

JOINT MEETING OF THE TRACY CITY COUNCIL
AND THE TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY BOARD

REGULAR MEETING AGENDA

Tuesday, December 17, 2019, 7:00 P.M.

City Council Chambers, 333 Civic Center Plaