruption of work, no acceptable work-around is available, and failure requires immediate attention.

Examples: Network equipment failure (e.g., FlexNet Echo, FlexNet Remote, Base Station transceiver, or VGB); inoperable reading devices (e.g., AR5500, VXU, VGB, or CommandLink); head end software application has important functionality not working and cannot create export file for billing system operations.

**Sev3** The system is usable and the issue doesn't affect critical overall operation.

Example: Minor network equipment failure (e.g., Echo/Remote false alarms or Base Station transceiver false alarms); head end software application operable but reports are not running properly, modification of view or some non-critical function of the software is not running.

**Sev4** Minor system issues, questions, new features, or enhancement requests to be corrected in future versions.

Examples: Minor system issues, general questions, and "How-To" questions.

- 4.3. The Customer Service Associate or Technical Support Engineer identifies whether or not the customer is on support. If the customer is not on support, the customer is advised of the service options as well as any applicable charges that may be billed.
- 4.4. Calls are placed in a queue from which they are accessible to Technical Support Engineers on a first-come-first-serve basis. A first level Customer Service Associate may assist the customer, depending on the difficulty of the call and the representative's technical knowledge. Technical Support Engineers (Tier 1 support) typically respond/resolve the majority of calls based on their product knowledge and experience. A call history for the particular account is researched to note any existing pattern or if the call is a new report. This research provides the representative a basis and understanding of the account as well as any associated problems and/or resolutions that have been communicated.
  - a. Technical Services confirms that there is an issue or problem that needs further analysis to determine its cause. The following information must be collected: a detailed description of the issue's symptoms, details on the software/hardware product and version, a description of the environment in which the issue arises, and a list of any corrective action already taken.
  - b. Technical Services will check the internal database and product defect tracking system, to see if reports of a similar problem exist, and if any working solutions were provided. If an existing resolution is found that will address the reported issue, it shall be communicated to the customer. Once it is confirmed that the issue has been resolved, the ticket is closed.
  - c. If there is no known defect or support that defines the behavior, Technical Services will work with the customer to reproduce the issue. If the issue can be reproduced, either at the customer site or within support center test lab, Technical Services will escalate the ticket for further investigation / resolution.

If the issue involves units that are considered to be defective with no known reason, the representative will open a Special Investigation RMA through the Support system. If it is determined that a sample is required for further analysis, the customer will be provided with instructions that detail where to send the product sample(s) for a root cause analysis. Once it is determined that the issue cannot be resolved by Tier 1 resources, the ticket will be escalated to Tier 2 support for confirmation/workarounds to resolve immediate issue. Technical Services will immediately contact the customer to advise of the escalation. The response and escalation times are listed in Section 5. At this time, screen shots, log files, configuration files, and database backups will be created and attached to the ticket.

## 5. Response and Resolution Targets.

Sensus Technical Support will make every reasonable effort to meet the following response and resolution targets:

Severity	Standard Target Response	Standard Target Resolution	Resolution (one or more of the following)
1	30 Minutes	Immediately assign trained and qualified Services Staff to correct the error on an expedited basis. Provide ongoing communication on the status of a correction.	<ul style="list-style-type: none"> <li>Satisfactory workaround is provided.</li> <li>Program patch is provided.</li> <li>Fix incorporated into future release.</li> <li>Fix or workaround incorporated into the Support Knowledge Base.</li> </ul>
2	4 hours	Assign trained and qualified Services Staff to correct the error. Provide communication as updates occur.	<ul style="list-style-type: none"> <li>Satisfactory workaround is provided.</li> <li>Program patch is provided.</li> <li>Fix incorporated into future release.</li> <li>Fix or workaround incorporated into the Support Knowledge Base.</li> </ul>
3	1 Business Day	90 business days	<ul style="list-style-type: none"> <li>Answer to question is provided.</li> <li>Satisfactory workaround is provided.</li> <li>Fix or workaround incorporated into the Support Knowledge Base.</li> <li>Fix incorporated into future release.</li> </ul>
4	2 Business Days	12 months	<ul style="list-style-type: none"> <li>Answer to question is provided.</li> <li>Fix or workaround incorporated into the Support Knowledge Base.</li> </ul>

## 6. Problem Escalation Process.

- 6.1. If the normal support process does not produce the desired results, or if the severity has changed, the issue may be escalated as follows to a higher level of authority.
  - 6.1.1. Severity 1 issues are escalated by Sales or Technical Services to a Supervisor if not resolved within 2 hours; to the Manager level if not resolved within 4 hours; to the Director level if not resolved within the same business day; and to the VP level if not resolved within 24 hours.
  - 6.1.2. A customer may escalate an issue by calling 1-800-638-3748, Option 2. Please specify the Support ticket number and the reason why the issue is being escalated.
  - 6.1.3. In the event that a customer is not satisfied with the level of support or continual problem with their products, they may escalate a given Support ticket to Manager of Technical Services (1-800-638-3748, Option 2).

## 7. General Support Provisions and Exclusions.

- 7.1. Sensus provides online documentation for Sensus products through the Sensus User Forum (<http://myflexnetsystem.com/Module/User/Login>). All Sensus customers are provided access to this online database, which includes operation, configuration and technical manuals. Sensus also hosts periodic user group teleconferences to facilitate the interchange of product ideas, product enhancements, and overall customer experiences. The customer shall provide names and email accounts to Sensus so Sensus may provide access to the Portal.
- 7.2. Specialized support from Sensus is available on a fee basis to address support issues outside the scope of this support plan or if not covered under another specific maintenance contract. For example, specialized systems integration services or out of warranty network equipment repair that is not covered under a separate maintenance contract.



RESOLUTION \_\_\_\_\_

APPROVE THE PURCHASE OF A NEW SENSUS ANTENNA, UPGRADE EXISTING ANTENNA, PURCHASE CUSTOMER PORTAL AND ANALYTICS OPERATING SOFTWARE THAT IS CLOUD HOSTED FROM GOLDEN STATE FLOW MEASUREMENT, INC. AND AUTHORIZE THE BUDGET OFFICER TO APPROPRIATE A NOT TO EXCEED AMOUNT OF \$200,000 FROM THE WATER (\$80,000 OR 40%), WASTE WATER (\$80,000 OR 40%) AND SOLID WASTE FUNDS (\$40,000 OR 20%)

WHEREAS, The Public Works and Finance Department are requesting approval to purchase a new Sensus antenna, upgrade the existing antenna, update new operating software with a cloud based platform and a customer portal, and

WHEREAS, This would allow the City to continue to update its water meter infrastructure and billing software; realize improved efficiencies and accuracy in data collection; and provide improved customer service and transparency for residents and businesses, and

WHEREAS, Sensus has been utilized by the City for over 16 years due to overall quality and accuracy, vendor responsiveness, competitive pricing, and for standardization purposes, and

WHEREAS, Tracy Municipal Code section 2.20.180(b)(4) provides that the City may dispense with the formal bidding process for purchases in excess of \$50,000 when the City Council finds it is in the best interest of the City to do so, and

WHEREAS, It has been determined that it is in the best interest of the City to do so here because Golden State Flow Measurement, Inc. is the exclusive distributor of Sensus automated meter read water meters in Northern California and Sensus water meters best meet the needs of the City, and

WHEREAS, City staff has the authority to acquire Sensus water meters and related parts and equipment from Golden State Flow Measurement, Inc. on an annual basis;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy finds under Tracy Municipal Code section 2.20.180(b)(4) that it is in the best interest of the City to dispense with the formal bidding process and approves the purchase of a new Sensus antenna, upgrades to the existing antenna, purchase a customer portal and Analytics operating software that is cloud hosted from Golden State Flow Measurement, Inc. and authorizes the Budget Officer to appropriate \$200,000 from the Water (\$80,000 or 40%), Waste Water(\$80,000 or 40%), and Solid Waste funds (\$40,000 or 20%).

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by City Council on the 2nd day of April, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 3.A

REQUEST

**DISCUSS AND AUTHORIZE STAFF TO INITIATE TRANSIT-ORIENTED DEVELOPMENT PLANNING IN DOWNTOWN TRACY IN PREPARATION OF FUTURE RAIL SERVICE, INCLUDING VALLEY LINK**

EXECUTIVE SUMMARY

This agenda item is a request to discuss land use/transit-oriented development planning in preparation of future rail service, including Valley Link, to downtown Tracy. This agenda item provides an opportunity to discuss the relationship between the transit station and the areas that surround it in an effort to develop land use plans/transit-oriented development plans harmonious with transit and other City objectives such as continued Downtown revitalization. Staff seeks to discuss land use plans and requests authorization from City Council to undertake transit-oriented development planning efforts for Downtown Tracy.

DISCUSSION

Background

The City previously has facilitated Downtown revitalization through planning and capital improvement projects in the 1990s and again in early 2000's through 2006/2007. Currently, the prospect of rail transit is a new reason to continue and expand efforts to instigate housing development in a manner that supports a park-once, walkable, mixed-use, multiple-destination, and now *transit-oriented* district.

In October 2017, Assembly Bill 758 was signed into law creating the Tri-Valley San Joaquin-Valley Regional Rail Authority (Authority), thereby placing authority with local stakeholders to plan, develop and deliver a rail connection between Bay Area Rapid Transit (BART) and Altamont Commuter Express (ACE). The Authority has adopted a project concept and is advancing the project, including the selection of a preferred alternative, into the environmental review phase; the project is now known as Valley Link.

Valley Link replaces the previous efforts of the Altamont Regional Rail Working Group (previous collaboration between BART and ACE) to create a connection between BART and ACE. BART has foregone the plans to extend service to Livermore, which creates opportunities to study feasible alternatives and deliver the Valley Link service.

The Authority's adopted preferred project concept includes stations in or near Tracy, including Downtown Tracy (Attachment A: Valley Link Preferred Project Concept). The potential location in Tracy's Downtown offers opportunities to develop land use plans/policy framework to capitalize on the transit investment and better furthers revitalization efforts in and around Downtown. Ridership on Valley Link will increase activity in the Downtown by bringing commuters. The City's land use planning can be used as a means to establish a policy framework to promote development opportunities

and enhance the visibility, accessibility, and convenience of the Downtown to transit riders. Creating policies (for example zoning) that promote housing on vacant lands near the Valley Link station is an example of land use planning that could provide benefits to the Downtown area and be supportive of transit.

#### Transit-Oriented Development

Developments that include housing, employment centers, retail and services proximate to transit such as Valley Link can be referred to as Transit-Oriented Development (TOD). TOD is essentially a compact, higher density, walkable, pedestrian-oriented, mixed-use development located close to high quality transit (Attachment B to the staff report is a primer on TODs with examples produced by the Bay Area Metropolitan Transportation Commission (MTC)). The City's various planning efforts in the past have identified additional housing near the Downtown as the single most important strategy to further Downtown revitalization, and with the planned Valley Link service or other potential future rail service, additional housing would serve the dual purpose of maximizing ridership opportunities on the rail service. A large portion of the vacant sites in Downtown are not zoned for housing at the densities consistent with typical TOD development, and could be re-evaluated through a planning process at City Council's direction.

The primary objectives of planning for areas near Rail Service could be to:

- 1) Accelerate investment and development opportunities contributing to Downtown as a transit hub;
- 2) Support Citywide goals for increased access to transit, housing choice, and economic vitality;
- 3) Support the rail station in Downtown by increasing housing that includes amenities for residents, workers and students compatible with existing development and community character.

#### STRATEGIC PLANS:

This implements Goal 1, Objective 1e of the City Council's Strategic Plans which is to engage in efforts to enhance transportation connectivity within and outside of the City limits.

#### FISCAL IMPACT

With authorization and direction from Council, staff will prepare a Request for Proposals (RFP) to develop such station area/specific plans. No funding source has yet been identified to prepare the plans although the Development Services operational budget (approximately \$100,000) can fund the initial steps involving project boundary identification, scoping, and plan development. Subsequent appropriations may be required; the funding requirements for land use planning and any required environmental review, depending on the scope of work, could total several hundred thousand dollars and be greater than the currently appropriated operational budget amounts.



Once a consultant is selected through the RFP process, the costs associated with initial scoping work, establishing the boundaries and framework for a Transit Oriented Plan will be funded through the existing Development Services Department operating budget account 20731201-5241. The cost of these services may exceed the budget that is currently available in the operating budget for Fiscal Year 2018/2019 and Fiscal Year 2019/2020. City staff will return with an expanded fiscal impact discussion upon the award of the contract, if and when additional appropriations will be required at the time of award.

#### RECOMMENDATION

Staff recommends that the City Council discuss the idea of initiating land use plans/transit-oriented development plans in preparation of Valley Link rail service and authorize staff, by resolution, to initiate transit-oriented development planning for Downtown Tracy.

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Karen Schnaider, Finance Director  
Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Valley Link Preferred Project Concept

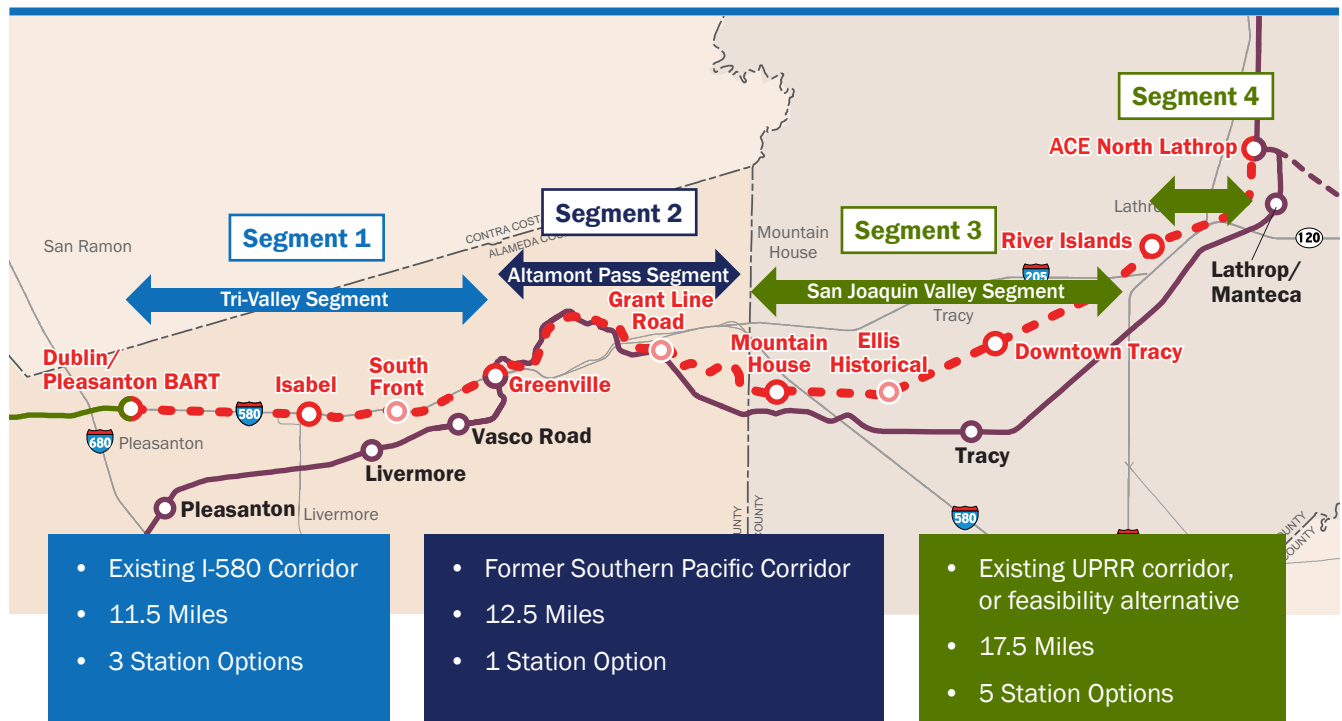
Attachment B – Primer on TODs with examples produced by the Bay Area Metropolitan Transportation Commission (MTC)

## 4 Valley Link Alignment Options Under Consideration

**Recommendation: Rail Service from Dublin/Pleasanton BART Station to the proposed ACE North Lathrop station, utilizing existing transportation rights-of-way where feasible.**

Valley Link service between BART and ACE would traverse four segments with distinct geographic and design characteristics.

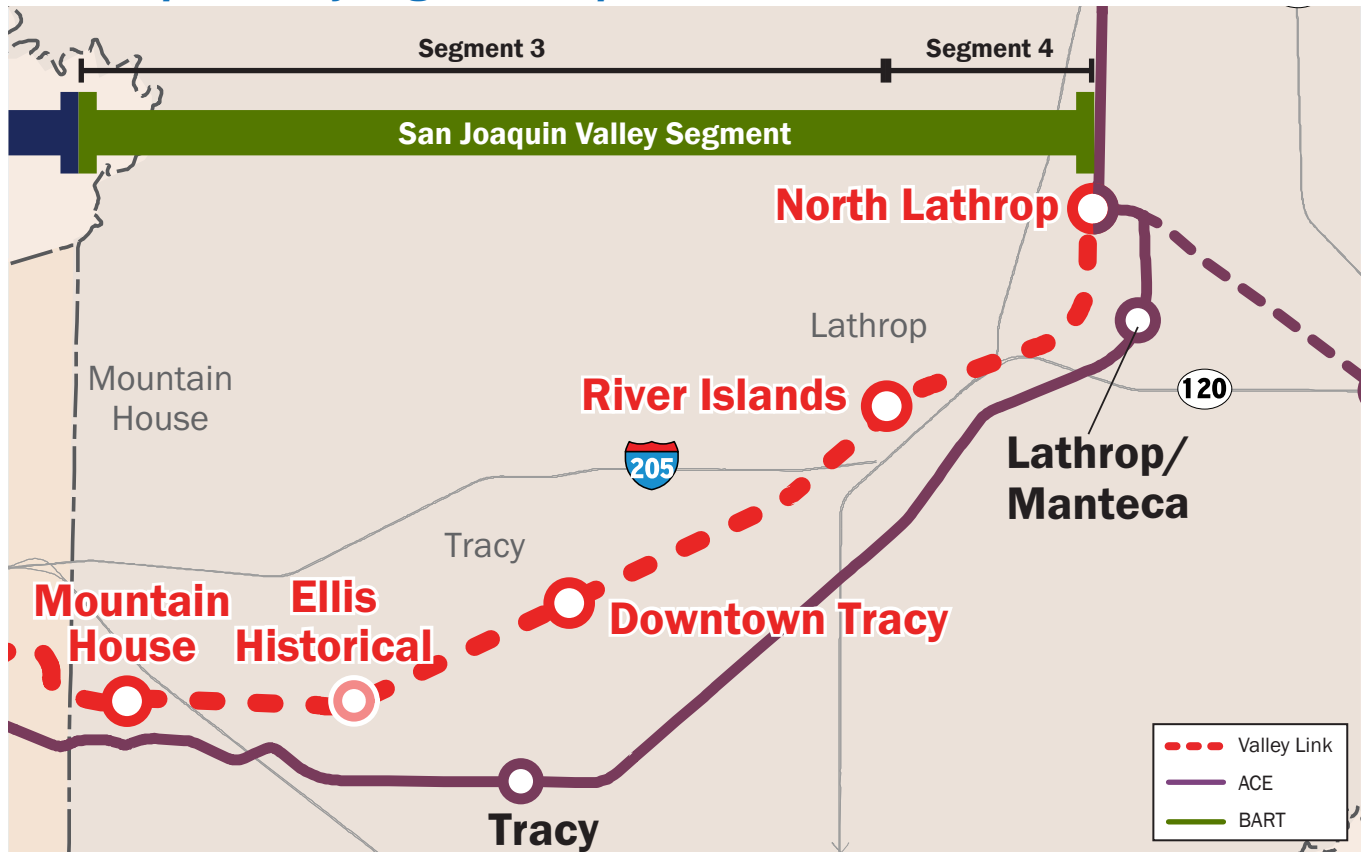
### Valley Link Segments



## 4 Valley Link Alignment Options Under Consideration

**San Joaquin Valley Segment Recommendation: Consider a maintenance facility at Hansen Road. Conduct negotiations with Union Pacific Railroad (UPRR) to determine options. Confirm feasibility of viable alignment alternatives to the railroad corridor.**

### San Joaquin Valley Segment Map



### Alignment and Profile Options to be Considered

OPTION	OPTION CHARACTERISTICS	CAPITAL COST (FY17)
Existing/upgraded freight track	<ul style="list-style-type: none"> <li>Upgrade 16 miles of existing track</li> <li>14 grade crossing improvements</li> </ul>	\$131 million
New dedicated track	<ul style="list-style-type: none"> <li>16 miles of new track</li> <li>14 grade crossing modifications</li> <li>4 new grade crossings</li> </ul>	\$205 million
New viable alignment alternative to railroad corridor	<ul style="list-style-type: none"> <li>Consider existing transportation rights-of-way</li> <li>Consider property acquisition, as needed</li> </ul>	TBD





TRANSIT-ORIENTED DEVELOPMENT

# New Places, New Choices

IN THE SAN FRANCISCO BAY AREA

# Table of Contents

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# New Places, New Choices

“Now available for sale or rent in the San Francisco Bay Area: Attractive, affordable homes with modern amenities in vibrant neighborhoods. All units offer excellent public transit access for gridlock-free commutes to employment centers. Convenience is key, with shops, restaurants and retail services just steps away, and walking and biking opportunities galore. Autos are optional, and any savings in gasoline, parking, maintenance and insurance costs are yours to keep. Experience the benefits of a transit-oriented lifestyle at one of the exciting new developments taking shape in Redwood City, San Jose, Pleasant Hill, Jack London Square in Oakland, Richmond, San Francisco, Santa Rosa, Vallejo, Hayward, the San Pablo Avenue Corridor in the East Bay... and in many other locations throughout the region. Come see if this new style of living is the right choice for you.”



# Introduction



If broad housing and lifestyle trends could be advertised in the way that individual real estate developments often are, the blurb on the preceding page is how the concept of “transit-oriented development” (TOD) might be pitched to a Bay Area audience. Not that this very real trend requires a hard sell to enlist recruits. Indeed, one of the main points of this publication is to show that more and more people throughout the region are choosing to live in compact communities near public transit. They are making this choice for convenience and affordability, and out of a desire to reduce dependence on the automobile for their routine travel needs. Developers, transit agencies, community organizations, and cities and counties are collaborating on scores of projects throughout the region in recognition of this market demand. At the

same time, regional agencies are taking concrete steps to support this move toward more efficient use of the Bay Area’s land and public-transit infrastructure – both for housing and commercial purposes. It is a movement both well-established and growing, and is poised to pick up even more momentum as our population expands.

Of course, this preference for transit-centered settlement patterns is not yet the dominant trend in the region – freeway-oriented, suburban-style development is still a very strong force. But if transit-oriented development is not yet a mass phenomenon, it is certainly a distinct and rapidly growing market, and one that offers enticing new choices to a growing number of Bay Area residents.

In this publication, we feature 10 representative

transit-oriented developments that were recently built or are in the process of taking shape. We selected these to convey a sense of the diversity and appeal of this style of community-building enterprise, and to give an idea of why someone might choose to live or work in one of these locations. And, make no mistake, it’s the choosing that is most important. Notwithstanding all the substantial merits from a public policy point of view – transit- and land-use efficiency, air quality benefits, health advantages, energy savings and the like – TODs will succeed only when people freely choose to live in them. The urban and suburban dwellers who opt for TODs do so because the developments offer a practical, preferable, more environmentally friendly – and often more affordable – way to live and travel in our increasingly complex Bay Area.

# TOD: One Strategy, Many Benefits

## What Is Transit-Oriented Development?

Transit-oriented development refers to the clustering of homes, jobs, shops and services in close proximity to rail stations, ferry terminals or bus stops offering access to frequent, high-quality transit services. This pattern typically involves compact development and a mixing of different land uses, along with amenities like pedestrian-friendly streets and parks – much like the many neighborhoods of central cities such as Oakland and San Francisco that developed as streetcar suburbs and walking communities before the automobile.

To be successful, TODs must serve a significant portion of trips by public transit, walking and biking, rather than by private automobile. This does not mean that everyone living in a TOD will necessarily give up owning a car. However, residents are very likely to own

fewer cars and to drive less than residents living farther from transit. So, while TOD residents may not lead car-free lives, they are often freed of their dependence upon cars for everyday mobility needs. For this reason, transit-oriented developments might also be thought of as “driving-optional” developments.

TOD is not a one-size-fits-all phenomenon; it is a flexible form of development adapted to local circumstances. As the examples featured in this publication show, TOD can be focused around specific rail stations or ferry terminals, or spread along a rapid-bus corridor. TOD can be old or new, high-rise or medium-rise. Transit-oriented developments can help transform old parking lots into new and vibrant mixed-use communities, and convert failing shopping centers – or even abandoned “brownfield” sites – into neighborhoods poised to thrive near current or future transit

stations. TOD architectural styles and densities can and do vary by location, and the type of transit that serves the area. TOD can take different forms in each small town, suburban area or big city, but can play a key role in all.

## What Does TOD Offer the Bay Area?

The planning principles behind TOD are not new – indeed they represent a return to the development patterns common to older cities throughout the world. Siting homes, jobs, shops and services within walking distance of mass transit hubs was the typical pattern of development as American cities expanded along railroad corridors and streetcar lines in the 19th and early-20th centuries. However, with the rise of the automobile and the construction of the Interstate Highway System came a more suburban style of development, with land uses increasingly segregated over great distances according to their function (industrial, commercial or residential). This more dispersed development pattern remains predominant today.

But as has been clear for some time, this post-World War II pattern of more spread-out, land-intensive and car-focused growth does not meet the needs of all Bay Area residents. Further, the more our road system expands to serve far-flung suburbs, the more difficult and costly it is to maintain. TOD-style development offers many people an appealing lifestyle alternative while also addressing important regional concerns such as housing availability and affordability, mobility, and protection of the environment and public health. Taken together, these factors have helped to fuel the upsurge in interest in TODs.





# TOD Benefits: Housing

## For Many, TOD Is Right Size, Right Place, Right Price

There is a critical shortage of attractive, affordable places to live in the Bay Area. The shortage of housing threatens the regional economy and exacerbates our transportation problems. Building more townhomes, apartments and condominiums as infill housing in downtowns and around transit hubs can help to increase the supply of affordable housing throughout the region and lessen the pressure to keep expanding ever outward, away from the region's core with its established infrastructure.

Changes in the mix of households in the Bay Area –

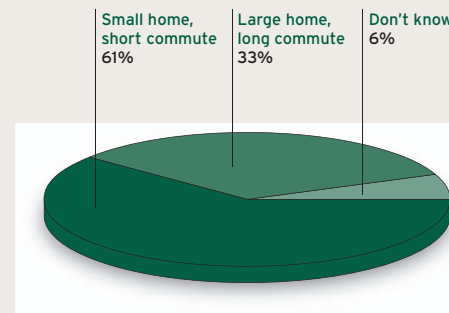
growing numbers of older “empty nesters” and younger dual-income, childless households, for example – favor more compact housing styles. More people want to live in walkable neighborhoods and vibrant downtowns, close to public transit, in settings with more urban amenities. Some want more transportation choices, including better access to public transit; others want to be closer to local restaurants, cafes, and a wide variety of shops and services. Transit-oriented development is well-suited to the needs – and the pocketbooks – of both youthful and aging households, which are expected to increase significantly over the next several decades.



## Demand for the TOD Lifestyle

Several surveys suggest that demand for smaller homes close to jobs, shops and services is already strong within the region. A poll conducted by the Public Policy Institute of California in 2004 found that a majority of Bay Area residents would rather live in a small home with a short commute than in a large home with a long commute.

- **Would you choose to live in a small home with a small backyard, if it means you have a short commute to work, or**
- **Would you choose to live in a large home with a large backyard, even if it means you would have a long commute to work?**



In a recent Metropolitan Transportation Commission (MTC) poll, a majority (55 percent) of Bay Area residents also expressed a preference for living in a mixed-use neighborhood where they can walk to stores, schools and services.

# TOD Benefits: Mobility

## Enhancing Transit Access, Maximizing Transit Assets

Studies have shown that people living or working close to high-quality transit use it with much greater frequency than people farther from transit. According to a recent analysis of the 2000 Bay Area Travel Survey (see page 8), Bay Area residents both living and working within a half-mile of rail and ferry stops use transit for 42 percent of their work trips, while those who both live and work outside of this half-mile range use transit for just 4 percent of their commute trips. Transit use also was found to be higher for non-work trips as well – such as shopping, recreation and medical appointments.

Higher levels of transit use can improve the cost-effectiveness of transit investments, bolster the financial stability of our transit systems and support higher-quality transit – such as more frequent trains and buses. The use of transit for commute trips brings

revenues to the transit system and reduces highway congestion during the peak period, when our highways are at or beyond capacity. Transit use during off-peak periods brings additional revenues to transit agencies at a time when there is often excess passenger capacity available.

These facts are important, because the Bay Area's long-range transportation plans call for public transit to play an increasingly important role in the decades ahead – indeed, 19 new transit expansion projects are being planned across the region at a cost of more than \$11 billion. Since people are far more likely to use these transit systems if they offer convenient access to the places they need to go, it only makes sense to strive to locate more housing, jobs and services within walking distance of transit stations. In short, TOD is one of the most important determinants of whether our Bay Area transit expansions will be cost-effective and financially sustainable over time.



## Demand for Housing and Jobs Near Transit

A recent MTC-commissioned study\* found that all nine Bay Area counties will experience a significant increase in the demand for housing and jobs near public transit hubs and corridors over the next 25 years. Currently, about 600,000 households in the Bay Area are located within a half-mile of an existing rail transit or bus station. Over the next 25 years, an estimated additional 250,000 households will be seeking transit-oriented homes, an increase of 40 percent. (People living alone and couples without children will generate nearly two-thirds of the demand for housing near transit.) This estimate of potential demand for TOD living is deliberately conservative, including only a very modest increase in consumer preference for this kind of housing; the future demand could be significantly higher – particularly if there is a long-term increase in the price of gasoline.

The same study found that the demand for jobs near transit stations in the Bay Area is also expected to increase significantly. Based on the types of jobs that tend to locate close to transit and the growth in these employment sectors in the Bay Area, demand for employment near transit is expected to increase by 800,000 new jobs, constituting more than 40 percent of all new jobs expected to be created in the region over the next 25 years.

\*The study was conducted by the Center for Transit-Oriented Development and Strategic Economics in 2005.



# TOD Benefits: Environment

## Living and Traveling Lighter on the Land

Improved transit and walking/biking opportunities available through TOD provide individuals with an opportunity to cut back on driving – the largest source of air pollution in the Bay Area – and act on their concerns for air and water quality, climate protection, use of fossil fuels, and the preservation of open space and agricultural land.

In 2002, the Bay Area’s “Smart Growth Strategy” – a landmark, long-range regional visioning effort –

found that promoting transit-oriented development and focusing housing, jobs and retail along transit corridors would preserve as much as 66,000 acres of open space by 2020, compared with current development trends. Such a strategy also would reduce average weekday driving by as much as 3.6 million vehicle miles in 2020, conserving 150,000 gallons of gasoline a day and reducing daily carbon dioxide emissions (the principal greenhouse gas) by 2.9 million pounds per day.

Already, Bay Area households located close to transit

stations make fewer driving trips than do others in the region. Households within a half-mile of train stations and ferry stops log only 20 vehicle miles of travel per day, just 56 percent of the regional average. The fewer trips people make, the fewer the pollution-producing “cold starts” of their cars. These factors combine to result in lower fuel use and lower tailpipe emissions by those households living close to transit – and they also add up to powerfully persuasive evidence of the environmental benefits of TOD in the Bay Area.



## Keys to Success for TODs

While successful TODs come in a variety of shapes and sizes, and attention to local conditions and communities is vital, certain factors are generally recognized as important for success. Based on studies to date, the benefits of TOD arise from what are sometimes called the “4 Ds.”

- **Distance** – Proximity to transit is crucial; the closer housing and jobs are to transit, the more often transit is used.
- **Density** – More residents per acre in living areas and greater concentration of jobs in urban centers lead to more walking and transit use.
- **Diversity** – A mix of land uses provides more walkable destinations.
- **Design** – Ideally, TOD connects transit, housing and retail centers with good walking and biking routes in a safe and pleasing environment.

# TOD Benefits: Healthier Living



## Walking and Cycling Your Way to Better Health

Recent research suggests a link between physical activity and the built environment. In reviewing 50 studies on the subject, the Transportation Research Board concluded in 2005 that land-use patterns, transportation systems and design features are important contributors to levels of physical activity, especially walking and biking. Factors that influence more walking and biking are:

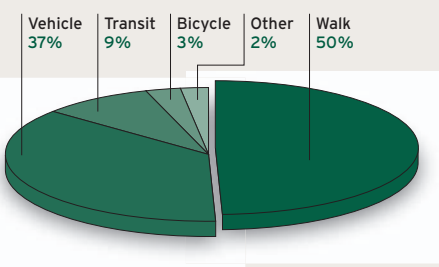
- population, employment and retail density
- diversity and mix of land uses
- close destinations
- grid street networks and sidewalks
- neighborhoods that are well served by transit and walkable

While personal characteristics and preferences play a strong role in how we get around, an appealing built environment can encourage walking and biking. Even people without a predisposition for walking will walk to more destinations in urban areas than will similarly minded people in more suburban areas. And people will walk more if there are useful destinations nearby. MTC analyses show that people who live close to transit walk for far more of their trips – especially short trips – than do people who live farther from transit. (See pie charts this page.)

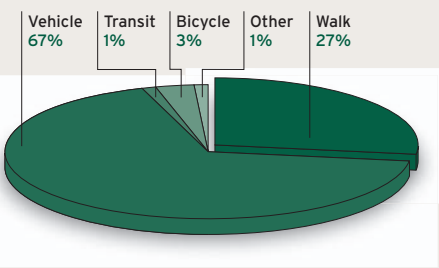
For walking to catch on, planners and developers need to pay attention to the safety of the environment – through safe sidewalks, crosswalks and streets. And extra consideration needs to be given to older people and younger people, who make up a significant proportion of the walkers in most neighborhoods. The appeal of bicycling also hinges on safety in the form of on-street bike routes, off-street bike paths and secure bicycle parking.

## People who live close to transit walk for more of their short trips.\*

Within 1/2 Mile of Rail or Ferry Stop



More Than 1/2 Mile from Rail or Ferry Stop



\*A “short trip” is a trip of 1 mile or less.  
**Note:** Figures do not add up to 100% due to rounding.  
**Source:** MTC

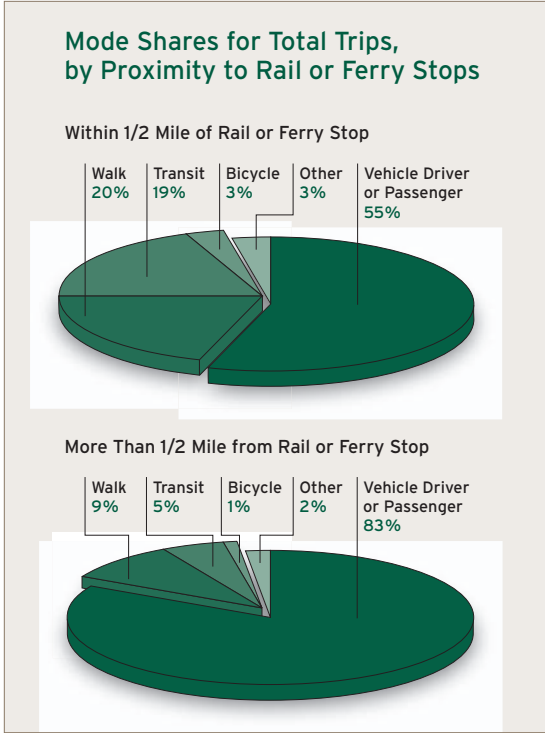


# Measuring the Benefits of TOD

Using data gathered from over 15,000 households, the Metropolitan Transportation Commission conducted an in-depth analysis of the travel behaviors of Bay Area residents who live in close proximity to rail and ferry stops in the region. The results, contained in *Characteristics of Rail and Ferry Station Area Residents in the San Francisco Bay Area: Evidence from the 2000 Bay Area Travel Survey*, published in September 2006, clearly indicate that those living (and working) close to rail and ferry transit stops use transit, walk and bike much more than people living farther from these facilities.

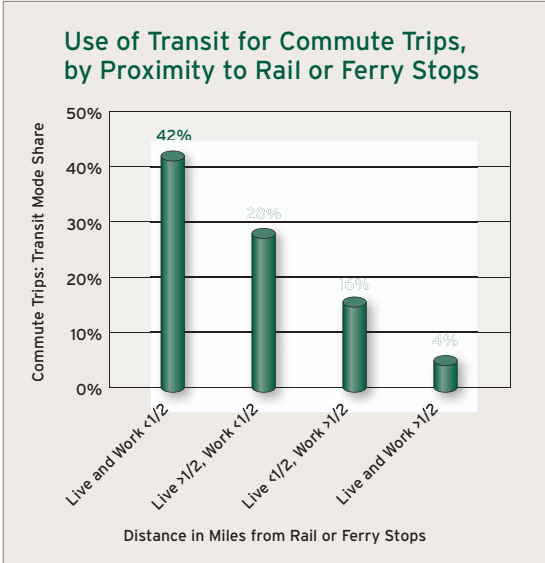
The study does recognize that “self-selection,” or the tendency for individuals with a high propensity for using transit to live in TODs, may also be a factor in these travel behaviors. Still, the study concludes that: “Whether being near rail/ferry transit simply allows people who prefer to drive less that personal choice, or whether it creates a greater interest in such travel options, this research demonstrates that policies to support transit-oriented development hold promise as one important tool, among others, in addressing congestion, transit usage, non-motorized travel, and air pollution in the Bay Area.”

Here we spotlight some of the study’s key findings, which provide a kind of rough gauge to measure the potential benefits of individual TOD projects.



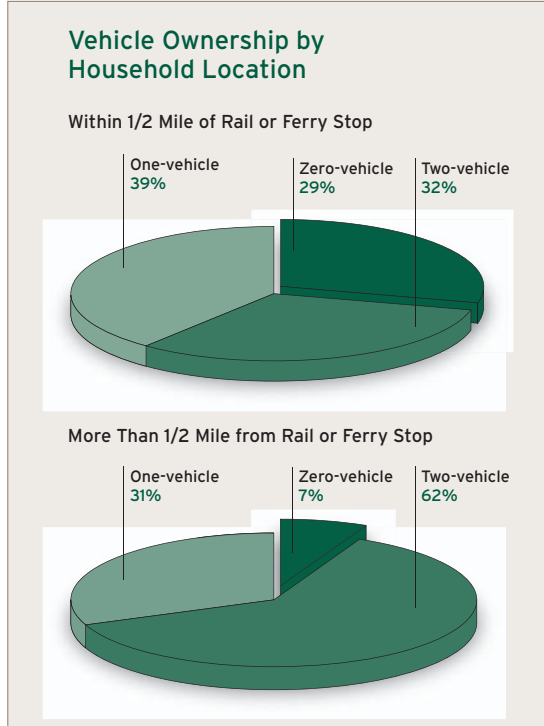
## Proximity Matters

Bay Area residents who live within a half-mile of rail or ferry stops are four times as likely to use transit, three times as likely to bike, and twice as likely to walk as are those who live at greater distances.



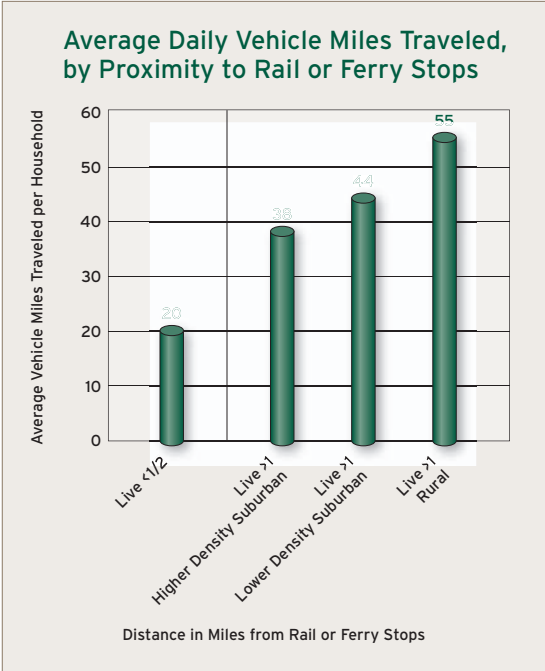
## Transit Favored for Commute

People who both live *and* work close to transit use it extensively to travel to their jobs. Individuals living and working within a half-mile of rail stations and ferry terminals use transit for 42 percent of their work commute trips, while people who neither live nor work within a half-mile of such facilities use transit for only 4 percent of their work commute trips.



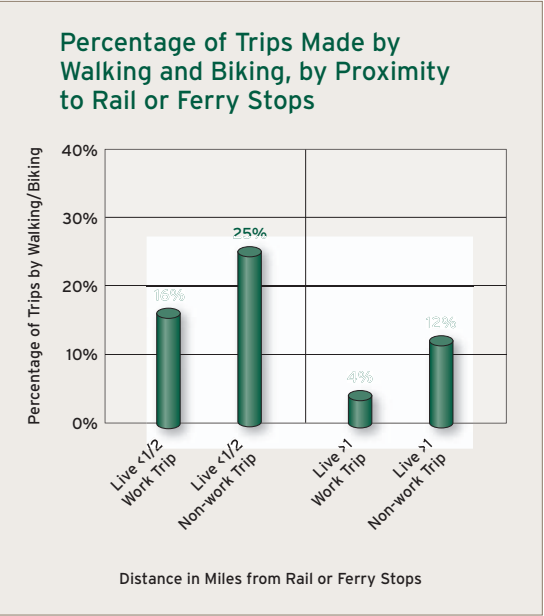
## Fewer Cars Owned

Almost 30 percent of households within a half-mile of rail or ferry stations do not have a car – they are “zero-vehicle households.” This means that fewer parking spaces are needed in these areas, allowing more land to be used for housing, parks, amenities and local-serving retail.



## Less Driving

People living close to transit log fewer miles in the cars they do own – these households produce about half of the vehicle miles of travel of their suburban and rural counterparts. This dramatically reduces the level of air pollutants and congestion per household.



## More Walking and Biking

People living close to transit also walk and bike for far more of their trips. Those who live within a half-mile of rail and ferry stops walk or bike for 16 percent of their work trips and 25 percent of their non-work trips, adding a vibrant presence on local streets and supporting a healthy lifestyle. This compares with 4 percent and 12 percent walk/bike rates for people farther from transit for work and non-work trips, respectively.

# The Challenges for TOD



## Fulfilling TOD's Promise Will Take Careful Planning

While TOD offers housing, travel and living options and opportunities, it also presents its own set of challenges. Mitigating or eliminating these stumbling blocks will require thoughtful and coordinated planning and implementation. Issues include the following:

- Higher-density developments may cause local traffic congestion, if not properly planned. To minimize traffic impacts, the travel alternatives must be safe, convenient and affordable, and amenities such as grocery stores and restaurants must be developed in concert with new housing and offices.
- TODs are more complicated for developers to achieve in terms of financing and marketing, since they do not fit the real estate model that has been

most commonly used in the last few decades. They also require more complex and integrated planning, and early and frequent participation by the public, community groups and transit agencies.

- TOD can accelerate gentrification. High demand for TOD living tends to drive up prices for market-rate units, sometimes resulting in prices significantly higher than the surrounding area. While the inclusion of some below-market rate housing can help mitigate this effect, additional efforts to minimize displacement of existing residents and businesses may also be needed.
- Existing urban areas may not have sufficient infrastructure – including water, electricity, sewers, schools and parks – to serve a larger population, and may need to invest in additional facilities. (With

respect to schools, of course, it is not just the physical adequacy but the quality of the schools that matter. Urban areas with perceived deficiencies in local school quality can find it difficult to attract families with school-age children, for whom school quality is often a decisive factor in choosing where to live.) As to physical infrastructure, it is usually less expensive to upgrade public facilities and utilities in existing urbanized areas than to invest in new infrastructure to support sprawl-type development at the urban fringe.

- Some possible TOD sites in the Bay Area may be located near abandoned industrial sites, freeways or busy arterials, and other sources of pollution. All potential hazards must be adequately addressed before development can occur at these sites.

# Moving Forward

## Supporting TOD at the Regional Level

While the lead role in planning and building TOD belongs to cities, developers and transit agencies, regional agencies also have a crucial role to play. The Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), the Bay Conservation and Development Commission (BCDC) and the Metropolitan Transportation Commission (MTC) have joined together to advance the concept of transit-oriented development. All of these agencies agree that TOD is a vital piece of our future as a livable region.

TOD is at the heart of a regional growth strategy unveiled in 2002 emphasizing compact development patterns that focus growth in downtowns, town centers and along the region's transit corridors. This "Smart Growth Strategy" was developed by the

regional agencies mentioned above with the input of more than 2,000 Bay Area residents who participated in a series of workshops held throughout the region. (See Appendix A, page 36.)

In keeping with the Strategy, ABAG has developed a program to promote transit-oriented development along multimodal corridors, and particularly heavily used bus corridors. Targeted corridors in the East Bay include San Pablo Avenue and International Boulevard/East 14th Street through Oakland and San Leandro. On the Peninsula, ABAG is focusing on El Camino Real through San Mateo and Santa Clara counties. The goal is to revitalize the corridors and transform them into "grand boulevards" with new housing, shops, eateries and jobs all served by state-of-the-art rapid bus lines and other transit.

Also in support of the Strategy, MTC in 2005 adopted

a ground-breaking policy requiring TOD as part of the planning requirements for new Bay Area transit extensions receiving regional discretionary funds. (See Appendix B, page 38.) The policy affects some \$11 billion in transit investments over the next 25 years. Concurrently, MTC has initiated a grant program to help local governments map out plans for housing, shops and offices in the vicinity of stations along future transit routes. MTC's longstanding Transportation for Livable Communities Program and Housing Incentive Program grants likewise have been important catalysts in revitalizing communities and fostering TOD-style projects.

Acting together as the Joint Policy Committee, the regional agencies also have launched a major initiative to refine and update the 2002 Smart Growth Strategy. Known as "Focusing Our Vision," the effort is engaging local governments and other stakeholders in building consensus around the creation of regional priority areas for housing and other infill development. Another goal is to identify open space and other priority conservation areas deserving of protection from future development.

## Taking TOD to the Next Level: How You Fit In

Whether you are a resident looking for your next home, a developer wanting to tap into the demand for homes and offices next to transit, or a local official or community advocate working to revitalize your city, there is a role for you to play in making TOD the lifestyle of choice in the Bay Area. For details on how you can get involved, consult the agency Web sites listed at the back of this report.





# Profiles of 10 Bay Area TOD Projects

- 15 Hayward – Downtown
- 17 Oakland – Jack London Square
- 19 Pleasant Hill – Contra Costa Centre Transit Village
- 21 Redwood City – Downtown
- 23 Richmond – Transit Village
- 25 San Francisco – Third Street Corridor
- 27 San Jose – Downtown
- 29 San Pablo Avenue – Rapid Bus Corridor
- 31 Santa Rosa – Downtown
- 33 Vallejo – Downtown/Waterfront

# The Appeal and Diversity of Bay Area TOD

In pockets around the region, TOD is leaping off the pages of planning text-books and manifesting in the real world. From Vallejo and Santa Rosa in the North Bay to San Jose in the South Bay, and San Francisco in the West Bay to Oakland and Pleasant Hill in the East Bay, TOD is combating long commutes and traffic, revitalizing neighborhoods, and fostering a more convenient lifestyle while also addressing the region’s chronic housing shortage, particularly in the realm of affordable housing. In this section we profile 10 Bay Area projects that illustrate the variety – and the appeal – of the TOD development pattern. Using words, maps and photos, we spotlight a few of the many new places offering new choices to the region’s residents.





## DOWNTOWN Hayward

*Residents of new housing units in downtown Hayward are six times more likely to commute regularly by transit (38 percent) than residents citywide (6 percent).*



### **Downtown Hayward has achieved a good balance of commercial, residential and civic development – all transit-oriented**

In the early 1990s, downtown Hayward was home to many struggling businesses and empty parking lots. After a decade of steady commercial and residential development, including over 700 new housing units, the streets and sidewalks of the area around Hayward BART have come back to life.

The transit-oriented development of downtown Hayward has been a collaborative effort. The city of Hayward's *Core Area Plan* (1992) set the stage for growth, while BART and the Hayward Redevelopment Authority exchanged land to facilitate projects adjacent to the station.

All parties recognized the need to balance development of commercial, residential and civic land uses in the downtown core area. Today, a new city hall and public plaza (1998), streetscape improvements, and retail and residential development show that this objective has largely been achieved.

Residents of Hayward's new transit-oriented housing are now just a short walk away from a full-service supermarket, drugstore and a variety of new shops, in addition to local retail institutions such as Hayward Ace Hardware. Nighttime dining and entertainment options also will soon be within reach of BART riders and downtown residents when Cinema Place opens in 2007.

In addition to reviving downtown, the new development near Hayward BART has boosted transit rider-

ship. Residents of these transit-oriented housing units commute by bus and rail at a rate nearly six times higher than the citywide average.

The next generation of transit-oriented development is planned for the industrial lands of the Cannery Area, west of downtown. Development there is expected to bring 850 additional housing units, including 127 affordable units within walking distance of both the Hayward Amtrak and BART stations. Residents will be well served with a new elementary school and an expanded Cannery Park. The combination of schools, civic facilities, parks and family entertainment venues demonstrates that transit-oriented developments are not just for young professionals and "empty nesters," but can become complete, family-friendly communities.





# Hayward – Downtown

## Transit:

- **Hayward BART Station:** BART; AC Transit
- **Hayward Amtrak Station:** Capitol Corridor rail service; AC Transit

## Development highlights:

- **Atherton Place:** 83 units (Sares-Regis Homes, 1995)
- **Pinnacle City Centre Apartments:** 192 units (Legacy Partners, 2000)
- **City Walk:** 77 townhomes (The Olson Company, 2003)
- **Renaissance Walk:** 46 condos (22 affordable) (The Olson Company, 2004)
- **Studio Walk:** 70 lofts (Ryland Homes)
- **Grand Terrace Apartments:** 235 townhouses (Pulte Homes)

## Amenities:

- New streetlights, signalized crosswalks, sidewalk landscaping and street furniture on B Street retail corridor linking BART to the downtown core
- New city hall and public plaza (1998)
- New Albertson's supermarket/Sav-On drugstore (2002)
- Hayward Ace Hardware store
- Newman Park and Giuliani Plaza
- Saturday Farmers' Market at B Street and Main

## Planning:

- *Hayward Core Area Plan* (1992)
- *The Cannery Area Design Plan* (2001)
- *Hayward General Plan* (2002)

## Innovations:

- City provides rebates for façade improvements on B Street and other pedestrian corridors
- Shared parking structure for city hall and downtown retail, lined with ground-floor retail on B Street

## Future development:





- **Cinema Place:** Entertainment complex (2007)
- **Cannery Area:** Mixed-use development with 850 residential units (127 affordable); planning entitlements have been approved for 735 of these units
- **New Burbank Elementary School** (2008)
- **Expanded Cannery Park** (2008)
- **Offices** planned for 0.75 acre parcel west of city hall
- **Senior housing complex** with 60 units combined with new offices for nonprofit developer Eden Housing



## DOWNTOWN

# Hayward

## Legend

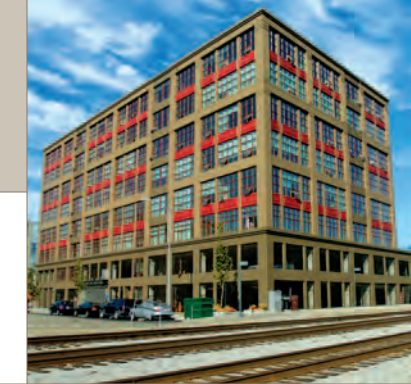
-  BART Line and Station
-  Amtrak/Capitol Line and Station
-  Bus Line
-  Project/Amenity







## JACK LONDON SQUARE Oakland



*Good transit access is a major selling point for the new housing sprouting up around Jack London Square.*



### Jack London Square is evolving into a transit-accessible, 24-hour, urban residential neighborhood

Situated on the Oakland waterfront between Oak and Clay streets, Jack London Square was the original home of the Port of Oakland. In the 1960s, the Port moved its main functions to container terminals in the outer harbor, and in the 1970s, a major redevelopment project brought offices, hotels, shops and restaurants to Jack London Square. The area's central location draws customers from throughout the Bay Area to dining and entertainment venues such as Yoshi's jazz club and the Jack London Cinema.

During the dot-com boom of the 1990s, residents began to settle in larger numbers near Jack London

Square, drawn by the area's proximity to downtown Oakland offices and excellent regional transit connections. This pattern continues today. Much of the area is within walking distance of both the Lake Merritt BART Station and the C.L. Dellums Amtrak Station, which provides Capitol Corridor commuter train service to San Jose and Sacramento, as well as Amtrak intercity rail, and local AC Transit bus connections. Nearby, at the foot of Clay Street, Alameda/Oakland ferries depart for 13 daily roundtrips to the Ferry Building in San Francisco.

Prior to 2000, most residential development in the area involved the renovation and conversion of old warehouse buildings into condominiums and flexible live/work spaces designed to accommodate an influx

of professionals and home-based Internet entrepreneurs. Since that year, 1,000 additional residential units have been built, mostly loft-style apartments and condominiums in newly constructed, mixed-use buildings clustered tightly around the C.L. Dellums Amtrak Station.

More condos and loft apartments are planned for Jack London Square, along with regional attractions such as the California Harvest Hall, a public market and culinary exhibition center to be located near the train station. All of this development, including new retail stores, offices, condos and entertainment venues, will benefit from good regional transit connections, as well as plans to enhance public access to the waterfront via the San Francisco Bay Trail.





# Oakland – Jack London Square

## Transit:

- **C.L. Dellums Amtrak Station:** Capitol Corridor rail service; Amtrak Coast Starlight & San Joaquins; AC Transit
- **Oakland Ferry Terminal:** Alameda/Oakland Ferry; AC Transit
- **Lake Merritt BART Station:** BART; AC Transit

## Development highlights:

- **Fourth Street Lofts:** 37-unit warehouse conversion (1992)
- **Brick House Lofts:** Warehouse converted to 13 for-sale live/work units and ground-floor retail/office (Horizon Pacific, 1999).
- **New Market Lofts:** Former Safeway headquarters and warehouse building converted to 46 live/work units and four office condos (Urban Bay Properties, 2001)
- **Aqua Via:** 100 apartments in nine-story Art Deco building (Embarcadero Pacific and Urban Development, 2006)
- **The Sierra:** 229 residential units and two levels of retail and live/work space in a 12-story building (Crescent Heights, 2003)
- **The Landing:** 282 apartments in a multiple-building site at Alice Street and Embarcadero (Legacy Partners, 2001)
- **The Allegro:** Five-story, 312-unit rental project at 240 Third Street (SNK Development, 2001)

## Amenities:

- Sunday Jack London Square **Farmers' Market**
- **Jack London Cinema**
- **Waterfront restaurants and cafes**
- **Nightclubs** including Yoshi's at Jack London Square
- **Proximity to downtown Oakland offices and retail**

## Planning:

- *Land Use and Transportation Element, Oakland General Plan* (adopted 1998)
- *Oakland Estuary Policy Plan* (adopted 1999)

## Innovations:

- **Adaptive reuse** of light industrial and warehouse buildings for residential and live/work purposes

## Future development:

- **200 Second Street:** 74 condos and live/work units, retail space in six-story structure (Metrovation, 2006)
- **288 Third Street:** 91 for-sale units in new six-story warehouse-type building under construction (Signature Properties, 2007)
- **Jack London Square Phase II:** New office building, multi-theater cinema, hotel/conference center and California Harvest Hall – a new public market, culinary school and chefs' hall of fame (Jack London Square Partners, LLC)



## JACK LONDON SQUARE Oakland

### Legend

- BART Line and Station
- Amtrak/Capitol Line and Station
- Ferry Terminal and Route
- Bus Line
- Trail
- Project/Amenity







CONTRA COSTA CENTRE  
**Pleasant Hill**  
 TRANSIT VILLAGE



**In the heart of suburban Contra Costa County lies one of the Bay Area's most successful TOD projects**

Pleasant Hill was the first suburban BART station to see significant development activity in the 1970s and 1980s. The Contra Costa County Redevelopment Agency (CCCRA) acquired and assembled parcels of land for large-scale redevelopment around the perimeter of the BART parking lots. By the mid-1990s, the Pleasant Hill Station area had emerged as a major employment center and activity node, with 1.5 million square feet of office space rented by companies such as Vodafone, Nextel Communications and Bank of the West, while some 1,200 housing units established a strong residential presence.

The second generation of transit-oriented development in the late 1990s brought new amenities to Pleasant Hill, along with additional office and residential development, including the Coggin Square affordable housing project. New streetlights, landscaping and public art enlivened pedestrian corridors leading to the BART station, including the improved Iron Horse Trail, which links cyclists and pedestrians to cities north and south.

While development proceeded around the station site, controversy stalled the original plan to construct a mixed-use town center on the BART parking lots. To develop a consensus plan for this highly accessible site, CCCRA, BART and the developers involved stakeholders in a six-day charrette planning process in

2001. The resulting design guidelines and *Final Development Plan* (2005) are guiding current development activities at what is now called Contra Costa Centre Transit Village. Construction is under way, and when it is complete in 2010, the transit village will include several mixed-use buildings up to 12 stories in height clustered around a new pedestrian plaza located just outside the BART fare-gates.

A survey of residents from several developments close to Pleasant Hill BART found that 45 percent commuted by transit. Planners are hopeful that the transit usage of new employees and residents of the transit village will match this rate, providing further evidence that transit-oriented development can help improve access while reducing traffic congestion and pollution.



A survey of residents from several developments close to Pleasant Hill BART found that 45 percent commuted by transit.





# Pleasant Hill – Contra Costa Centre Transit Village

## Transit:

- **Pleasant Hill BART Station:** BART; Benicia Breeze; County Connection; Fairfield-Suisun Transit; Livermore Amador Valley Transit (Wheels)

## Development highlights:

- **Vodafone Plaza:** 200,000-square foot office building with ground-floor restaurant (Taylor Widrow, 1991)
- **Iron Horse Lofts:** 54 market-rate townhouses (Holliday Development, 2001)
- **Coggins Square:** 87 units of affordable housing adjacent to Iron Horse Lofts (Bridge Housing, 2001)

## Amenities:

- **The Iron Horse Trail:** Bicycle/pedestrian path connects to Martinez, Concord, Walnut Creek and San Ramon
- **Major employers:** Bank of the West, John Muir/Mt. Diablo Health, Nextel Communications, Vodafone
- **Embassy Suites Hotel**

## Planning:

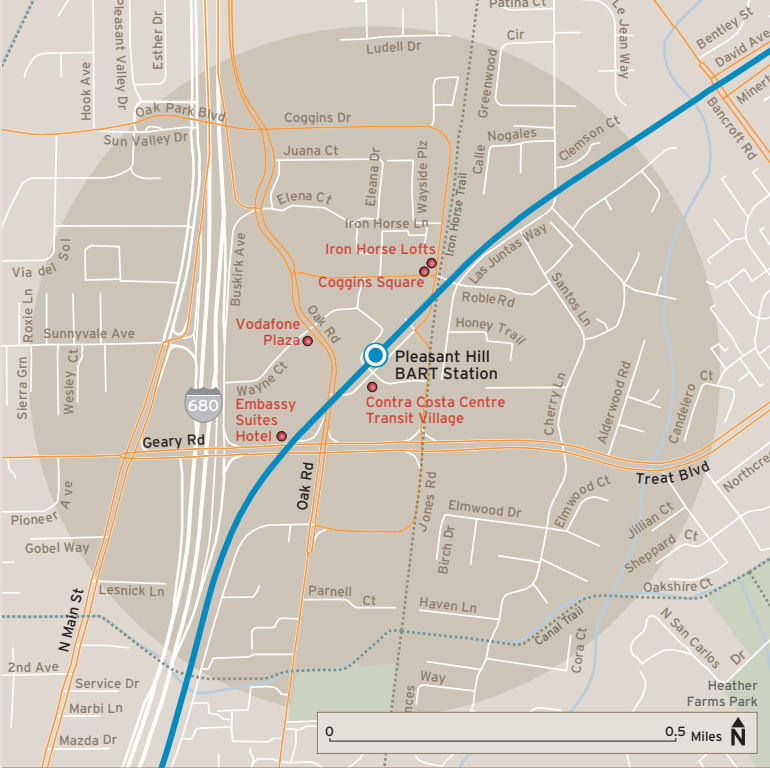
- *Pleasant Hill BART Station Area Specific Plan* (1983)
- *Pleasant Hill BART Redevelopment Plan* (1984)
- *Pleasant Hill BART Specific Plan* (as amended in 1998)
- *Pleasant Hill BART Station Property Regulating Plan* (2002)
- *Pleasant Hill BART Final Development Plan* (2005)

## Innovations:

- **Formation of a Joint Powers Authority** (Pleasant Hill Leasing Authority) by BART, the Contra Costa County Redevelopment Agency and Contra Costa County to manage negotiations with private developers
- **Innovative land lease:** BART property leased to developers for 100-year term
- **Collaborative charrette planning process** used to involve stakeholders and develop consensus plan

## Future development:

- **Contra Costa Centre Transit Village** will include 209,000 square feet of offices, a 20,000-square foot convention center, over 35,000 square feet of retail space and over 550 housing units (20 percent affordable). (Pleasant Hill Transit Village, LLC, a consortium of Millennium Partners and Avalon Bay Communities)
- **Affordable housing** on Las Juntas Swim Club parking lot, east of BART station (Contra Costa Co. Redevelopment Agency)



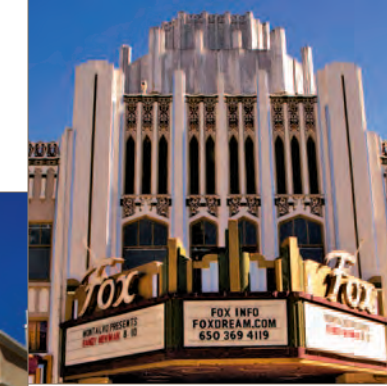
## CONTRA COSTA CENTRE Pleasant Hill TRANSIT VILLAGE

### Legend

- BART Line and Station
- Bus Line
- ..... Trail
- Project/Amenity







DOWNTOWN

## Redwood City

*"Much of the work we've done is [public] education... emphasizing that it's really all about design, not density."*  
 – Susan Moeller,  
 Redwood City Redevelopment Manager



### Planners in Redwood City are hoping to attract movie patrons and concert-goers from all over the Bay Area

"We have the potential to be the nighttime entertainment capital of the Peninsula," says Redwood City Redevelopment Manager Susan Moeller. While other cities plan office and residential development near transit, Redwood City is building a transit-oriented destination by leveraging the assets of its lively and historic downtown.

The city is well on its way to fulfilling this ambitious vision, as downtown residents and merchants eagerly await the fall 2006 opening of a 20-screen cinema complex near the popular Fox and Little Fox Theaters. With these marquee entertainment venues,

bars, restaurants and cafes all located within walking distance of the Caltrain station, city leaders hope to entice people from throughout the Bay Area to leave their cars at home and take the train to celebrate a "night on the town" in Redwood City.

Regardless of how they get downtown, people are encouraged to walk from place to place once they arrive. Broad tree-lined sidewalks, with ample room for window shoppers and outdoor diners, line major retail streets like Broadway and Middlefield Road. Two new pedestrian plazas and the existing City Center Plaza – which officials tout as the city's "outdoor living rooms" – provide yet more space for public gathering, outdoor entertainment and civic functions.

The strong employment base and growing nightlife have increased the attractiveness of Redwood City for residential development. Over 350 new housing units have been built near the Caltrain station in recent years. However, with the rising premium on land, developers can no longer afford to build new housing, unless they are able to build at least eight stories high.

Recognizing that the prospect of residential towers might alarm neighbors, the city embarked on a proactive campaign to educate and involve residents early in the development planning process. Planners hosted a series of neighborhood workshops, employing visual aids to demonstrate that, with good design, higher-density development can have a place in downtown Redwood City.





# Redwood City – Downtown

## Transit:

- **Redwood City Caltrain Station:** Caltrain; SamTrans
- **El Camino Real:** SamTrans

## Development highlights:

- **City Center Plaza Apartments:** 139 affordable units with ground-floor restaurants (Mid-Peninsula Housing Coalition)
- **Franklin Street Apartments:** 206 units (30 affordable) above retail space (Irvine Apartment Communities, 2002)
- **Montgomery Village:** Apartments under construction (First Community Housing)
- **On Broadway:** 20-screen movie theater with 85,000 square feet of ground-floor restaurant and retail space (John Anagnostou/Broadway Entertainment, LLC, 2006)
- **Le Coeur de la Ville** (formerly Tuscan Towers): 21 affordable townhomes; another 88 units proposed (Habitat for Humanity)

## Amenities:

- **City Center Plaza** just east of city hall
- **Theatre Way:** new pedestrian-priority promenade
- **Courthouse Square**
- **Post Office Paseo** linking surface public parking with the new cinema block, and expanding outdoor dining venue
- **Fox and Little Fox Theaters** on Broadway
- **Whole Foods Market**
- **Sequoia Station** retail center includes supermarket, café, drugstore and other conveniences

## Planning:

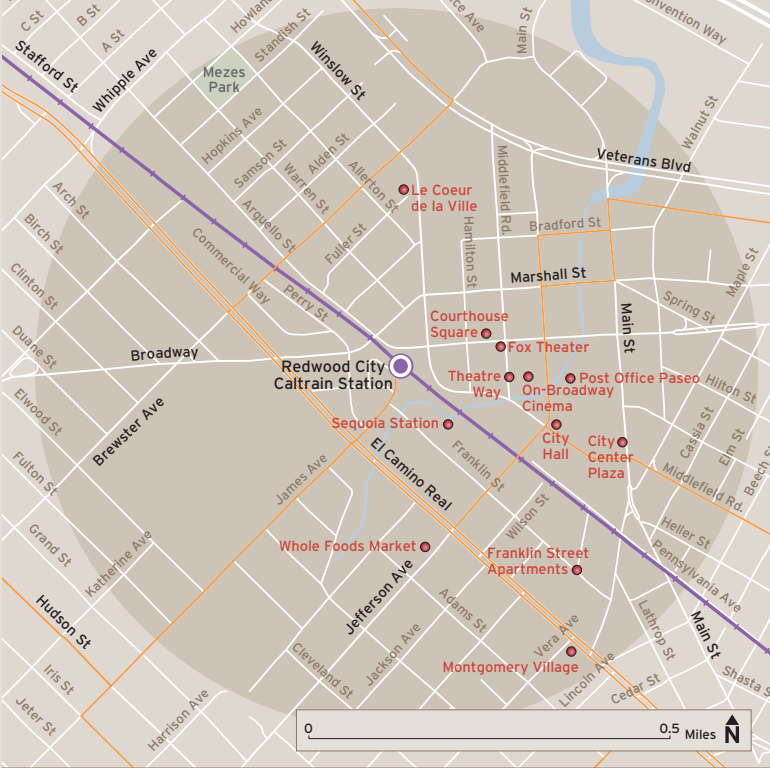
- *Redwood City General Plan* (2001, update in progress)
- *Downtown Area Plan* (introduced 2001)
- *Redwood City Downtown Precise Plan and Program EIR* (due for adoption in early 2007)

## Innovations:

- **Parking management strategy** with on-street and off-street parking rates that vary by location and time of day
- **Tax credits for rehabilitation of landmarks** in Main Street Historic District
- **Sidewalk Café Design Guidelines** encourage outdoor dining, adding vitality to downtown streets.

## Future development:

- **Downtown Precise Plan** proposes higher density with 8- to 12-story residential and mixed-use development considered in downtown core and east side of El Camino Real between Brewster and Maple.



## DOWNTOWN

# Redwood City

## Legend

- Caltrain Line and Station
- Bus Line
- Project/Amenity







TRANSIT VILLAGE

## Richmond



### Transit accessibility is a strategic asset in this economically disadvantaged East Bay location

Richmond Transit Village, the new community under construction adjacent to the Richmond BART/Amtrak Station, is a quintessential “new urbanist” development. From its location to its layout, design and impact, everything about the Village reflects its transit and pedestrian orientation.

Residents of Metro Walk, the completed first phase of the transit village, can walk across Nevin Plaza to Richmond Station in just two minutes to catch trains or buses to destinations throughout the Bay Area and Northern California. Currently being renovated,

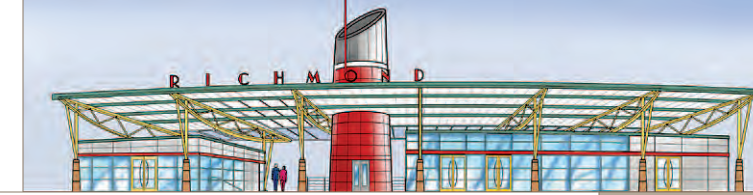
the station is also a bus hub for AC Transit and Golden Gate Transit.

Future phases of the transit village will add more townhouses, bungalows and live/work lofts, while retail stores will be located in the southwest quadrant of the site in order to revitalize Macdonald Avenue and the city's historic commercial core.

There were many challenges to development in this location, including neighbors' skepticism of urban renewal, as well as the area's economic difficulties and reputation for crime. To overcome these challenges, the city's redevelopment agency hired consultants to lead public involvement, analyze development feasi-

bility at the site and aggressively market their request for developer proposals.

Although it is still under construction, the Richmond Transit Village is already having an impact. One block west of the Village, a mixed-use project is under development. Most importantly, the transit orientation of the Richmond Transit Village is achieving results. Over 90 percent of residents surveyed report that proximity to transit was an important part of their decision to move to the area. These residents are modifying their travel behavior in turn. “Our household has cut car use by half since we moved here,” stated one resident who appreciates the convenience of living near quality transit service.



“Our household has cut down car use by half since we moved here.”

— Resident of Richmond's Metro Walk development





# Richmond – Transit Village

## Transit:

- **Richmond Station:** BART; Amtrak/Capitol Corridor; AC Transit; Golden Gate Transit

## Development highlights:

- **Metro Walk:** Phase I of the Richmond Transit Village; includes 132 owner-occupied townhouses (The Olson Company, 2004)

## Amenities:

- **Station upgrades:** New elevators, platforms, canopies and bus transfer center (under construction)
- **Neighborhood park** at center of Metro Walk complex
- **Nevin Plaza** and walkway links station to Metro Walk and the rest of downtown Richmond
- **Nearby offices** of Kaiser Permanente

## Planning:

- **Calthorpe Associates'** plan for the Richmond Transit Village won a design competition sponsored by BART and the Richmond Redevelopment Agency.

## Innovations:

- **Development on transit agency property** (BART parking lots)
- **Use of design competition** to develop site plan






## Future development:

- **Phase II of Metro Walk at the Richmond Transit Village** will include an additional 100 units and will bring 27,000 square feet of commercial retail space to the site, with 6,000 square feet fronting on the historic Macdonald Avenue commercial corridor.
- **12th and Macdonald:** A new mixed-use project (under development by AF Evans) one block west of the transit village will have 238 condominiums and 20,000 square feet of ground-floor retail space.
- **Richmond Greenway** bike path (under development) will link downtown Richmond with the Ohlone and Bay Trails.



## TRANSIT VILLAGE Richmond

### Legend

-  BART Line and Station
-  Amtrak/Capitol Line and Station
-  Bus Line
-  Trail
-  Project/Amenity







## THIRD STREET CORRIDOR San Francisco



*"The Third Street corridor clearly demonstrates that there is no one-size-fits-all approach to transit-oriented development."*

*Jose Luis Moscovich, Executive Director,  
San Francisco County Transportation Authority*



### Muni's new 5.4-mile-long light-rail line reconnects and revitalizes a key city corridor

"I can't wait for the trains to roll," says John Colon, a resident of Visitacion Valley, near the southern terminus of San Francisco Muni's Third Street Light Rail Project, which is due to begin service in 2007. While the new rail line will speed Colon to his job in the Bayview and reconnect the eastern neighborhoods to the rest of San Francisco, it represents more than just a transportation improvement. The Third Street project has magnified development concerns and opportunities, which vary significantly up and down the corridor, along with community priorities. "The Third Street corridor clearly demonstrates that there

is no one-size-fits-all approach to transit-oriented development," says San Francisco County Transportation Authority Executive Director Jose Luis Moscovich.

In Mission Bay, at the northern end of the rail line, a new urban neighborhood is emerging alongside the tracks. The undeveloped 303-acre site presented planners with a unique opportunity to develop a high-density, transit-oriented urban neighborhood from scratch. Today, a new research campus of the University of California/San Francisco is up and running, and over 1,000 housing units have been built. At full build-out, more than 10,000 residents and 31,000 employees will live and work in Mission Bay, all within walking distance of Muni's Third Street light-rail line.

A different approach is required in the southern end of the corridor. The challenge in these neighborhoods is to provide new, affordable housing choices through renovation of existing buildings and targeted development of vacant lots, without displacing longtime residents and businesses. The city is supporting this effort by providing low-interest building renovation loans to businesses and homeowners.

For these under-served neighborhoods along Third Street, the transportation investment and transit-oriented economic development associated with the new Muni rail line are long overdue. In the words of Moscovich, "This project is about repaying a debt. We are helping a neighborhood catch up with the rest of San Francisco."





# San Francisco

## San Francisco – Third Street Corridor

### Transit:

#### San Francisco Muni Third Street Light Rail:

- Phase I adds 5.7 miles to the Muni Metro System, with 18 new stations between 4th and King streets and Visitacion Valley.
- Connects to Caltrain at its depot in San Francisco, and to BART, Muni buses and other Muni trains at Market Street.
- Phase II will extend the Third Street line north to Union Square and Chinatown, via a new Central Subway.

### Development highlights:

- **Mission Bay:** 1,224 new housing units and portions of the University of California/San Francisco (UCSF) campus completed to date (Catellus Development Corporation)
- **Bayview Commons:** 29 apartments for very-low-income families (San Francisco Housing Development Corporation, 2002)

### Amenities:

- **New Oakdale-Palou Triangle public plaza** and enhanced pedestrian connections to the Oakdale Station
- **Bayview Opera House & Ruth Williams Memorial Theater**
- **UCSF biomedical research campus** in Mission Bay
- **San Francisco Giants Ballpark** in China Basin
- **New Mission Bay Branch Library**

### Planning:

- *Mission Bay Redevelopment Plan* (1998)
- *Bayview/Hunters Point Community Revitalization Concept Plan* (2000)
- *Better Neighborhoods Plan for the Central Waterfront* (2002)

### Innovations:

- **Light rail is part of the economic development strategy** for San Francisco's eastern neighborhoods, along with streetscape and façade improvements, and business retention programs.

### Future development:

- **Mission Bay** will include 6 million square feet of office space, 800,000 square feet of retail, 6,000 housing units (1,700 affordable), and 51 acres of parks and open space.
- **Bayview/Hunters Point:** 3,700 new housing units (925 below-market-rate) proposed in redevelopment area.
- **Better Neighborhoods Plan for the Central Waterfront** allows between 1,100 and 1,400 new housing units near Third Street.
- **Schlage Lock Redevelopment:** 800 housing units (15 percent affordable) and 100,000 square feet of retail, including a grocery store proposed for site near the Third Street Light Rail terminus in Visitacion Valley



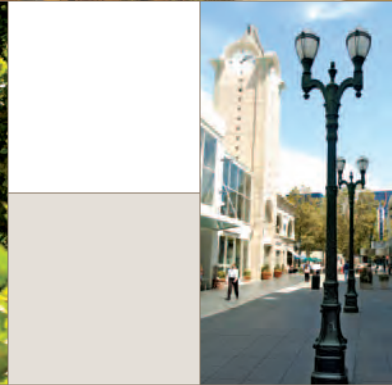




## DOWNTOWN San Jose



*Residents of downtown San Jose can walk to transit, parks, jobs, classes at the downtown campus of San Jose State University, and a growing array of entertainment options.*



### Long known as a sprawling, car-dependent city, San Jose is remaking its downtown into the urban heart of Silicon Valley

When the Valley Transportation Authority (VTA) began laying light-rail tracks through San Jose's struggling central business district in the 1980s, planners and civic leaders saw an opportunity to simultaneously rein in suburban sprawl and revive downtown by encouraging transit-oriented development. Their vision and efforts are now paying off.

Over 12,000 housing units have been constructed in transit corridors since the city began implementing recommendations from a 1991 housing study that called for increases in allowable building heights and

densities near rail stations. Much of this growth has occurred along the VTA's light-rail lines in the downtown area. Improved commuter rail service on Caltrain, the Amtrak Capitols and the Altamont Commuter Express – all of which serve the recently renovated Diridon Station on the west edge of downtown – also have added to the area's allure. Meanwhile, the city's Redevelopment Agency has invested more than \$1 billion to improve the infrastructure and services in downtown San Jose.

Transit-oriented redevelopment projects in downtown San Jose include the Paseo Plaza Apartments near Paseo de San Antonio Station, the 101 San Fernando Apartments near Santa Clara Street Station and the Villa Torino complex near the St. James

Station. These mid-rise projects are located within a block or two of the parallel transit malls on First and Second streets and include a significant share of below-market-rate units.

With a critical mass of new downtown residents and amenities, and plans for yet more transit services – including a long-awaited BART connection to the East Bay – San Jose is now attracting investment in higher-profile, transit-oriented development projects. Recent zoning changes have spurred proposals for at least 10 high-rise residential projects, which, if realized, would surely transform the skyline of San Jose, provide new urban housing choices, and fill seats on the growing network of buses and trains serving the Silicon Valley.





# San Jose – Downtown

## Transit:

- **VTA Light Rail**
- **San Jose Diridon Station:** Caltrain; Altamont Commuter Express; Amtrak/Capitol Corridor

## Development highlights:

- **Legacy Fountain Plaza:** 433 apartments (2003)
- **Paseo Plaza Apartments:** 210 apartments with ground-floor retail, near Paseo de San Antonio Station (Goldrich & Kest)
- **101 San Fernando Apartments:** 323 apartments and 10,000 square feet of retail located one block from Santa Clara Station
- **Villa Torino Apartments:** 198 apartments (40 percent affordable) one block north of St. James Park and light rail station
- **Ryland Mews:** 171 for-sale townhouses (25 percent affordable) near Japantown/Ayer Station (Barry Swenson Builder)
- **Park Townsend:** Condominiums at Julian and Market streets, near the St. James Station (Goldrich & Kest)
- **Vendome Place:** Recently completed high-rise development with 106 rental units (Barry Swenson Builder)

## Amenities:

- **Paseo de San Antonio** pedestrian walkway
- **San Jose Museum of Art; Tech Museum of Innovation**
- **Parks:** St. James Park, Guadalupe River Park, Plaza Chavez
- **Theaters:** California Theatre; San Jose Repertory Theatre

## Planning:

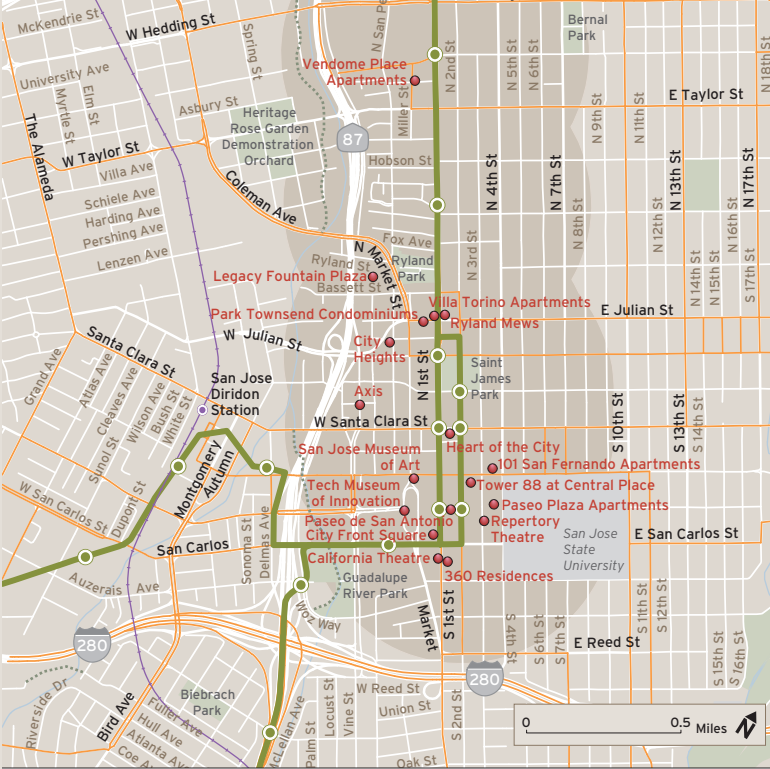
- *San Jose 2020 General Plan* (as amended in 2006)
- *Redevelopment Agency 5-Year Implementation Plan* (2005-09)

## Innovations:

- **1989 Housing Initiative Program** encouraged TOD
- **Zoning** amended to allow 55 units per acre near transit

## Future development:

- **Tower 88 at Central Place:** 197 condos, gym and 32,000 square feet of retail space (WMS/CIM Group; opening 2009)
- **City Front Square:** Three 25-story condo towers with 659 units (Urban West/Preservation Partners)
- **360 Residences:** High-rise tower with 203 condominiums and 11,000 square feet of retail (Mesa)
- **Axis:** High-rise project with 329 condominiums (Spring Capital Group; opening in 2008)
- **City Heights:** High-rise apartment complex under construction near St. James Station (Barry Swenson Builder)
- **Heart of the City:** 76 units in mixed-use buildings under construction at 2nd and Santa Clara streets



## DOWNTOWN

# San Jose

## Legend

- VTA Light-Rail Line and Station
- Caltrain Line and Station
- Bus Line
- ..... Trail
- Project/Amenity







RAPID BUS CORRIDOR

## San Pablo Avenue

*Since the 1990s, a new pattern of transit-oriented development has emerged along this very busy East Bay thoroughfare.*



### New “Rapid Bus” service is helping to reinvigorate neighborhoods along the San Pablo Avenue corridor

Stretching 20 miles from downtown Oakland in the south to Hercules in the north, San Pablo Avenue was once an important link in the Key Route network of East Bay streetcar lines. Neighborhoods adjacent to the transit line in Oakland, Emeryville, Berkeley and Albany evolved as streetcar suburbs, with apartment homes and neighborhood-serving retail establishments flanking the corridor.

With the demise of the streetcars after World War II, San Pablo Avenue became a more car-oriented corridor, crowded with gas stations, fast-food restaurants and auto repair shops.

Since the 1990s, however, a new pattern of transit-oriented urban infill development has emerged along this busy thoroughfare. Today, visionary developers and civic leaders are sounding hopeful notes about the future of the corridor, with state Assemblymember and former Berkeley Mayor Loni Hancock citing the potential of transit-oriented development to remake San Pablo Avenue as a “world class boulevard.”

The return of fast, reliable and frequent transit service to the corridor is a major catalyst. In 2004, AC Transit instituted the new 72-R San Pablo Rapid Bus service, with express service every 12 minutes to stations every half-mile along the corridor. By mimicking the frequency, speed, convenience and reliability of light rail, the new express bus service

has boosted ridership by 66 percent. Increased ridership has, in turn, spurred greater interest in transit-oriented development along the corridor – each supporting the other in a virtuous cycle of neighborhood revitalization. Along the Oakland/Emeryville border, for example, mid-rise, mixed-use buildings such as the Andante Condominiums and Key Route Lofts are helping to reframe San Pablo Avenue and reconnect residents and businesses with transit.

Cities are also pitching in. El Cerrito and Richmond are entering into a joint effort to plan their shared section of San Pablo Avenue. Albany, Berkeley, Emeryville and Oakland already have dedicated plans or programs that focus on the avenue and attempt to bring more transit-supportive development to the corridor.





# San Pablo Avenue

## San Pablo Avenue – Rapid Bus Corridor

### Transit

- **San Pablo Avenue Rapid Bus Corridor:** AC Transit; BART
- **Uptown Transit Center:** New transit hub under development near 19th St. BART will provide increased passenger amenities.

### Development highlights:

- **Sylvester Rutledge Manor:** 65 affordable apartments for seniors (Oakland Community Housing, Inc., 2003)
- **Andante Condominiums:** 125 condos (25 affordable) in mixed-use building in Emeryville (SNK Development, 2006)
- **Key Route Lofts:** 22 live/work lofts and three commercial units at 40th Street and Adeline in Emeryville (Urban Bay)
- **Artisan Walk Condominiums:** 72 condos (six below market rate) in Oakland (The Olson Company, 2006)
- **Margaret Breland Homes:** 28 senior housing units in Berkeley (Resources for Community Development, 2006)
- **Creekside Apartments:** 16 affordable rental units in converted motel in Albany (Resources for Community Development, 2001)
- **Albany Commons:** 22 condos in mixed-use project at Solano Avenue (Alexander Development Co., 2005)
- **The Village at Town Center:** 158 units in mixed-use development on former lumberyard in El Cerrito (Legacy Homes, 2005)
- **Del Norte Place:** 135 apartments (21 percent for seniors) and retail near BART station (John Stewart Co., 1993)
- **Monte Vista Senior Apartments:** 82 rental units in San Pablo (Simpson Housing Solutions, 2003)

### Amenities:

- **Ohlone Greenway** (Berkeley, Albany, El Cerrito)
- **International Marketplace** retail district (Berkeley)
- **Richmond Greenway** (under development)

### Planning:

- San Pablo Avenue SMART Corridor Project (multi-agency)

### Innovations:

- **First rapid bus corridor** and first bus-transit-oriented development site in the Bay Area

### Future development:

- **Uptown Oakland:** 1,300-unit mixed-use development in downtown Oakland (Forest City, 2006)
- **Creekside at El Cerrito Plaza:** 128 condos (Forest Plaza Partners/Bill Garlock & Assoc.)
- **Vitale Mixed-Use Project:** 31 condos in El Cerrito
- **Mayfair site:** 58 condos near El Cerrito del Norte BART (The Olson Company)







DOWNTOWN

## Santa Rosa



*Santa Rosa's Railroad Square is set to become one of the busiest stations on the proposed Sonoma Marin Area Rail Transit (SMART) line.*



### New development and expanded downtown offerings are enhancing Santa Rosa's urban allure

Santa Rosa, the North Bay's largest city (pop. 157,145), is fast becoming a true urban center, with expanded transportation choices, pedestrian-friendly street-scapes and taller buildings to match. Most of the new urban development planned or built to date is near the city's existing and planned transit hubs.

The Transit Mall on 2nd Street brings local and regional accessibility to the heart of downtown Santa Rosa. This prime location has provided an incentive for urban-scale development throughout downtown, with new housing projects such as the Burbank Apartments bringing affordable housing to the city. Other

major downtown developments include the Comstock Mall Project, currently under review, at the east end of the Transit Mall and a mixed-use development project on the former White House department store site adjacent to the post office. At 14 and 12 stories respectively, these are the types of projects needed to bring a sufficient number of new residents and workers downtown to support additional transit service and local businesses, including restaurants and other retail services.

New residents will find an inviting scene downtown, where evening and weekend events are adding vitality to the streets. The Santa Rosa Downtown Market offers fresh local produce one night a week, and a monthly Art Walk showcases local artists. Nighttime

entertainment venues like the Roxy Stadium-14 movie theater and the 6th Street Playhouse are within walking distance of new condos and apartments and the Transit Mall.

Across U.S. 101, Santa Rosa's dormant rail yard is set to become one of the busiest stations on the proposed Sonoma Marin Area Rail Transit (SMART) line, which awaits voter-approved funding. The winning proposal for the vacant site west of the city's historic rail station includes plans for a Sonoma County Food & Wine Center, which city leaders hope will attract commuters and visitors alike.

Whether or not commuter trains return to Santa Rosa, the market for urban-scale development in the transit-accessible downtown is likely to remain strong.



**Santa Rosa CityBus**

**Sonoma County Transit**

**GOLDEN GATE BRIDGE**

**mta**

**SMART**



# Santa Rosa – Downtown

## Transit:

- **Santa Rosa Transit Mall:** Sonoma County Transit; Golden Gate Transit; Santa Rosa CityBus; Mendocino Transit
- **Railroad Square SMART Station:** Proposed commuter train service from Cloverdale to Larkspur via Santa Rosa

## Development highlights:

- **Railroad Square Terrace:** 29 condos in mixed-use building near Railroad Square Station (Hugh Futrell)
- **The Burbank Apartments:** 26 affordable housing units on 7th Street (Hugh Futrell)

## Amenities:

- New 4th Street pedestrian corridor
- Historic Railroad Square commercial district
- 6th Street Playhouse
- Roxy Stadium-14 movie theater
- Prince Memorial Greenway along Santa Rosa Creek
- Santa Rosa Downtown Market

## Planning:

- *Santa Rosa General Plan* (as amended 2002)
- *Downtown Mid-Rise Policy* (2005)
- *Downtown Santa Rosa Market Study* (2005)

## Innovations:

- Adaptive re-use of historic structures
- Green building features in the New Railroad Square project
- Public/private development partnership

## Future development:

- **New Railroad Square project** includes a public plaza, 250 condos (15 percent affordable), 51,750-square foot food and wine center, 8,000 square feet of retail space and 29,400 square feet of community uses (Creative Housing Associates).
- **'White House' Mixed-Use Project:** 183 condos, 16,000 square feet of ground floor commercial space in 12-story building (Monahan Pacific Associates)
- **Traverso Site:** 10-story mixed-use project with 54 condos
- **The Moore Center Apartments:** 80 residential units above 9,000 square feet of ground-floor retail space (James Hornmer and Assoc.)
- **Comstock Mall Project:** 14-story building with 115 condos and 8,400 square feet of ground-floor retail (West Bay Developers)
- **Canners Project:** Adaptive re-use of cannery building with 65 condos and 15 live/work units (John Stewart Co.)



## DOWNTOWN

# Santa Rosa

## Legend

- Future SMART Line and Station
- Bus Line
- Trail
- Project/Amenity





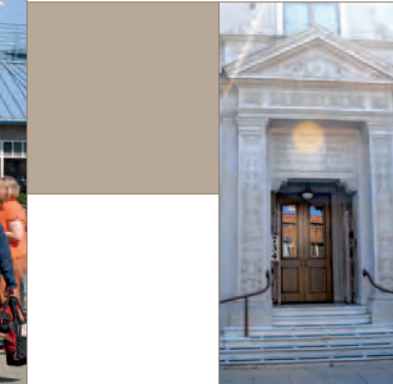


DOWNTOWN / WATERFRONT

## Vallejo



*A strong incentive for development in downtown Vallejo is the regional accessibility provided by the Vallejo Ferry Terminal.*



### Waterfront location and historic downtown spur Vallejo's development

While other Bay Area cities prospered during the 1990s, Vallejo's fortunes waned with the closure of the nearby Mare Island Naval Shipyard in 1996. As the city began a long redevelopment process in 1997, planners took stock of Vallejo's remaining assets, including its location by the Bay and its historic and pedestrian-oriented street grid. With small blocks, ample sidewalks, and mid-block alleys and paseos, downtown Vallejo is easy to traverse on foot or by bike.

Perhaps the strongest incentive for development in downtown Vallejo is the regional accessibility provided by the Vallejo Ferry Terminal and a future bus

transfer center that is being built nearby. Baylink ferries provide direct service to San Francisco, while express buses will link downtown Vallejo with other destinations in the North Bay and East Bay.

Vallejo was able to take advantage of these assets and harness its full development potential by making underutilized, city-owned parking lots available for development. Vallejo Station, developed by Callahan/DeSilva Vallejo LLC, is one of two major transit-oriented developments now in the works. Plans call for building 265 live/work units and 75,000 square feet of office space on parking lots located between the Ferry Terminal and the future bus transfer center. As excess parking spaces are converted to higher uses, the city

of Vallejo is also pursuing innovative new parking policies to help support TOD-style development.

More transit-oriented development is planned for sites scattered throughout downtown Vallejo. The city will sell several of its parking lots to Triad Communities, LLC, which intends to construct seven mixed-use buildings with retail and office space at street level, and up to 1,000 residential units on upper floors. The first project slated for construction will be a five-to seven-story mixed-use building on a lot across from the Empress Theatre – one of the key "catalyst projects" that planners hope will bring enough new residents and activity downtown to spark a wider revitalization.





# Vallejo – Downtown/Waterfront

## Transit:

- **Vallejo Ferry Terminal:** Baylink ferries and buses to San Francisco; Benicia Breeze
- **Future Bus Transfer Center:** Vallejo Transit; Benicia Breeze; Napa Valley VINE; Baylink buses

## Future Development:

- **Vallejo Station:** 265 live/work units, a 200-room hotel and conference center and 75,000 square feet of office space proposed for site across Mare Island Way from the Vallejo Ferry Terminal (Callahan/DeSilva Vallejo LLC)
- **Triad “catalyst” development sites:** Seven mixed-use buildings are planned for construction on city-owned parking lots throughout downtown, providing 1,000 residential units, and 100,000 square feet of ground-floor retail space (Triad Communities, LLC.)

## Amenities:

- **Georgia Street Extension** reconnects downtown Vallejo with the waterfront and Ferry Terminal
- **Unity Plaza**, situated at the west end of downtown, is a venue for civic functions such as the **weekly farmers’ market** and **Vallejo Wednesday Night** celebrations.
- The historic **Empress Theatre** is currently being renovated and will reopen in 2007 as a live performing arts theater.
- **Vallejo Waterfront Promenade**
- **Walkable street grid**, with wide alleys (16 feet wide)

## Planning:

- *Vallejo Downtown/Waterfront Master Plan (2000)*
- *Downtown Vallejo Specific Plan (2005)*

## Innovations:

- **Density bonus:** Vallejo allows developers to construct at least one additional floor if they use sustainable building practices.
- **Parking management:** Vallejo is developing new parking management strategies for downtown, including shared parking and coordinated pricing of on-street and off-street parking.



## DOWNTOWN / WATERFRONT

# Vallejo

## Legend

- Ferry Terminal and Route
- Bus Line
- ..... Trail
- Project/Amenity





# Smart Growth Preamble and Policies

Adopted 2002

Association of Bay Area Governments

Bay Area Air Quality Management District

Bay Conservation and Development Commission

Metropolitan Transportation Commission

## Preamble

Current land-use patterns in the San Francisco Bay Area are putting intense pressure on the economic, environmental and social well-being of the Bay Area and of surrounding regions. The projected addition of over one million new residents and one million new jobs in the coming decades will further challenge our ability to sustain the high quality of life we enjoy today.

To help meet this challenge, the five regional agencies of the Bay Region – the Association of Bay Area Governments, Bay Area Air Quality Management District, Bay Conservation and Development Commission, Metropolitan Transportation Commission and the Regional Water Quality Control Board – along with the economy, environment and social equity caucuses of the Bay Area Alliance for Sustainable Communities, developed a set of smart growth policies.

The policies reflect the values articulated by workshop participants of the Smart Growth Strategy/Regional Livability Footprint Project and address Bay Area conditions. The policies are consistent with widely accepted notions of smart growth. They are meant to encourage meaningful participation from local governments, stakeholders and residents.

The policies provide a framework for decision-making on development patterns, housing, transportation, environment, infrastructure, governmental fiscal health and social equity that can lead us toward development of vibrant neighborhoods, preservation of open space, clean air and water, and enhanced mobility choices, while enhancing the Bay Area’s relationship with surrounding regions.

## Policies

### Jobs/Housing Balance and Match

Improve the jobs/housing linkages through the development of housing in proximity to jobs, and both in proximity to public transportation. Increase the supply of affordable housing and support efforts to match job income and housing affordability levels.

### Housing and Displacement

Improve existing housing and develop sufficient new housing to provide for the housing needs of the Bay Area community. Support efforts to improve housing affordability and limit the displacement of existing residents and businesses.

### Social Justice and Equity

Improve conditions in disadvantaged neighborhoods, ensure environmental justice, and increase access to jobs, housing, and public services for all residents in the region.

### Environmental, Natural Resource, Open Space and Agricultural Preservation

Protect and enhance open space, agricultural lands, other valued lands, watersheds and ecosystems throughout the region. Promote development patterns that protect and improve air quality. Protect and enhance the San Francisco Bay and Estuary.

### Mobility, Livability and Transit Support

Enhance community livability by promoting infill, transit-oriented and walkable communities, and compact development as appropriate. Develop multi-family housing, mixed-use development, and alternative transportation to improve opportunities for all members of the community.

### Local and Regional Transportation Efficiencies

Promote opportunities for transit use and alternative modes of transportation including improved rail, bus, high occupancy (HOV) systems and ferry services, as well as enhanced walking and biking. Increase connectivity between and strengthen alternative modes of transportation, including improved rail, bus, ride-share and ferry services, as well as walking and biking. Promote investments that adequately maintain the existing transportation system and improve the efficiency of transportation infrastructure.

### Infrastructure Investments

Improve and maintain existing infrastructure and support future investments that promote smart growth, including water and land recycling, brownfield clean-up and re-use, multi-use and school facilities, smart building codes, retention of historic character and resources, and educational improvements.

### Local Government Fiscal Health

Improve the fiscal health of local government by promoting stable and secure revenue sources, and by reducing service provision costs through smart growth, targeted infrastructure improvement, and state and regional sponsored fiscal incentives. Support cooperative efforts among local jurisdictions to address housing and commercial development, infrastructure costs and provision of services.

### Cooperation on Smart Growth Policies

Encourage local governments, stakeholders and other constituents in the Bay Area to cooperate in supporting actions consistent with the adopted Smart Growth Policies. Forge cooperative relationships with governments and stakeholders in surrounding regions to support actions that will lead to inter-regional smart growth benefits.



# MTC Resolution 3434: Transit-Oriented Development (TOD) Policy for Regional Transit Expansion Projects

Adopted 2005

## 1. Purpose

The San Francisco Bay Area – widely recognized for its beauty and innovation – is projected to grow by almost two million people and one and a half million jobs by 2030. This presents a daunting challenge to the sustainability and the quality of life in the region. Where and how we accommodate this future growth, in particular where people live and work, will help determine how effectively the transportation system can handle this growth.

The more people who live, work and study in close proximity to public transit stations and corridors, the more likely they are to use the transit systems, and more transit riders means fewer vehicles competing for valuable road space. The policy also provides support for a growing market demand for more vibrant, walkable and transit-convenient lifestyles by stimulating the construction of at least 42,000 new housing units along the region's major new transit corridors and will help to contribute to a forecasted 59 percent increase in transit ridership by the year 2030.

This TOD policy addresses multiple goals: improving the cost-effectiveness of regional investments in new transit expansions, easing the Bay Area’s chronic housing shortage, creating vibrant new communities, and helping preserve regional open space. The policy ensures that transportation agencies, local jurisdictions, members of the public and the private sector work together to create development patterns that are more supportive of transit.

Table 1: Resolution 3434 Transit Extension Projects Subject to Corridor Thresholds			
Project	Sponsor	Type	Threshold is met with current development?
BART East Contra Costa Rail Extension	BART/CCTA	Commuter Rail	No
BART – Downtown Fremont to San Jose/Santa Clara (a) Fremont to Warm Springs (b) Warm Springs to San Jose/Santa Clara	(a) BART (b) VTA	BART extension	No
AC Transit Berkeley/Oakland/ San Leandro Bus Rapid Transit: Phase 1	AC Transit	Bus Rapid Transit	Yes
Caltrain Downtown Extension/ Rebuilt Transbay Terminal	TJPA	Commuter Rail	Yes
MUNI Third Street Light Rail Transit Project Phase 2 – New Central Subway	MUNI	Light Rail	Yes
Sonoma-Marin Rail	SMART	Commuter Rail	No
Dumbarton Rail	ACCMA, ACTIA, SMTA, VTA, Capitol Corridor	Commuter Rail	No
Expanded Ferry Service Phase 1: Alameda/Oakland/Harbor Bay, Berkeley, and South San Francisco to San Francisco*	WTA	Ferry	No
Expanded Ferry Service Phase 2: Alameda to South San Francisco, and Antioch, Hercules, Redwood City, Richmond and Treasure Island to San Francisco*	WTA	Ferry	No
* The WTA Ferry Expansion “Corridor” for the purposes of the TOD policy consists of all new terminals planned in Phase 1 and Phase 2.			

There are three key elements of the regional TOD policy:

- (1) Corridor-level thresholds to quantify appropriate minimum levels of development around transit stations along new corridors;
- (2) Local station area plans that address future land-use changes, station access needs, circulation improvements, pedestrian-friendly design, and other key features in a transit-oriented development; and

- (3) Corridor working groups that bring together congestion management agencies (CMAs), city and county planning staff, transit agencies, and other key stakeholders to define expectations, timelines, roles and responsibilities for key stages of the transit project development process.

## 2. TOD Policy Application

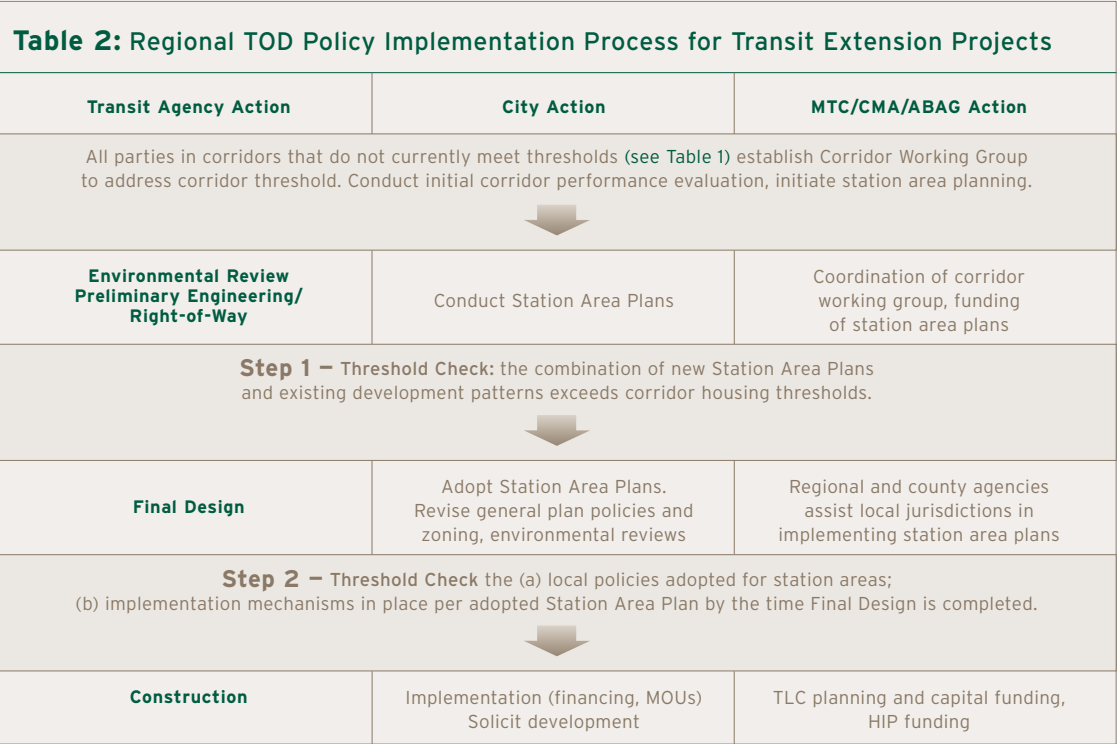
The TOD policy only applies to physical transit extensions funded in Resolution 3434 (see Table 1). The policy applies to any physical transit extension project with regional discretionary funds, regardless of level of funding. Resolution 3434 investments that only entail level of service improvements or other enhancements without physically extending the system are not subject to the TOD policy requirements. Single station extensions to international airports are not subject to the TOD policy due to the infeasibility of housing development.

## 3. Definitions and Conditions of Funding

For purposes of this policy “regional discretionary funding” consists of the following sources identified in the Resolution 3434 funding plan:

- FTA Section 5309 – New Starts
- FTA Section 5309 – Bus and Bus Facilities Discretionary
- FTA Section 5309 – Rail Modernization
- Regional Measure 1 – Rail (bridge tolls)
- Regional Measure 2 (bridge tolls)
- Interregional Transportation Improvement Program
- Interregional Transportation Improvement Program-Intercity rail
- Federal Ferryboat Discretionary
- AB 1171 (bridge tolls)
- CARB-Carl Moyer/AB 434 (Bay Area Air Quality Management District)\*

\*The Carl Moyer funds and AB 434 funds are controlled directly by the California Air Resources Board and Bay Area Air Quality Management District. Resolution 3434 identifies these funds for the Caltrain electrification project, which is not subject to the TOD policy.



These regional funds may be programmed and allocated for environmental and design related work, in preparation for addressing the requirements of the TOD policy. Regional funds may be programmed and allocated for right-of-way acquisition in advance of meeting all requirements in the policy, if land preservation for TOD or project delivery purposes is essential. No regional funds will be programmed and allocated for construction until the requirements of this policy have been satisfied. See Table 2 for a more detailed overview of the planning process.

## 4. Corridor-Level Thresholds

Each transit extension project funded in Resolution 3434 must plan for a minimum number of housing units along the corridor. These corridor-level thresholds vary by mode of transit, with more capital-intensive modes requiring higher numbers of housing units (see Table 3). The corridor thresholds have been developed based on potential for increased transit ridership, exemplary existing station sites in the Bay Area, local general plan data, predicted market demand for TOD-oriented housing in each

Table 3: Corridor Thresholds Housing Units – Average per Station Area					
Project Type	BART	Light Rail	Bus Rapid Transit	Commuter Rail	Ferry
Housing Threshold	3,850	3,300	2,750	2,200	750
Each corridor is evaluated for the Housing Threshold. For example, a four station commuter rail extension (including the existing end-of-the-line station) would be required to meet a corridor-level threshold of 8,800 housing units.					
Threshold figures above are an average per station area based on both existing land uses and planned development within a half-mile of all stations. New below market rate housing is provided a 50% bonus towards meeting housing unit threshold.					

county, and an independent analysis of feasible development potential in each transit corridor.

- Meeting the corridor-level thresholds requires that within a half-mile of all stations, a combination of existing land uses and planned land uses meets or exceeds the overall corridor threshold for housing (see Table 3).
- Physical transit extension projects that do not currently meet the corridor thresholds with development that is already built will receive the highest priority for the award of MTC’s Station Area Planning Grants.
- To be counted toward the threshold, planned land uses must be adopted through general plans, and the appropriate implementation processes must be put in place, such as zoning codes. General plan language alone without supportive implementation policies, such as zoning, is not sufficient for the purposes of this policy. Ideally, planned land uses will be formally adopted through a specific plan (or equivalent), zoning codes and general plan amendments along with an accompanying programmatic Environmental Impact Report (EIR) as part of the overall station area planning process.

Minimum densities will be used in the calculations to assess achievement of the thresholds.

- An existing end station is included as part of the transit corridor for the purposes of calculating the corridor thresholds; optional stations will not be included in calculating the corridor thresholds.
- New below-market housing units will receive a 50 percent bonus toward meeting the corridor threshold (i.e., one planned below-market housing unit counts for 1.5 housing units for the purposes of meeting the corridor threshold). Below market for the purposes of the Resolution 3434 TOD policy is affordable to 60 percent of area median income for rental units and 100 percent of area median income for owner-occupied units.
- The local jurisdictions in each corridor will determine job and housing placement, type, density and design.
- The Corridor Working Groups are encouraged to plan for a level of housing that will significantly exceed the housing unit thresholds stated here during the planning process. This will ensure that the Housing Unit Threshold is exceeded corridor-wide and that the ridership potential from TOD is maximized.

5. Station Area Plans

Each proposed physical transit extension project seeking funding through Resolution 3434 must demonstrate that the thresholds for the corridor are met through existing development and adopted station area plans that commit local jurisdictions to a level of housing that meets the threshold. This requirement may be met by existing station area plans accompanied by appropriate zoning and implementation mechanisms. If new station area plans are needed to meet the corridor threshold, MTC will assist in funding the plans. The Station Area Plans shall be conducted by local governments in coordination with transit agencies, Association of Bay Area Governments (ABAG), MTC and the congestion management agencies.

Station Area Plans are opportunities to define vibrant mixed-use, accessible transit villages and quality transit-oriented development – places where people will want to live, work, shop and spend time. These plans should incorporate mixed-use developments, including new housing, neighborhood-serving retail, employment, schools, day care centers, parks and other amenities to serve the local community.

At a minimum, Station Area Plans will define both the land-use plan for the area as well as the policies – zoning, design standards, parking policies, etc. – for implementation. The plans shall at a minimum include the following elements:

- Current and proposed land use by type of use and density within the half-mile radius, with a clear identification of the number of existing and planned housing units and jobs;

- Station access and circulation plans for motorized, non-motorized and transit access. The station area plan should clearly identify any barriers for pedestrian, bicycle and wheelchair access to the station from surrounding neighborhoods (e.g., freeways, railroad tracks, arterials with inadequate pedestrian crossings), and should propose strategies that will remove these barriers and maximize the number of residents and employees that can access the station by these means. The station area and transit village public spaces shall be made accessible to persons with disabilities.
  - Estimates of transit riders walking from the half-mile station area to the transit station to use transit;
  - Transit village design policies and standards, including mixed-use developments and pedestrian-scaled block size, to promote the livability and walkability of the station area;
  - TOD-oriented parking demand and parking requirements for station area land uses, including consideration of pricing and provisions for shared parking;
  - Implementation plan for the station area plan, including local policies required for development per the plan, market demand for the proposed development, potential phasing of development and demand analysis for proposed development.
- The Station Area Plans shall be conducted using existing TOD design guidelines that have already been developed by ABAG, local jurisdictions, transit agencies, the CMAs and others. MTC will work with ABAG to provide more specific guidance on the issues listed above that must be addressed in the station area plans and references and information to

support this effort. MTC is conducting an analysis of parking policies that will be made available when complete, and shall be considered in developing local parking policies for TODs.

6. Corridor Working Groups

The goal of the Corridor Working Groups is to create a more coordinated approach to planning for transit-oriented development along Resolution 3434 transit corridors. Each of the transit extensions subject to the corridor threshold process, as identified in Table 1, will need a Corridor Working Group, unless the current level of development already meets the corridor threshold. Many of the corridors already have a transit project working group that may be adjusted to take on this role. The Corridor Working Group shall be coordinated by the relevant CMAs, and will include the sponsoring transit agency, the local jurisdictions in the corridor, and representatives from ABAG, MTC and other parties as appropriate.

The Corridor Working Group will assess whether the planned level of development satisfies the corridor threshold as defined for the mode, and assist in addressing any deficit in meeting the threshold by working to identify opportunities and strategies at the local level. This will include the key task of distributing the required housing units to each of the affected station sites within the defined corridor. The Corridor Working Group will continue with corridor evaluation, station area planning, and any necessary refinements to station locations until the corridor threshold is met and supporting Station Area Plans are adopted by the local jurisdictions.

MTC will confirm that each corridor meets the housing threshold prior to the release of regional discretionary funds for construction of the transit project.

7. Review of the TOD Policy

MTC staff will conduct a review of the TOD policy and its application to each of the affected Resolution 3434 corridors, and present findings to the Commission, within 12 months of the adoption of the TOD policy.

For More Information

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## Hayward – Downtown

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Page 17: (Top row, left to right) Arlene Finger; MTC archives; Arlene Finger; Noah Berger  
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## Redwood City – Downtown

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## Santa Rosa – Downtown

Page 30: Noah Berger

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## Vallejo – Downtown/Waterfront

Page 32: Peter Beeler

Page 33: (Top row) Peter Beeler (all)  
(Bottom row) Peter Beeler (all)

## Resources

More information on transit-oriented development, smart growth, and related topics and policies is available on our agency Web sites.

## Association of Bay Area Governments (ABAG)

For more on the “Focusing Our Vision” regional smart-growth initiative and other ABAG efforts, see: [www.bayareavision.org](http://www.bayareavision.org) and [www.abag.ca.gov](http://www.abag.ca.gov).

## Bay Area Air Quality Management District (BAAQMD)

To learn about the air-quality programs of the BAAQMD, see: [www.baaqmd.gov](http://www.baaqmd.gov).

## Bay Conservation and Development Commission (BCDC)

To learn more about BCDC’s work on development affecting the Bay, see: [www.bcdc.ca.gov](http://www.bcdc.ca.gov).

## Metropolitan Transportation Commission (MTC)

For additional information on MTC’s Transit-Oriented Development Policy and other smart-growth programs and smart-growth issues generally see: [www.mtc.ca.gov/planning/smart\\_growth](http://www.mtc.ca.gov/planning/smart_growth).

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*New Places, New Choices:  
Transit-Oriented Development  
in the San Francisco Bay Area*  
November 2006



Association  
of Bay Area  
Governments



BAY AREA  
AIR QUALITY  
MANAGEMENT  
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Bay Conservation  
and Development  
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METROPOLITAN  
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RESOLUTION 2019-\_\_\_\_\_

AUTHORIZING THE INITIATION OF TRANSIT-ORIENTED DEVELOPMENT PLANNING FOR  
AREAS NEAR THE PLANNED VALLEY LINK STATION IN DOWNTOWN TRACY

WHEREAS, In October 2017, Assembly Bill 758 was signed into law creating the Tri-Valley San Joaquin-Valley Regional Rail Authority (Authority), thereby placing authority with local stakeholders to plan, develop and deliver a rail connection between Bay Area Rapid Transit (BART) and San Joaquin Valley, and

WHEREAS, The Authority has adopted a project concept and is advancing the project, including the selection of a preferred alternative, into the environmental review phase; the project is now known as Valley Link, and

WHEREAS, Ridership on Valley Link will increase activity in and around Downtown Tracy by bringing commuters, and developments that include housing, employment centers, retail and services proximate to high quality transit, otherwise known as transit-oriented developments, are an important component of planning for regional rail service, and

WHEREAS, Transit oriented development near Downtown Tracy in addition to promoting increased ridership would have the dual benefit of continuing revitalization efforts of Downtown, and

WHEREAS, The primary benefits of such transit oriented planning proximate to Downtown Tracy include accelerating investment and development opportunities contributing to Downtown as a transit hub; support for Citywide goals for increased access to transit, housing choice, and economic vitality; increasing housing that includes amenities for residents workers and students compatible with existing development and community character;

NOW THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes the initiation of transit-oriented development planning for areas near Downtown Tracy in preparation of future rail service, including planned Valley Link station.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 2nd day of April 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 3.B

REQUEST

**RECEIVE THE CITY OF TRACY POLICE DEPARTMENT'S ANNUAL REPORT  
FOR 2018**

EXECUTIVE SUMMARY

The Tracy Police Department has prepared the City of Tracy Police Department's 2018 Annual Report. The report provides the citizens of Tracy with a statistical review of the Department's performance, efforts, and accomplishments.

DISCUSSION

This report is intended to provide statistical information related to crime trends, events and law enforcement activities for the past year. The statistics serve the role of informing the public about the Department's decisions, but the statistics alone do not give a complete image of the role and activities of the Department's personnel. The Department recognizes the importance of a strong partnership with the community and it constantly seeks areas of improvement in its delivery of services.

During 2018, the Department received 31,523 emergency calls through the 911 system, a 5% increase from the prior year. Department personnel handled 73,666 calls for service, which resulted in 2,541 arrests of adults and 128 juvenile arrests. Other than 911 calls, the most frequent calls coming into the Police Department's dispatch center are related to disturbances, alarms, Municipal Code violations and suspicious vehicles and persons.

One of the most significant accomplishments of 2018, statistically speaking, has been the Department's ability to reduce the average response time to Priority 1 calls to 6 minutes and 52 seconds (down from 2017's 7 minutes and 32 seconds). Similarly, the Department's average response to Priority 2 calls was reduced from 17:44 to 16:59.

Unfortunately, not all trends have been positive: in 2018 Tracy experienced increases in DUI arrests (94 incidents, a 11.9% increase) as well as DUI collisions (46 incidents, a 9.5% increase). As the Department became aware of vehicular issues through both statistics and feedback from the community, resources were redeployed and the number of officers assigned to traffic enforcement was increased through the introduction of a motor cadre. This resulted in increased visibility of officers and traffic enforcement throughout the city, a measure that the community seems to have received in an overwhelmingly positive way based on discussions with community members as well as interactions on social media.

In addition to traffic issues, the Department has also observed slight increases in both violent (3%) and property crimes (7%). In response to these trends, the Department has taken measures to respond by forming the Gang Enforcement Team as well as the formation of a second Special Enforcement Team, which allows the high impact teams to be available 7 days a week and the ability to more quickly respond to crime trends.

The Department will experience significant growth this year. Thanks to additional officer positions approved by the City Council in 2018, the number of personnel will increase from 90 sworn officers to 99 by 2020. The Department has already taken significant steps to prepare for the addition of new officers, which will positively impact its ability to serve the community. Similarly, increases in civilian personnel are projected to reduce response times and allow the Department to better address the needs of Tracy residents. However, no matter how significant the growth of the department may be, it remains dependent on the relationship with the Tracy community. In order to sustain that relationship, the Department has continued the previously-established Business Watch Program, a Spanish-Speaking Citizens' Academy alongside the regular Academy, as well as the Youth Leadership Academy, in addition to many other programs that ensure the Department receives consistent feedback.

#### FISCAL IMPACT

There is no fiscal impact associated with this action. This report provides statistical data only.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

That the City Council, receive the City of Tracy Police Department's Annual Report for 2018.

Prepared by: Alex Neicu, Interim Chief of Police

Reviewed by: Midori Lichtwardt, Interim City Manager

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment: City of Tracy Police Department's Annual Report for 2018





# CITY OF TRACY POLICE DEPARTMENT

## 2018 ANNUAL REPORT

*Serving and protecting the City of Tracy  
for over 100 years.*



SERVICE | INTEGRITY | EXCELLENCE

# Statements

## VISION STATEMENT

Advancing the standard by which courageous, ethical, and innovative policing is measured.

## MISSION STATEMENT

A professional organization entrusted by our community to ensure a safe and prosperous environment while enhancing the quality of life.

## VALUE STATEMENTS

### *Service*

- Always seek long term resolutions to problems.
- Provide honest, open and timely (HOT) feedback.
- Support organizational goals and strive to achieve them.
- Stand against gossip and rumors.
- Provide prompt response to requests and communicators.
- Promote proactive attitudes.

### *Integrity*

- Honesty in thought and actions.
- Address behaviors, not reputations.
- Practice organizational loyalty over personal loyalties.
- Place organizational priorities over personal agendas.

### *Excellence*

- Challenge status quo by promoting new creative and innovative ideas.
- Always be proud of your profession and Department.
- Ascribe to being a lifelong learner.
- Always perform at Department's highest level or organizational standards.
- Lead by example.
- Always go the extra step to meet the community's needs.



# What's Inside

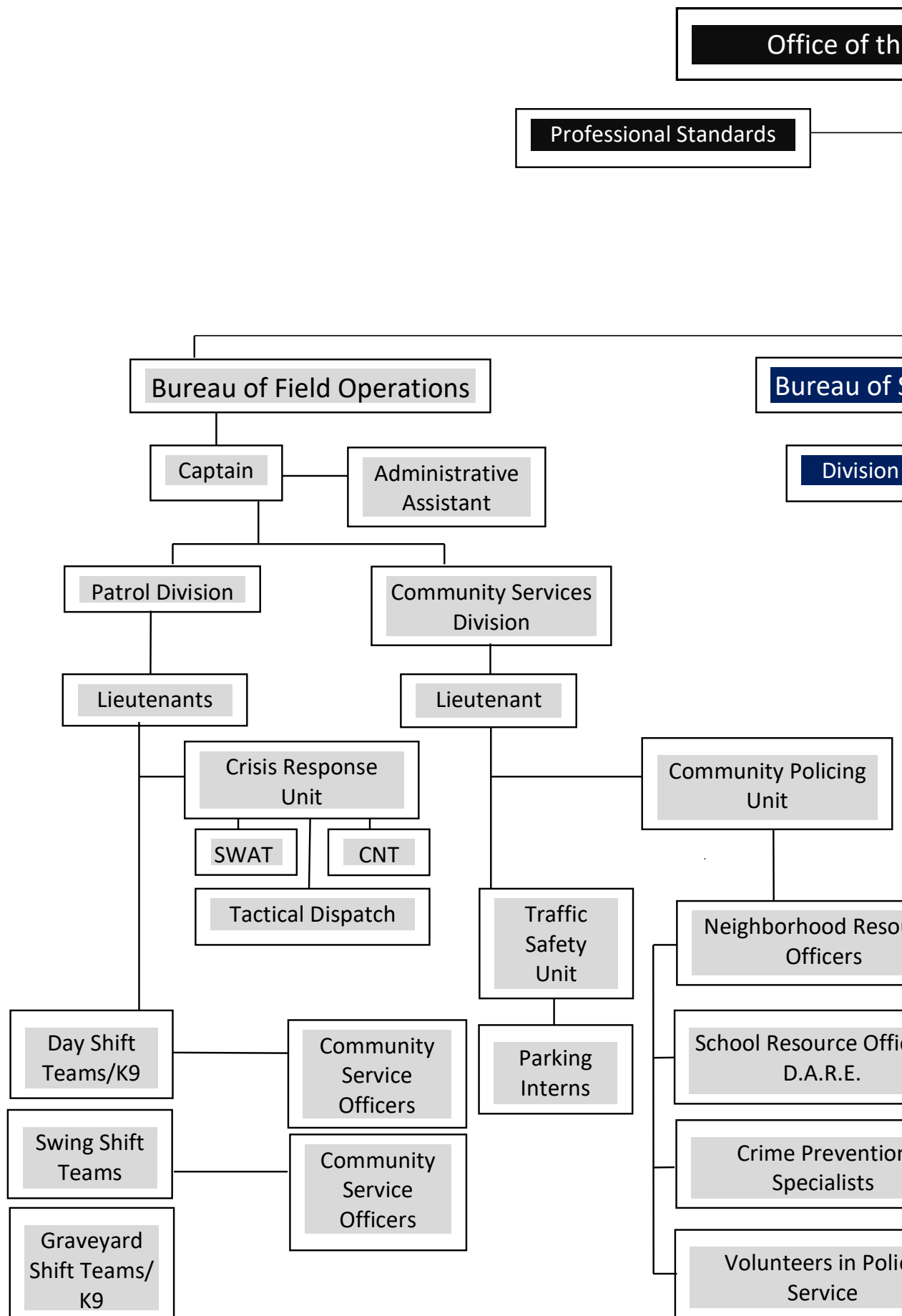


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CITY OF TRACY POLICE DEPARTMENT  
1000 CIVIC CENTER DRIVE  
TRACY, CA 95376  
PHONE (209) 831-6550 FAX (209) 831-4017



# ORGANIZATIONAL CHART



Office of the

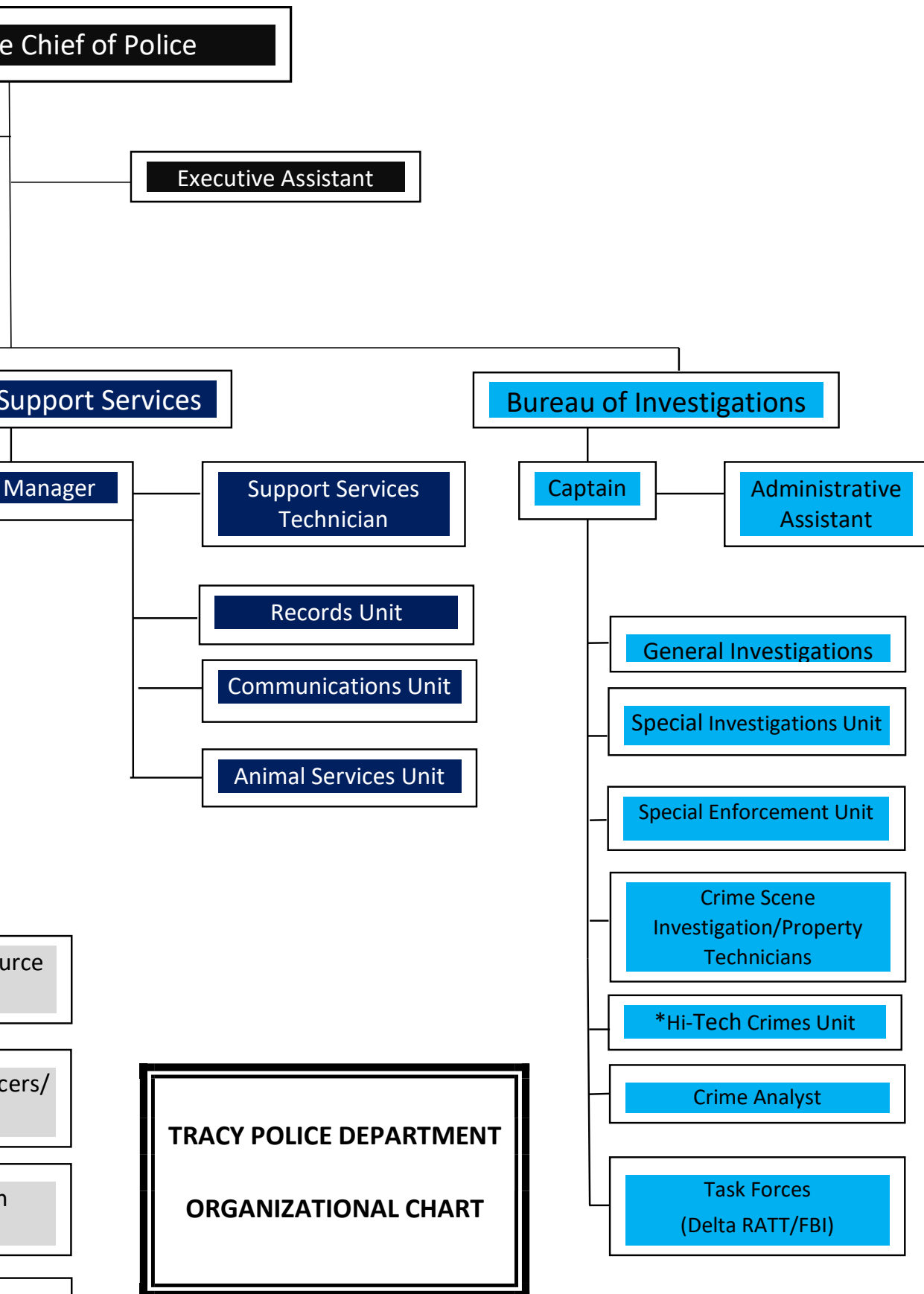
Professional Standards

Bureau of

Division



# ORGANIZATIONAL CHART



## ADMINISTRATION

Alex Neicu Interim Chief of Police  
Megha Dilawari, Executive Assistant

## BUREAU OF FIELD OPERATIONS

Vacancy filled by Lieutenants  
Jennifer Hillman, Administrative Assistant

## BUREAU OF INVESTIGATIONS

Luis Mejia, Captain  
Judy Castellon, Administrative Assistant

## BUREAU OF SUPPORT SERVICES

Beth Lyons-McCarthy, Division Manager  
Grace Segura, Police Support Services Technician

CITY OF TRACY POLICE DEPARTMENT  
1000 CIVIC CENTER DRIVE  
TRACY, CA 95376  
PHONE (209) 831-6550 FAX (209) 831-4017

Animal Control	(209) 831-6364
Community Policing Hotline	(209) 831-6626
Crime Stoppers	(209) 831-6847
Dispatch (non-emergency)	(209) 831-6550
<b>Graffiti Hotline</b>	<b>(209) 831-6583</b>
Records	(209) 831-6550
<b>Traffic Hotline</b>	<b>(209) 831-6587</b>
Vehicle Hotline	(209) 831-6554

Website: [www.tracypd.com](http://www.tracypd.com)  
Facebook: [www.facebook.com/TracyPolice](https://www.facebook.com/TracyPolice)  
Twitter: @tracypd, @tracypdchief  
Nixle: <https://local.nixle.com/city/ca/tracy>

*Photo credits: Fred Kelley; Crime Scene Unit Supervisor, Kami Ysiti; Lieutenant, Mark Robertson; City of Tracy*  
*Data compilation, graphs: Tanika Zuniga, Crime Analyst*



# Tracy City Council

## CITY OF TRACY LEADERSHIP



Mayor Pro Tem  
Nancy Young



Mayor  
Robert Rickman



Council Member  
Veronica Vargas



Council Member  
Dan Arriola

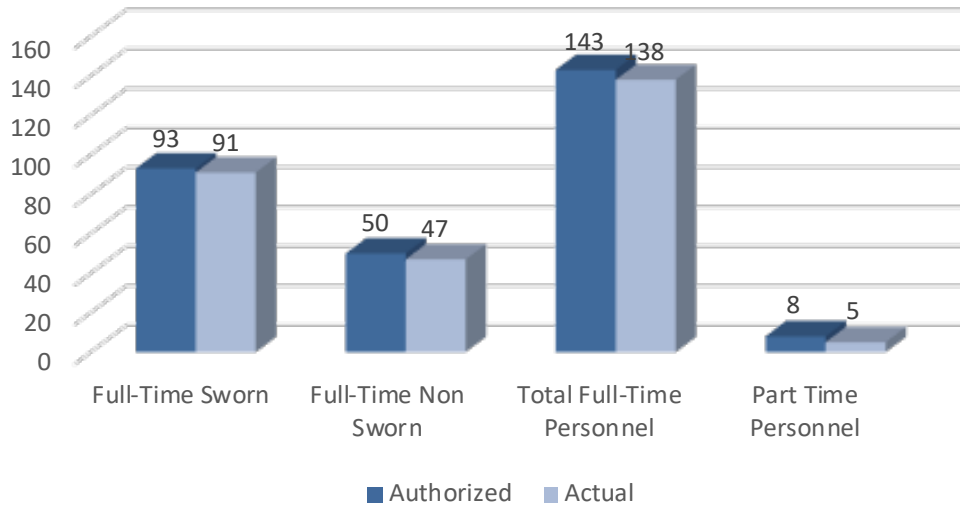


Council Member  
Rhodesia Ransom

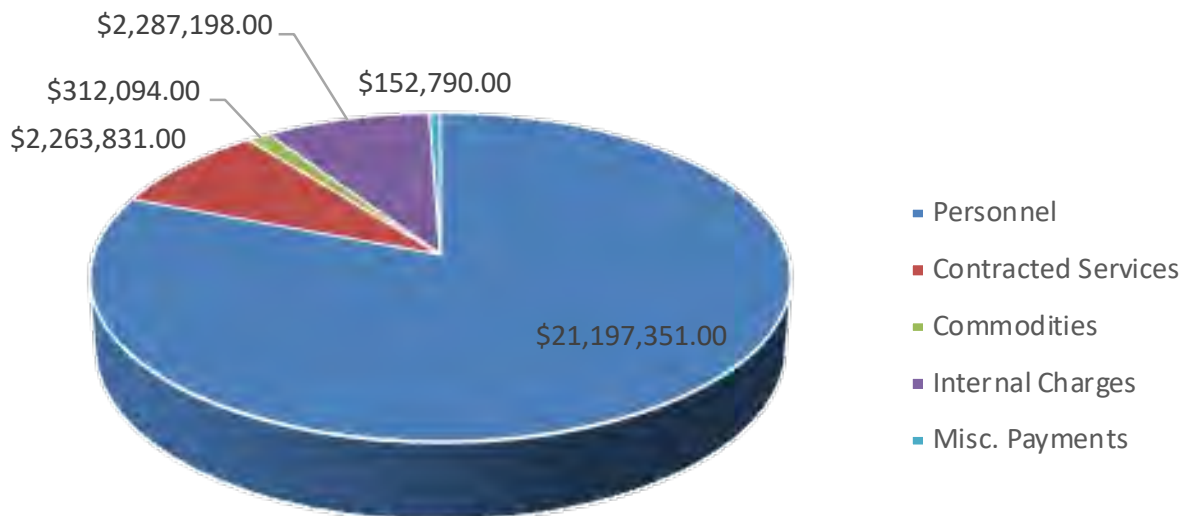
# Department Personnel

The Tracy Police Department is allocated 93 full-time sworn, 50 full-time non-sworn, 143 full-time personnel, and 8 part-time personnel. The following chart shows the distribution of personnel.

**Personnel Deployment 2018**



**Police Department Budget Allocation  
FY 2017/2018  
\$26,213,264 Total**





# Alex Neicu, Interim Chief of Police



Alex Neicu,  
Interim Chief of Police

On behalf of the Tracy Police Department, I am honored to present the 2018 Annual Report. Driven by our organizational values of "SERVICE, INTEGRITY and EXCELLENCE," we strive constantly improve the ways to serve the community. This report is intended to provide statistical information related to crime trends, events and law enforcement activities for the past year. The statistics serve the role of informing decisions we make, but we also recognize that statistics alone do not give a complete image of the role and activities of our personnel. We continue to stress the need for a strong partnership with the community and we constantly seek areas of improvement in our delivery of services.

During 2018, we received 31,523 emergency calls through the 911 system, a 5% increase from the prior year. Our personnel handled 73,666 calls for service, which resulted in 2,541 arrests of adults and 128 juvenile arrests. Other than 911 calls, the most frequent calls coming into our dispatch center are related to disturbances, alarms, Municipal Code violations and suspicious vehicles and persons.

One of the most significant accomplishments of 2018, statistically speaking, has been our ability to reduce our average response time to Priority 1 calls to 6 minutes and 52 seconds (down from 2017's 7 minutes and 32 seconds). Similarly, our average response to Priority 2 calls was reduced from 17:44 to 16:59.

Unfortunately, not all trends have been positive: In 2018 Tracy experienced increases in DUI arrests (94 incidents, a 11.9% increase) as well as DUI collisions (46 incidents, a 9.5% increase). As we became aware of vehicular issues through both statistics and feedback from the community, we redeployed our resources and increased the number of officers assigned to traffic enforcement by the introduction of a motor cadre. This resulted in increased visibility of our officers and traffic enforcement throughout the community, a measure that seems to be received in an overwhelmingly positive way by the community.

In addition to traffic issues, we have also experienced slight increases in both violent (3%) and property crimes (7%). In response to these trends, we have taken measures to respond by forming the Gang Enforcement Team as well as the formation of a second Special Enforcement Team, which will give us 7 days a week availability of the high impact teams and the ability to more quickly respond to crime trends.

As we step into 2019, we are on the brink of significant growth for the department. Thanks to additional officer positions approved by the City Council in 2018, our department will grow from 90 sworn officers to 99 by 2020. We have already taken significant steps to prepare for the addition of new officers, which will positively impact our ability to serve the community. Similarly, increases in civilian personnel are projected to reduce response times and allow us to better address the needs of our residents. However, no matter how significant the growth of the department may be, we remain dependent on the relationship with our community and our pledge to not take that relationship for granted remains strong.

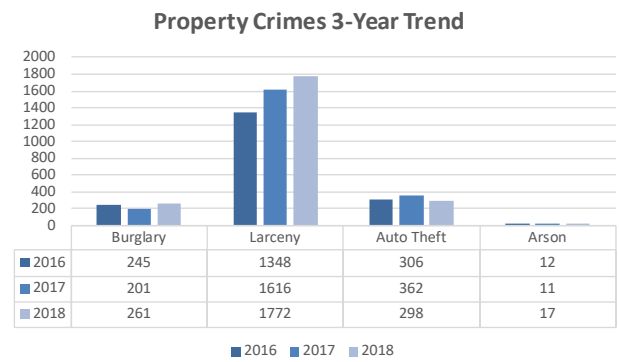
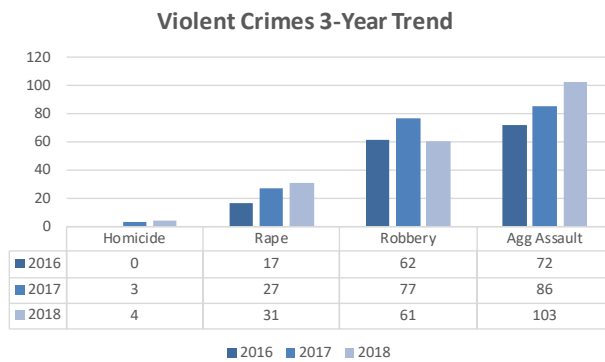
I invite you to read through the information contained in this Annual Report. Should you have any questions, members of the Tracy Police Department are available to discuss the details. Please join us in our continued effort to improve the safety of our community and to increase the quality of life of those who live or do business in Tracy.

Sincerely,

# Uniform Crime Reporting

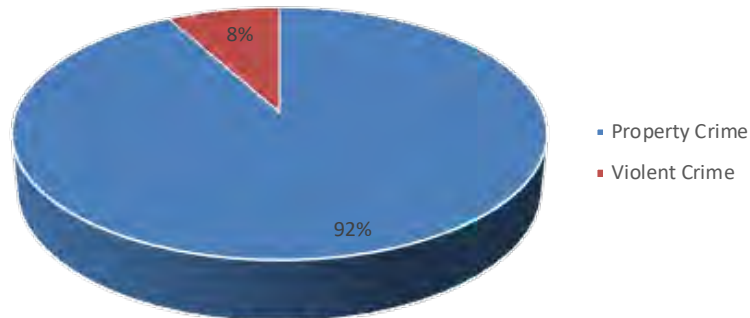
The crime statistics in this report are based on the number of crimes reported by the Tracy Police Department to the Federal Bureau of Investigation (FBI) through the Uniform Crime Reporting Program (UCR). This report will focus on the eight Part I Crime classifications. Part I crimes are defined by the State of California as the most serious crimes and are divided into two categories: 1) VIOLENT CRIMES: homicide or non-negligent manslaughter, forcible rape, robbery, and aggravated assault, and 2) PROPERTY CRIMES: burglary, larceny, vehicle theft, and arson.

The following chart reflects a three year trend of Part I Crimes Tracy Police reported to the FBI through the Uniform Crime Reporting Program in 2018.



In 2018, Property Crimes represent the majority (92%) of the Part I Crimes in Tracy. Violent Crime, which can be characterized as crime against persons, represents the remaining (8%) of the Part I Crime.

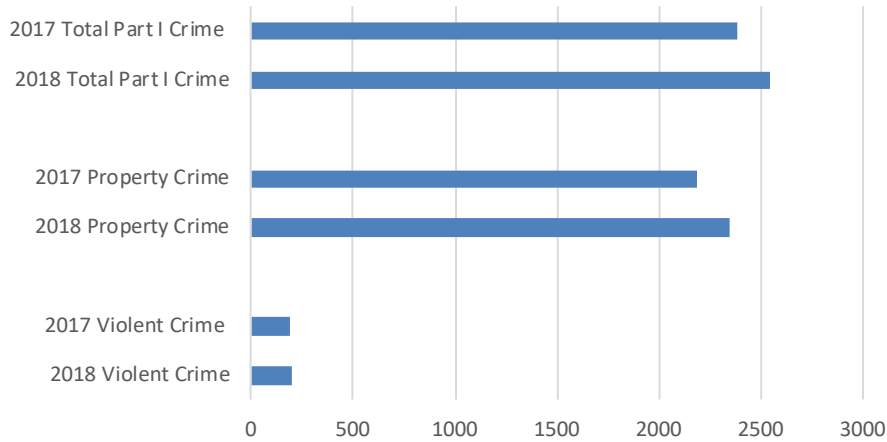
**Crime Distribution 2018**



# Uniform Crime Reporting

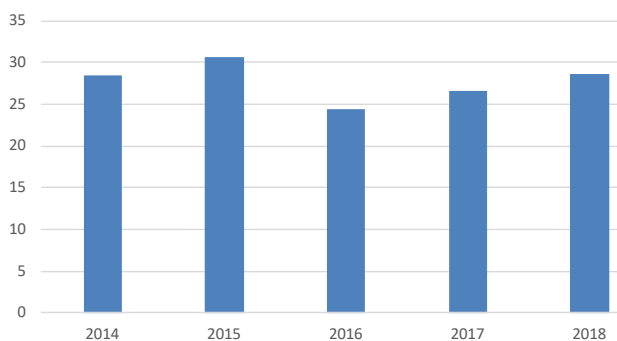
The following charts provide a more detailed representation of Part I Crime comparison, 2017 and 2018. Each offense is broken down by the number of incidents per month and the annual crime rate. The crime rate represents crimes per 1,000 populous.

## Annual Accrued

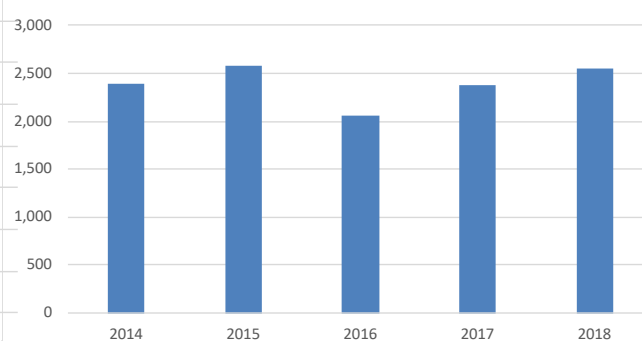


UCR 2018	Homicide	Rape	Robbery	Aggravated Assault	Burglary	Larceny	Auto Theft	Arson
January	1	2	3	11	30	201	22	1
February	0	6	1	10	19	147	17	0
March	1	0	3	6	23	161	27	1
April	0	2	3	8	26	167	26	3
May	0	2	3	10	21	160	24	0
June	1	3	5	11	25	137	28	1
July	0	3	10	14	29	173	28	4
August	1	3	12	10	21	123	24	1
September	0	2	2	5	14	128	26	2
October	0	2	7	7	18	125	21	2
November	0	5	9	8	20	124	30	1
December	0	1	3	3	15	126	25	1
<b>Total</b>	<b>4</b>	<b>31</b>	<b>61</b>	<b>103</b>	<b>261</b>	<b>1772</b>	<b>298</b>	<b>17</b>

## 5-Year Part I Crime Rate



## 5-Year Total Part I Crime

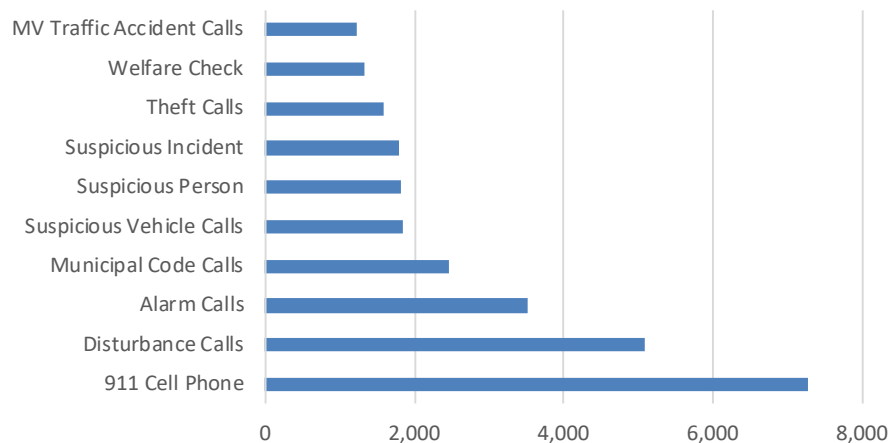


# Bureau of Field Operations

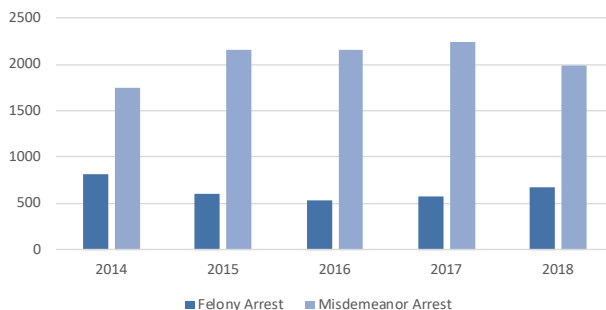
The Bureau of Field Operations is the largest of the three bureaus of the Police Department and is comprised of two divisions: the Patrol Division and the Community Services Division. Additionally, The Bureau of Field Operations has oversight of the Crisis Response Unit (SWAT Team, Crisis Negotiation Team and Tactical Dispatch), the K-9 program, the Explorer Program, the D.A.R.E program, the Honor Guard, and the Department Training.

Individuals assigned to the Bureau of Field Operations are the most visible members of the Tracy Police Department. They are the first point of contact with the community and responsible for providing the Department's frontline services. Officers assigned to the Bureau of Field Operations respond to all types of calls from quality of life issues to violent crimes. When not answering calls for service, officers are responsible for engaging in self-initiated, proactive citizen interactions. This not only includes enforcing laws and preventing crime, but also interacting with the public to further the Department's Community-Oriented Policing Initiative.

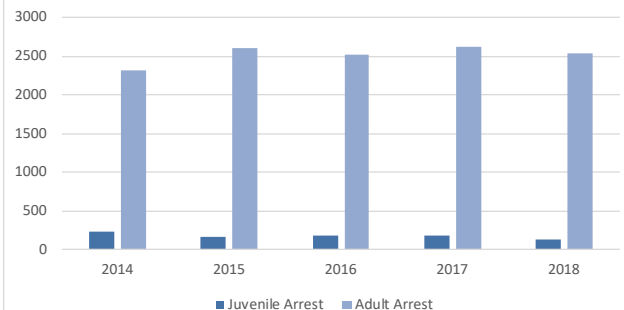
**2018 Top Call for Service Type**



**5-Year Trend Felony vs. Misdemeanor Arrests**



**5-Year Trend Adult & Juvenile Arrests**





## Watch Commanders

The Patrol Division has the largest deployment of police officers who are the first responders for calls for service. This Division is considered the “backbone” of the Police Department and consists of six patrol teams. Each team, when fully staffed, has six sworn officers, a corporal and a sergeant assigned to it. Additionally, both day shift and graveyard teams are staffed with a K-9, which provides the Department with over 20 hours of K-9 coverage per day. Lieutenants serve as Watch Commanders over the Patrol Division and provide over 20 hours per day of administrative oversight.



*Tony Matuska, Lieutenant*



*Terry Miller, Lieutenant*



*Kami Ysit, Lieutenant*



*Octavio Lopez, Lieutenant*

## Special Weapons and Tactics (SWAT)



The purpose of the Special Weapons and Tactics team (SWAT) is to provide protection, support and rescue, enhancing safety for officers and the community. SWAT is designed to respond to high risk situations in order to increase the likelihood of safely resolving critical incidents.

In 2018, SWAT responded to seven high risk situations. All seven deployments were search warrants or arrest warrants related to cases involving narcotics and weapons trafficking, murder, robbery, and gang related crimes. In addition to those high risk deployments, the SWAT team also assisted neighboring agencies in arresting high risk or armed suspects. The team regularly participates in regional training hosted by the Federal Bureau of Investigations, and team members regularly attend training throughout the state.

## Crisis Negotiation Team (CNT)

The mission of the Tracy Police Department's Crisis Negotiation Team (CNT) is to save lives and resolve critical, hostage and crisis incidents while attempting to avoid unnecessary risk to officers, citizens, victims, and subjects. CNT uses proven negotiation defusing skills to achieve the desired outcome. It is the goal of CNT to make every effort to bring a peaceful conclusion to any situation that may be encountered. CNT is comprised of 1 Sergeant and 5 Police Officers. CNT is an ancillary duty to the officer's primary responsibilities. The team members are from different units from the Bureau of Field Operations and the Bureau of Investigations. The team trains once a month and holds joint training with the Tracy SWAT Team twice a year. CNT also attends trainings hosted by the FBI and recently participated in a multi-agency exercise hosted by the Tracy Defense Depot. Below is a sample of incidents handled by CNT in 2018.



In February 2018, Patrol was involved in a vehicle pursuit that resulted in the suspect crashing the vehicle and fleeing on foot. Patrol Units believed that the suspect fled to his nearby home. CNT was utilized to facilitate communication with the occupants of the residence. Trust was quickly established and occupants of the home exited without incident.

In November 2018, TPD patrol units were dispatched to Motel 6 regarding a suspect brandishing a knife at employees and guests. The suspect then locked himself in a motel room. A CNT negotiator was used to call into the motel room. Communication was established with occupants inside the motel room who were acquaintances of the suspect. The suspect who was under the influence of drugs refused to come out, resulting in a forced entry into the room.

Members of the Crisis Negotiations Team are also part of the Tracy Police Department's Peer Support Team, assisting officers who have worked critical incidents.

## Honor Guard



The Tracy Police Department Honor Guard was formed in the fall of 2012. The intent of the Honor Guard is to add an element of formality to special events. The Honor Guard is comprised of nine sworn members from the department. Members pay homage to the fallen members of law enforcement by attending the services for, and standing guard over the casket of the decedent at funerals. By doing so, they support the family of the fallen and honor the service of those who have paid the ultimate sacrifice in the line of duty.

The Honor Guard also serves as "guardians of the colors" by displaying and escorting the national and state flags at ceremonial occasions at official City and department functions. To date, the Tracy Police Department Honor Guard has attended over 60 functions, representing the department with honor and pride.

## Peer Support Team

In 2013 the Tracy Police Department started its first Peer Support Team, comprised solely of the officers serving on the Department's Crisis Negotiation Team. Over the years, the Peer Support Team has grown to include other members of the department. Currently, the 10 person team includes members representing other divisions in the department such as Dispatch, Patrol, Detectives, Animal Services, Records, and the Crime Scene Unit.

The goal of the team is to help members of the department through critical incidents. During 2018 the team facilitated three critical incident debriefings. In addition, numerous members of the department have reached out to Peer Support team members throughout the year to help them through difficult times, both personally and professionally.

For 2019, the team's goal is to send more of its members to Critical Incident Stress Management training. This training would allow more team members to coordinate and facilitate debriefings after a critical incident.



## Police Chaplaincy



The Tracy Police Department's Chaplains are trained to operate as "emotional and spiritual paramedics." They are "first responders" to the "first responders," committed to the 24/7 support and well-being of the department's sworn and non-sworn personnel and their families in professional or personal crisis, and serving the community of Tracy in time of crisis or tragedy.

Chaplains operate on both a proactive as well as reactive basis, offering assistance that is always available, accessible, but most importantly, confidential.

Chaplain Don Higgins not only responded to assist officers in the field, but participated in department activities throughout the year. He provided a presentation of the Chaplaincy program to the Citizen's Academy, attended multiple department gatherings, rode along with officers, and attended all swearing-in ceremonies.

This year Chaplain Don was able to travel to Lexington, KY in July to attend the weeklong International Conference of Police Chaplain's Annual Training Seminar. Additionally, due to the generous support of the TPOA he was also able to travel to Tempe, AZ in November to attend and instruct at the ICPC's regional seminar.

The Tracy Police Department's Chaplaincy program has been in continuous operation since 1994 when Chaplain Don Higgins began the program. Recruitment for additional Chaplains is underway, with final selections and training slated to take place early 2019.

## Tracy Police Explorers Post 504



Chartered by the Boy Scouts of America under their "Learning for Life" program, young men and women between the ages of 14 and 21 gain a working knowledge of police functions within the community, as well as being of service to the Police Department. Explorers receive training in radio codes, etiquette, traffic control and various investigation processes including criminal, crime scene as well as accidents.

The Post also competes in regional explorer competitions, in which the participants are graded by serving police officers in various scenarios. These scenarios are designed to test the Explorer's knowledge of police practices and procedures in tactics, investigations, hostage negotiations, and traffic stops. Post 504 consistently finishes with high marks thanks to the dedication and commitment of the Explorers and their advisors.

Explorers from the Tracy Police Department and the cities of Manteca, Modesto, and Ripon rotate hosting the Central Valley Explorer Challenge each year. This event is attended by over 300 individual explorers from posts around the western region. In 2019, the Central Valley Explorer Challenge will enter its 9th consecutive year. In 2018 the Tracy PD Explorer Post was awarded the coveted Chief's Award given to the team that demonstrates the most professional attitude, highest esprit de corps, and conduct.



# Canine Unit (K9)

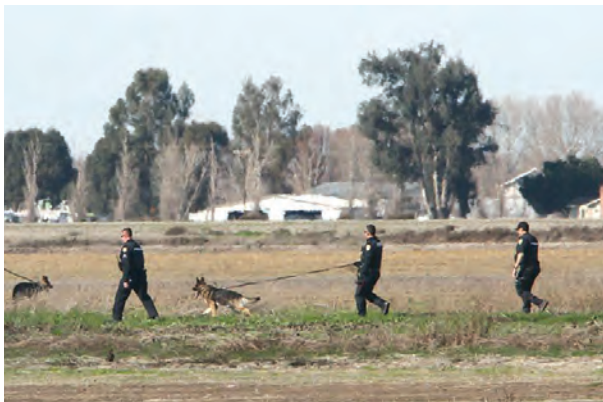


The Tracy Police Department's K9 Unit consists of five K9 teams. The department's canines are purchased and maintained through a mix of public funds and generous private donations. The Tracy Police Department appreciates and respects the work of our canine partners and strives to maintain their health and well-being. Our K9 teams enhance both the safety of our officers and our ability to maintain public safety. All five teams are cross-trained for both criminal and narcotic detection. Four of our teams are

assigned to the Bureau of Field Operations in the Patrol Division, and one is assigned to the Bureau of Investigations in the Special Enforcement Team.

The presence of a police dog is extremely helpful when apprehending an uncooperative suspect. When suspects are warned that a K9 will be deployed if they do not follow instructions and surrender, they most frequently comply.

In addition to police work, our K9 teams frequently conduct public demonstrations for schools and community groups. They also provide assistance to other law enforcement agencies in need of a trained K9 team to complete their missions.



## Community Services Division

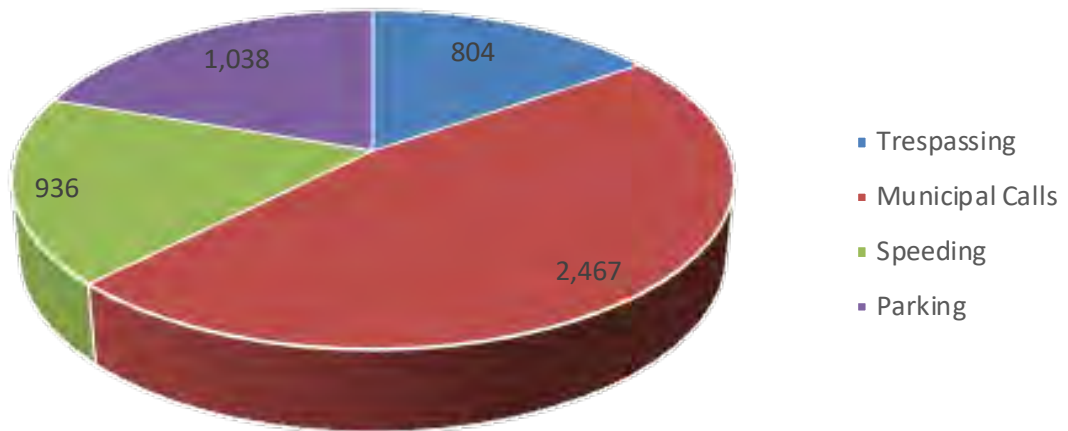


Tony Sheneman,  
Lieutenant

The Community Services Division is comprised of the Traffic Safety Unit, the Community Preservation Unit, and our Volunteers in Police Services. In addition to these units, the Community Services Division is responsible for the coordination of the Police Departments community outreach efforts.

The Community Preservation Unit - Includes two Neighborhood Resources Officers, two Crime Prevention Officers, and the Volunteers in Police Service. This division not only enforces laws for the safety of our community, but also deals with several quality of life issues that have not traditionally been addressed by police departments, by working with the school districts, faith based organizations, and other local service providers.

### Community Services Division



# Neighborhood Resource Officers

The Neighborhood Resource Officer (NRO) positions exemplify community oriented policing in its truest and purest form. The NRO is a law enforcement officer that acts as a liaison between the Tracy Police Department, the community, non-profits, and a variety of city and other government agencies.

NRO's work with citizens, civic groups, schools, and property owners, in organizing and evaluating effective crime prevention programs and problem solving. The NRO's are responsible for issues and concerns in a neighborhood or business district that are ongoing or simply demand more attention, investigative work or time than can be reasonably allotted during the course of a routine patrol call.

The NRO's have proactive interactions with the citizens of Tracy in a wide variety of public relation efforts such as Neighborhood Watch Programs, homeless outreach, residential safety, personal/business crime prevention, crime information bulletins/alerts, bank and business security presentations, recruitment for Citizens Academy and internet safety programs.



*Steve Clayton,  
Officer*



*Steve Blair,  
Corporal*



*Diana Ruiz-DelRe,  
Officer*

Throughout 2018, the NRO's continued Operation Helping Hands (OHH). In this effort, NRO's collaborate with county agencies, other local government agencies, and non-profits to reach out to those who are homeless to provide assistance. The services offered are voluntary for those who are seeking assistance in areas such as drug abuse and alcohol rehabilitation, mental health, medical needs, and shelter.



# Traffic Safety



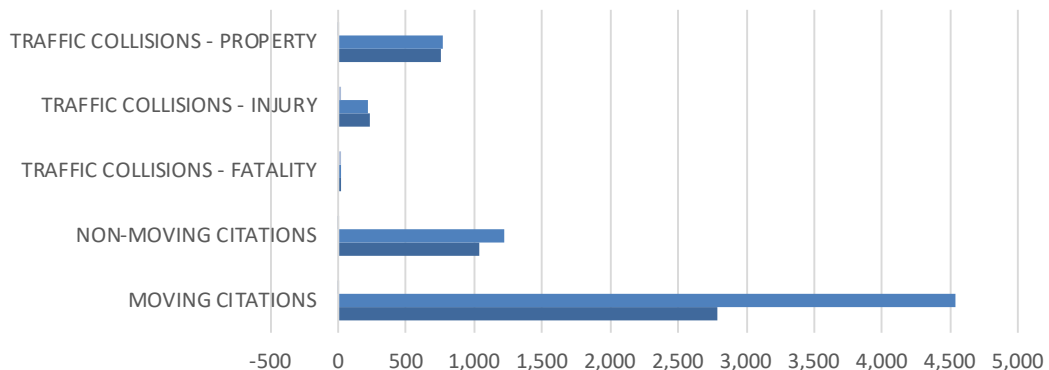
The Traffic Safety Unit has one Traffic Sergeant, 4 Traffic Safety officers and two Parking Interns. The Traffic Safety Unit's responsibility is to enhance and maintain motor vehicle and pedestrian safety. The ultimate goal of the Traffic Safety Unit is to reduce collision-related injuries on city roadways.

The Traffic Safety Unit's responsibility is to enhance and maintain motor vehicle and pedestrian safety. The ultimate goal of the Traffic Safety Unit is to reduce collision-related injuries on city roadways. The following charts provide details regarding collisions in the City, including the top intersections where collisions occurred and the main violation or cause of collisions.

The Traffic Safety Unit is responsible for coordinating and maintaining Office of Traffic Safety (OTS) Grants, which help fund DUI checkpoints, DUI saturation patrols, "Click it or Ticket" seatbelt safety campaign, "Distracted Driving" (cell phone) campaign, as well

as school presentations on traffic and bicycle safety.

## Traffic Statistics



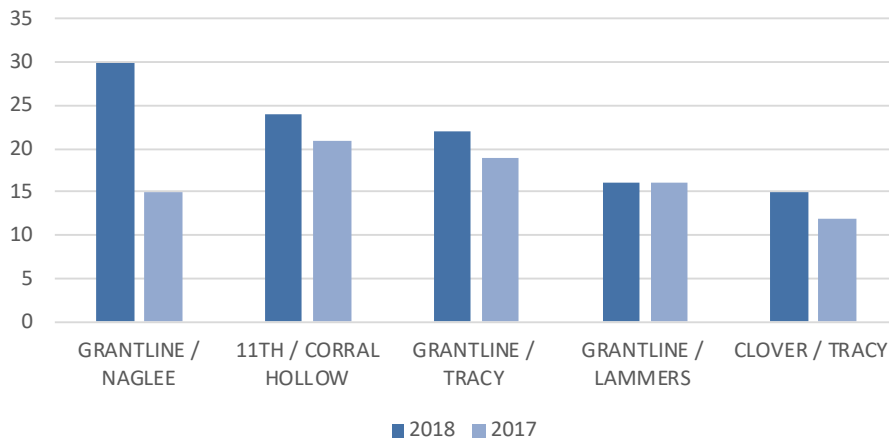
	MOVING CITATIONS	NON-MOVING CITATIONS	TRAFFIC COLLISIONS - FATALITY	TRAFFIC COLLISIONS - INJURY	TRAFFIC COLLISIONS - PROPERTY
% CHANGE 2018-2017	-38.5%	-14.8%	100.0%	3.6%	-2.5%
2017	4,543	1,217	2	223	770
2018	2,793	1,037	4	231	751

% CHANGE 2018-2017 2017 2018

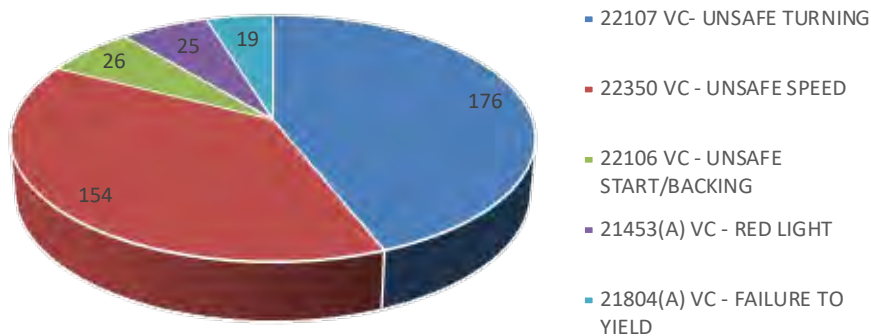


# Traffic Safety

Top 5 Collision Intersections



Top Primary Collision Factors (PCF) or Causes of Collisions



Under the Influence Related Offenses

Category	2018	2017	% Change 2018-2017
DUI Arrests (Includes drugs)	94	84	11.9%
DUI Collision (Includes drugs)	46	42	9.5%

## School Resources Officers

The Tracy Police Department works through a memorandum of understanding with the Tracy Unified School District (TUSD) to provide three School Resource Officers. Each one is a sworn, full-time officer and each is assigned to one of the three major high schools: Tracy High, West High and Kimball High. The SRO's also have responsibility for servicing the remaining schools in the TUSD system.



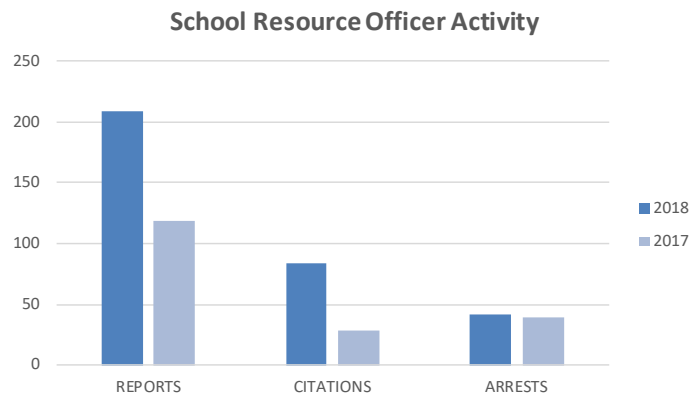
*Robert Brandi,  
Officer*



*Graham Hawkinson  
Officer*



*James Harries,  
Officer*



## Drug Abuse Resistance Education (D.A.R.E.)



Drug Abuse Resistance Education (D.A.R.E.) has a long and successful history in the City of Tracy, attributed to the long term partnership between the Tracy Police Department, Tracy Unified School District and the community. In Tracy, traditional D.A.R.E. has been enhanced with gang avoidance and anti-bullying training for youth attending the 5th grade. Today, the program is educating the children of former D.A.R.E. students who have made their home in Tracy.

Our D.A.R.E Officer, Steve Abercrombie, affectionately known as Officer Abs, presented prevention education training in 26 schools and 75 fifth grade classrooms. Approximately 2,100 students received the ten-week program. The fifth grade students donated food to Brighter Christmas, clothing to Interfaith Ministries, wrote letters of support to our troops, cleaned local parks, visited the residents at Astoria Gardens, and much more.

Seven D.A.R.E. high school students traveled to Kenya and Zambia this past summer. The students helped build seven libraries in Kenya. They read and played with students in elementary, middle and high school. Their favorite part was spending time with the students in the special needs school.

In Zambia the students spent time with victims of human/sex trafficking. The students learned how these women were forced into sex trafficking and how an organization rescued them.

We are hoping to send ten DARE high school students to Ghana and India this June.

## Crime Prevention Specialists

Our Crime Prevention Specialists focus on proactive crime prevention. The Crime Prevention Specialists also develop and implement a variety of crime prevention programs, presentations and materials for businesses and the community, and perform services such as security inspections, Neighborhood Watch, and community outreach events as well as managing our social media platforms. The Crime Prevention Specialists also helps manage large-scale events for the Police Department, including Citizens Academy, and National Night Out.



Mark Muldrow



Stephany Valadez

## Volunteers in Police Services



Volunteers in Police Service (VIPS) is a citizen volunteer organization within the Police Department. VIPS members have volunteered over 7,000 hours each year since 2004, when the organization was founded as part of the Department's Community Oriented Policing philosophy.

The Volunteers in Police Services are led by our Neighborhood Resource Officers. Their assistance to the Police Department and City is far-reaching. They routinely participate in programs which include: patrol duties, special events, tours of police facilities, traffic control, citizens academy, crime prevention and awareness, community partnerships, home and business security checks, Neighborhood Watch, prescription drug take back events, shredding events, community relations events, stranger danger training and safety fairs.

The mission is to provide assistance to the police Department and to the citizens of our community in the spirit of volunteerism. More than ever, volunteerism in law enforcement has become a necessity. Our goal for 2019 is to recruit, manage, reward and retain quality volunteers to provide more crime prevention services and to create deeper community partnerships with the citizens of Tracy.



# Bureau of Support Services



*Beth Lyons-McCarthy,  
Manager*

The Bureau of Support Services consists of 35 full-time personnel and additional part-time professional staff, who provide service to the community on a daily basis. The Bureau is comprised of the following units: 9-1-1 Communications Unit, Records, Animal Services, Facilities Management, and Fiscal Management. In 2018, the Bureau of Support Services accomplished the following:

- Hired 3 Public Safety Dispatchers, 1 Animal Services Administrative Assistant, 1 Records Assistant, and a Communications Unit Supervisor.
- Applied and awarded the 2018 Edward Byrne Memorial Justice Assistance Grant in the amount of \$10,816.
- Implemented a CAD/AXON interface which allowed for an electronic interface for tagging body camera videos with a case number and automatically setting retention periods.
- Reduced the euthanasia rates by 2% for dogs and 25% for cats, and increased adoption rates by using creative solutions such as enhanced

utilization of social media (Facebook) to provide pictures and videos of adoptable animals and special events such as Thankful for Second Chances, Purricane Season, and Kitten Baby Shower – month long specials dedicated to the free or low cost adoption of cats.

- In April 2018, donated German Shepard “Luka” was partnered with Adam Leckonby of the New York State Division of Homeland Security and Emergency Services of Fire Prevention and Control. Together, the team now trains to become State Urban Search and Rescue Alliance Certified. In recognition, for this wonderful donation, Animal Services received a letter and plaque.

- Answered 92% of the 31,523 9-1-1 calls in under 10 seconds. The national average is 90%.
- Processed 9,584 police reports.

Our dedicated professional staff play an important role in providing support services to officers, detectives, command staff, and community members.



# Communications Unit



*Michele Clubb,  
Supervisor*

The Communications Unit is staffed with a total of 16 Public Safety Dispatchers, 4 of which are Lead Dispatchers. The unit is managed by a Supervisor who reports to the Bureau of Support Services Manager. The unit is staffed 24 hours a day and 365 days a year. These dedicated Public Safety Dispatchers strive to accomplish the mission of the 9-1-1 Communications Unit, which is to provide the citizens of Tracy with both emergency and non-emergency police services in a courteous, professional and timely manner. After normal business hours the Communications Unit is also tasked with calling out the City of Tracy on-call personnel for Public Works and Code Enforcement emergencies.

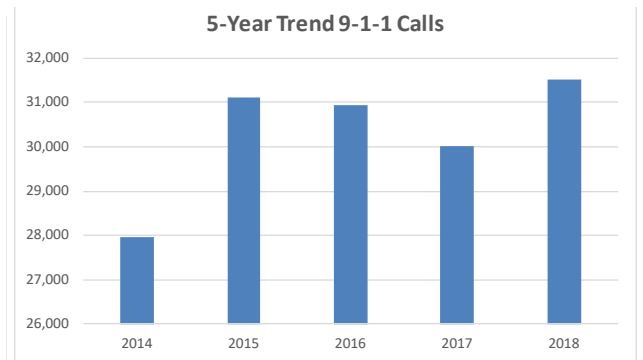
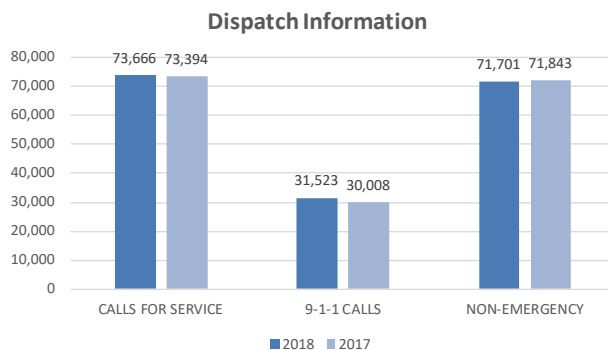
In 2018, the Tracy Police Department's Public Safety Dispatchers handled a total of 137,003 telephone calls, 2.3% more than the amount handled in 2017. 2018 emergency 9-1-1 calls totaled 31,523, out of which 25,295 were placed using cellular phones. Due to the continuous increase in the usage of cellular phones, the number of calls from a wireless device rose by 9.2% in 2018. Wireless 9-1-1 calls will continue to rise as the use of landline telephones decrease and mobile phone users increase. Dispatchers work diligently to verify the caller's location in order to provide emergency responders with accurate information even though wireless 9-1-1 callers are often unable to provide their exact location, extending the time it takes to send help.

## Telephone Calls

- In 2017, 133,952
- In 2018, 137,003
- An increase of 2.3%

## Wireless Calls

- In 2017, 23,167
- In 2018, 25,292
- An increase of 9.2%



Priorities	2018 Call for Service	2018 Average Response Time	2017 Calls for Service	2017 Average Response Time
Priority 1 - Life Threatening/In Progress	10,773	6:52	9,380	7:32
Priority 2 - Serious Non-life Threatening	14,554	16:59	14,250	17:44
Priority 3 - Non-emergency Calls	24,471	34:06	23,705	33:13

# Records Unit



Alicia Carson,  
Supervisor

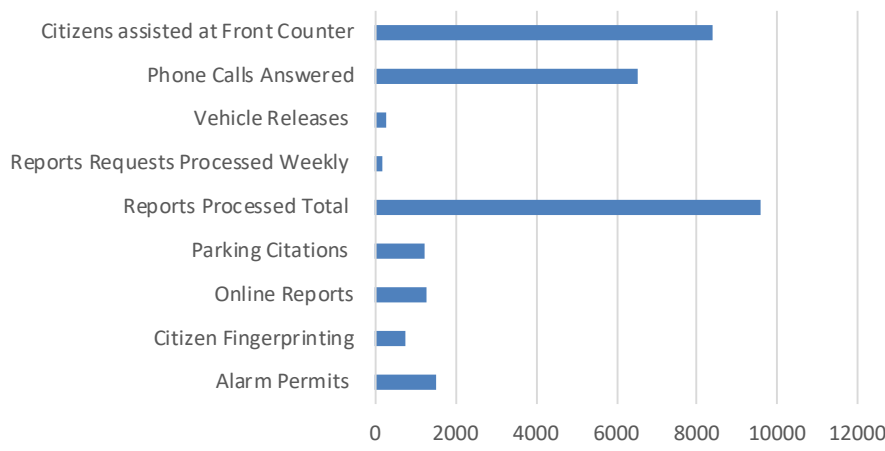
The Records Unit is staffed with seven full-time Police Records Assistants. The unit is supervised by the Records Unit Supervisor who oversees the day to day operations. The Records Unit is responsible for all aspects of report processing and document control within the Police Department. Records Assistants manage criminal records, connect community members with the appropriate unit or personnel to handle a specific issue, and provide support to police officers.

Records Assistants enter data into the local, state and federal law enforcement systems. The Records Unit works closely with the District Attorney's Office, Parole and Probation and other county and state agencies. Records Assistants process all warrants, citations, subpoenas, restraining orders, public requests for information, copies of reports, as well as store, purge and archive all files, as required by law. Records Assistants also track arson, narcotic, and sex registrants.

In 2018, Records assisted 8,368 citizens at the front counter, answered approximately 6,500 phone calls, processed 9,584 police reports including 678 felony arrests and 1,191 misdemeanor arrests, and received \$150,494 in fees for police services.



## Records Unit 2018



# Animal Services Unit



*Ben Miller ,  
Animal Services Supervisor*

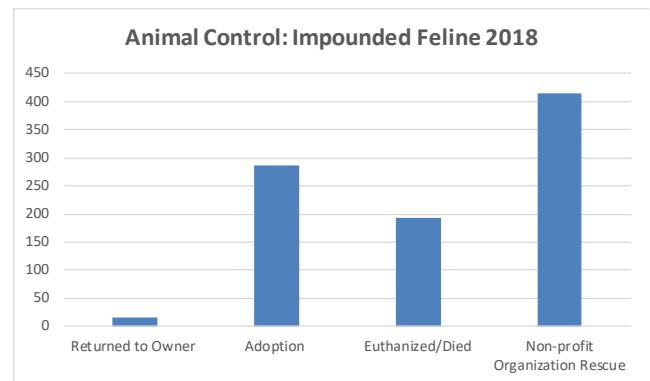
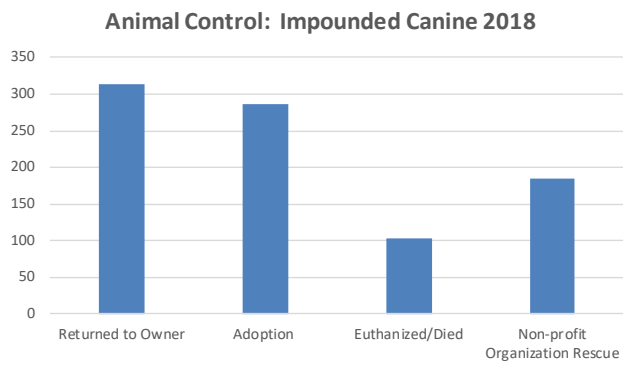
The Animal Services Unit is comprised of eight employees consisting of a Supervisor, four Animal Services Officers, two Shelter Assistants, and one Administrative Assistant. The unit is responsible for responding to animal related calls for service, sheltering impounded animals and providing animal adoption services to the public.

In 2018, animal services staff impounded 916 dogs and 969 cats. Animal Services impounded 224 less dogs and cats than in 2017. In addition Dog euthanasia rate declined from 13% to 11% and cats declined from 45% to 20%. Animal Services successfully returned 331 animals to their owners, facilitated 572 pet adoptions, and transferred 599 animals to rescue groups.

Volunteers donated over 2,800 hours of service. Volunteers assist with cleaning kennels, walking dogs, socializing cats, laundry, washing dishes and general cleaning duties.

Animal Services Officers responded to 1,512 calls for service including: 536 stray animals, 209 Municipal Code violations, 253 barking dog complaints and 174 negligence complaints. They also issued 58 citations.

Animal Services staff is proud to be our community's animal professionals!





# Bureau of Investigations



*Luis Mejia,  
Captain*



*Trevin Freitas,  
Lieutenant*

The Bureau of Investigations has a variety of units that specialize in complex investigations, typically initiated by patrol officers or through crime tips forwarded to the Police Department. Due to time constraints, these types of investigations are not reasonable for the employees of the Bureau of Field Operations to complete due to their responsibilities to respond to in progress calls for service. Examples of the types of crime investigated by the Bureau of Investigations include homicide, robberies, gang related crimes, financial crimes, property crimes, narcotics, vice and human trafficking.

Three units, each with individual missions, staff the Bureau of Investigations: General Investigations Unit, Special Investigations Unit and Special Enforcement Team. Additionally, two detectives were assigned to regional task forces focusing on auto theft and violent crimes in 2018.

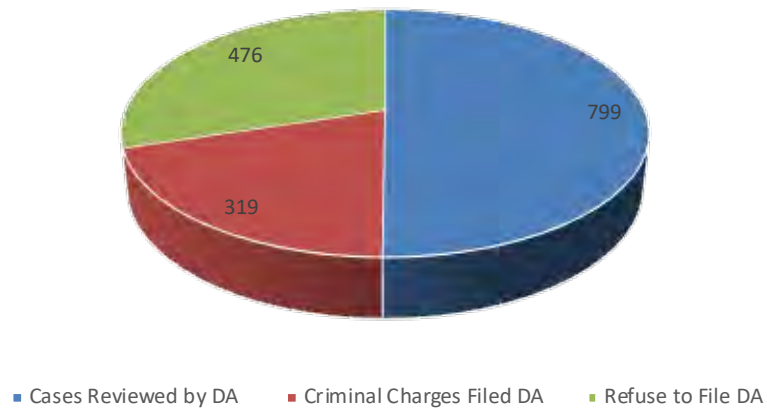
These specially trained employees frequently partner with investigators from the Federal Bureau of Investigations, Alcohol Tobacco and Firearms, Federal Drug Enforcement Agency, Department of Homeland Security, and other federal, state and county law enforcement agencies. The Bureau also works closely with the San Joaquin District Attorney's Office to obtain and secure criminal complaints and convictions.

In addition to the sworn personnel, the Bureau also has support personnel in the form of an administrative assistant, a crime analyst and the members of the Forensic Services Unit, who work closely with the other units in the bureau. The Bureau is under the command of a Captain. The Bureau is under the command of a Captain.

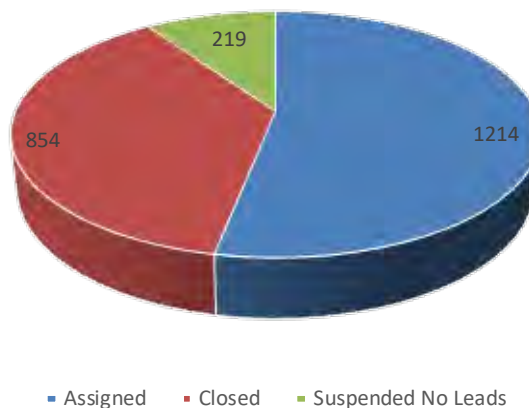
## General Investigations Unit

The General Investigations Unit (GIU) is comprised of ten investigators and a Sergeant. The General Investigations Unit is responsible for conducting the more time consuming and in-depth investigations for the Department. The crimes investigated include: high tech, financial, property, auto theft, sexual assaults, gangs, human trafficking and crimes against persons. GIU Investigators participate in a County-wide officer involved shooting protocol with investigators from the San Joaquin District Attorney's Office. Investigators also work directly with the county-wide auto theft task-force. In addition, they assist County Probation and Parole Units with their operations in the City.

**General Investigations 2018**



**Detective Activity 2018**

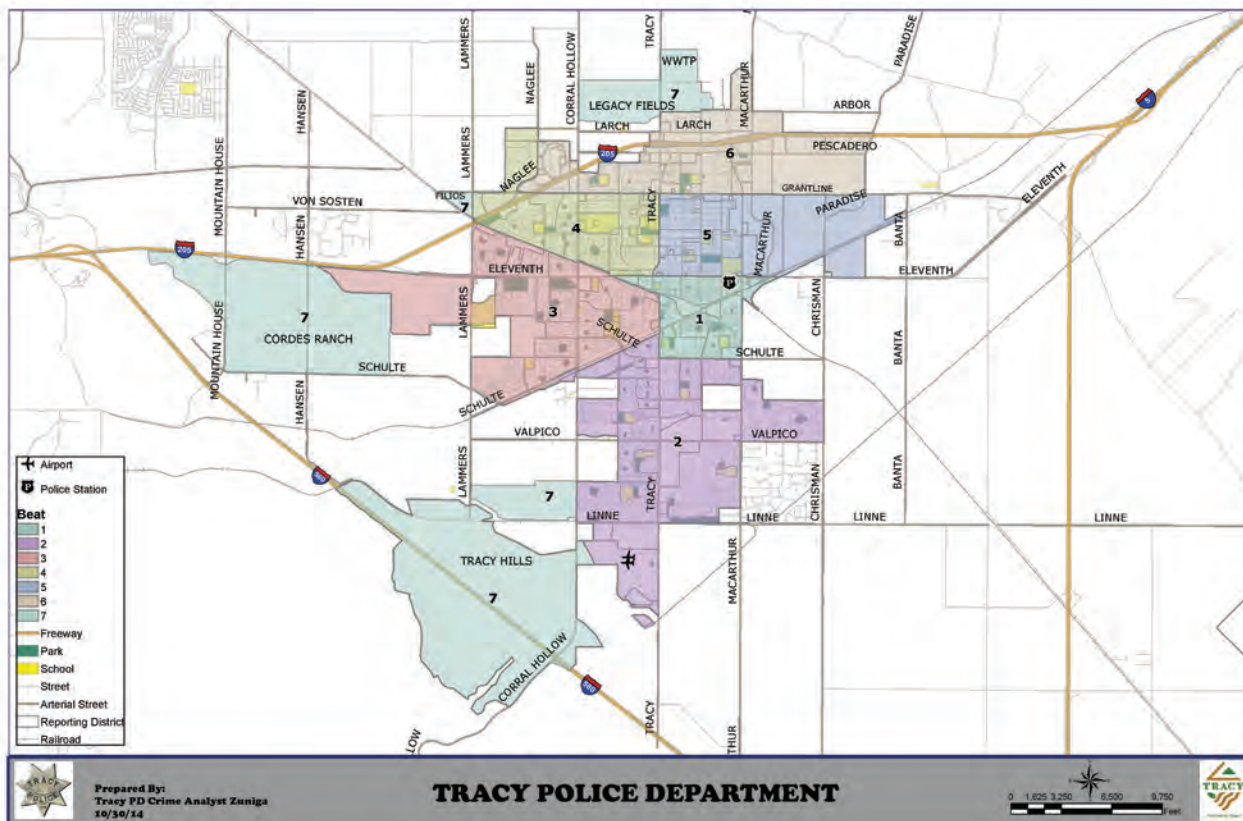


# Crime Analyst Unit



*Tanika Zuniga ,  
Crime Analyst*

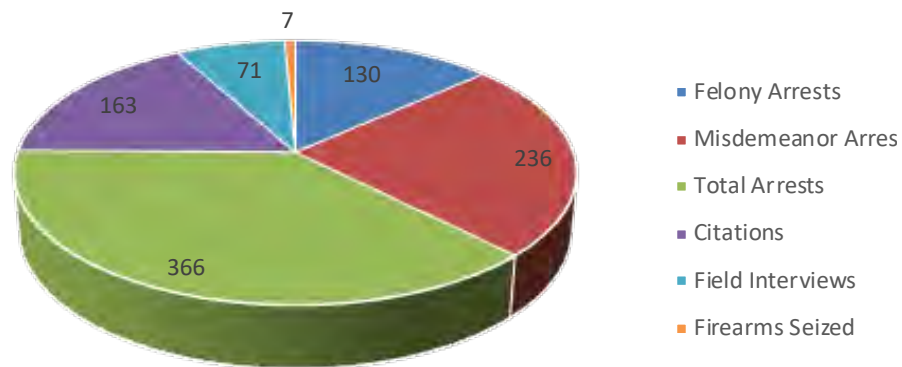
The Crime Analyst Unit enhances the problem solving capacity of department personnel through intelligence-led policing. The Unit is responsible for identifying series, patters, trends and hotspots of emerging crimes in the community. If the city is experiencing an emerging problem, the crime analyst is tasked with identifying, analyzing and alerting the appropriate unit. The Crime Analyst is capable of extracting data from the records system and translating it into useful information for crime prevention and apprehension. The Unit's function is integral to direct patrol policing and the efficient use of limited resources.



## Special Enforcement Team

The Special Enforcement Team is comprised of one sergeant and three officers. SET focuses on street-level enforcement strategies to help reduce Part 1 Crime which in turn resolves community problems. This unit coordinates with the Bureau of Investigations and Bureau of Field Operations to identify problem areas within the city. SET pays special attention to illegal narcotic activity and works closely with the Special Investigations Unit to combat this activity. SET focuses on the street-level user and dealer by utilizing overt and covert operations on a daily basis. SET routinely assists patrol officers and detectives with fugitive apprehension and specialized enforcement actions. SET frequently assists outside agencies with fugitive apprehension and regional operations such as San Joaquin County's "Safe Holiday" detail held every December, which targets gang members and violent offenders through probation/parole compliance checks.

**Special Enforcement Activity**





# Forensic Services Unit



Fred Kelley,  
CSI Supervisor

The mission of the Forensic Services Unit is to respond to crime scenes and document incidents through photography, videography, scale drawings, written reports, and the collection of physical evidence. This evidence includes, but is not limited to, weapons or items used in the commission of a crime, fingerprints, trace evidence such as hairs or fibers, and bodily fluids. The Unit sends physical evidence to the State of California Criminalistics Laboratory for testing, and works closely with the San Joaquin County District Attorney's Office during the criminal prosecution process.

The Unit is also responsible for maintaining the integrity of evidence and property, by packaging, preserving, securely storing, and tracking all evidence and property which is collected by members of the Department.

The Forensic Services Unit is staffed with four Crime Scene Technicians, one Property and Evidence Technician, and one supervisor who reports to the Bureau

of Investigations Captain.

Forensic Services Unit personnel have received extensive training relating to crime scene investigations and property and evidence management. Training accomplished by Unit staff includes: Death Scene Investigation, Latent Fingerprint Identification, Forensic Photography, Shoe and Tire Impression Recovery, Forensic Pathology of Gunshot Wounds, Firearm Safety, Courtroom Presentation of Evidence, Shooting Incident Reconstruction, Forensic Video Analysis, Firearm Serial Number Restoration, Computer Forensics, and Property and Evidence Management.

In 2018 Unit members performed 616 investigations and collected and processed a total of 10,678 individual items of evidence.

Forensic Services Unit members are also responsible for the release and disposal of evidence and property once a criminal case has been adjudicated. Evidence and Property must be properly disposed of in accordance with local, state and federal laws. This process includes returning the property to the legal owner, destroying by burning at a federally approved incineration facility, sending to public auction, or donating to specific organizations authorized by law.

In 2018, the Unit incinerated 811 lbs. of firearm and other contraband evidence, and 1,710 lbs. of illegal narcotics and controlled substances.

	2018	2017
Investigations	616	758
Latent Fingerprint Identifications	85	82
DNA Identifications	85	6
Drug Evidence Destroyed	1710 lbs	1460 LBS.
Firearm/ Contraband Evidence Destroyed	811 lbs	700 LBS.
*Prescription Drug Destruction	N/A	820 LBS.
Discovery Evidence Provided to DA (Cases)	547	453

*\*This service is now provided by the County.*

## Special Investigations Unit

The Special Investigations Unit (SIU) is tasked with investigating cases involving illegal drugs, vice and human trafficking. The four investigators and one sergeant

who make up the unit, rely on tips from the community, leads from other TPD cases or external agencies, as well as self-developed intelligence. Some of the internal goals for the unit also involve safety presentations for community groups, developing specialized training sessions for TPD personnel, and collaborating with other local, state and federal agencies in large scale investigations. A fifth investigator was also assigned to the FBI Safe Streets Task Force operating out of Stockton.

Special Investigations Unit 2018					
Arrests	Search Warrants	Seizures	Processed Marijuana	Cocaine	Firearms
35	115	2.5 lbs.	190 lbs.	1 lb.	18

During 2018, SIU investigators executed 115 narcotics related search warrants resulting in the arrest of 35 suspects. An area of special interest was the identification of residential marijuana grows, which pose a special danger to neighboring homes. During the dismantling of the identified grow operations, investigators also found and destroyed 6,495 marijuana plants and 190 pounds of processed marijuana. SIU Investigators worked with PG&E in reducing fire hazards related to illegal indoor marijuana grow operations. SIU Investigators also investigated local massages parlors for prostitution and arrested workers who solicited undercover detectives for prostitution.

As part of the unit's involvement in regional cases, SIU has partnered in investigations with FBI, DEA, Department of Homeland Security, CA Department of Justice, several regional narcotic task forces and local departments all around the United States.

During 2018, SIU investigators seized over \$500,000 during illegal narcotics investigations, made 35 arrests related to narcotics, robbery and other felony charges. SIU investigators seized 2.5 lbs of methamphetamine, and one pound of cocaine. Other narcotics seized throughout 2018 were Xanax pills, Steroids, and Promethazine.

During 2018, 18 guns were seized by the unit in the execution of warrants to include, 6 assault rifles, one hunting rifle, one shotgun and 10 handguns.



# Professional Standards Unit



Bill Dishman ,  
Professional Standards Officer

The Professional Standards Unit, staffed by one part-time professional staff member, oversees development and maintenance of Department policies. In addition, this person is responsible for audits and compliance processes, ensuring the highest professional standards are achieved throughout the organization. They facilitate the processing of many local permits that require background verification. The Professional Standards Unit also serves as the point of contact for State and Federal Agencies, who, by statute, must conduct compliance audits such as personnel training records, detention facility health and safety standards and personnel complain dispositions.

The following statistical review provides information the department utilizes to assess related liability:

Personnel Investigations 2018						
Category	Exonerated	Pending	Suspend	Sustained	Unfounded	Total
Administrative Complaints	0	3	0	0	2	5
Citizens Complaints	0	0	0	0	1	1



## Code of Ethics

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*"As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.*

*"I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.*

*"I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.*

*"I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession... law enforcement."*



## Promotions



*Michele Clubb,  
Communications Unit Supervisor*



*Brett Hicks,  
Sergeant*



*Octavio Lopez,  
Lieutenant*



*Brittany Pasquale,  
Animal Services Officer II*

*Nicolle Culbertson,  
Public Safety Dispatcher II  
(Not pictured)*

## Meritorious Medal

The Meritorious Medal may be awarded to employees who, while serving in an official capacity, distinguish themselves by contributing significantly toward the Department attaining its goals, and performing service that significantly impacted the Department in a positive manner. In addition, the service must be considered to have demonstrated a great deal of responsibility and personal initiative.



*Marco Reis,  
Officer*



*Jared Trine,  
Officer*

## POLICE OFFICER OF THE YEAR



*Ray Reynoso,  
Officer*

This award reflects the actions of one who has achieved organizational purpose, has taken ownership of organizational goals, worked to gain trust, demonstrated passion for the Police Officer role, exhibited compassion for the public, peers and subordinates, engaged in teamwork, and subscribed to the highest levels of integrity and morals.

## EMPLOYEE OF THE YEAR



*Lilia Perez,  
Crime Scene Technician*

This award reflects dedication, innovation, integrity and pride in representing the Department while completing assigned duties. An individual that is considered at the top of their profession and stands out as a leader in their position.

## VOLUNTEER OF THE YEAR



*Leland Gerhard,  
VIPS*

This award serves to recognize an outstanding volunteer within the Department who has given back to the community through their dedication, commitment and selflessness,

## LIFE SAVING MEDAL

This Lifesaving Medal is awarded to recognize the actions that results in the saving or preserving of human life that otherwise would have been lost without the employee's direct involvement.



*Brian Azevedo,  
Officer*



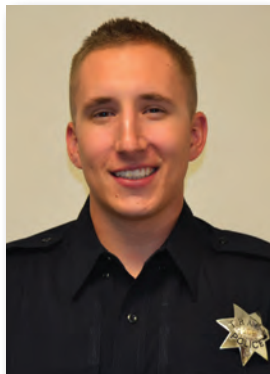
*Frank Strong,  
Officer*



*Mario Ysit,  
Officer*

## AWARD OF EXCELLENCE

The Award of Excellence is an achievement award that is presented to a Department employee or work group, based on their outstanding accomplishments during the past year. It is based on outstanding performance over a period of time, for a person or group who practices the concepts in the Tracy Police Department's Mission Statement.



*James Ahlberg,  
Detective*



*Wes Bancroft,  
Detective*



*Dan Garcia,  
Detective*



*Libby Orrick,  
Officer*



*Mike Richards,  
Sergeant*



Website: [www.tracypd.com](http://www.tracypd.com)

Facebook: [www.facebook.com/TracyPolice](https://www.facebook.com/TracyPolice)

Twitter: @tracypd, @tracypdchief

Nixle: <https://local.nixle.com/city/ca/tracy>





AGENDA ITEM 6.A

REQUEST

**APPOINT AN APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY COMMISSION ON AGING**

EXECUTIVE SUMMARY

On December 31, 2018, the City Clerk's office received a letter of resignation from the City of Tracy's representative on the San Joaquin County Commission on Aging, Leroy Johnson. A recruitment was conducted and an appointment needs to be made.

DISCUSSION

The City of Tracy's seat on the San Joaquin County Commission on Aging is currently vacant due to the resignation of the City of Tracy representative. To fill the vacancy, the City Clerk's office conducted a recruitment beginning on January 8, 2019, and ending on February 4, 2019, during which time only one application was received. As stated in Resolution No. 2004-152, in the event there are not two or more applicants than vacancies, the filing deadline will be extended. The recruitment was extended twice beginning on February 5, 2019, and ending on March 22, 2019. The City Clerk's office received one additional application during the extended recruitment period.

On March 27, 2019, a Council subcommittee consisting of Council Member Vargas and Mayor Rickman interviewed the applicant. In accordance with Resolution No. 2004-152, the Council subcommittee will recommend the appointment to the San Joaquin County Commission on Aging to serve the remainder of a vacated term, which will begin on March 20, 2019, and end on June 30, 2022.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That Council approve the subcommittee's recommendations and appoint Nancy Castro to the San Joaquin County Commission on Aging to serve the remainder of a vacated term, which will begin on March 20, 2019, and end on June 30, 2022

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager

AGENDA ITEM 6.B

REQUEST

**APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS  
TO FILL A VACANCY ON THE PARKS AND COMMUNITY SERVICES COMMISSION**

EXECUTIVE SUMMARY

This item requests that Council appoint members to a subcommittee to interview applicants to fill a vacancy on the Parks and Community Services Commission.

DISCUSSION

There is a currently one vacancy on the Parks and Community Services Commission. The vacancy was advertised on January 28, 2019, and the recruitment was extended and closed on March 13, 2019. Eight applications have been received by the City Clerk's office.

In accordance with Resolution No. 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council appoint a two-member subcommittee to interview applicants to fill a vacancy on the Parks and Community Services Commission.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Andrew Malik, Assistant City Manager

Approved by: Midori Lichtwardt, Interim City Manager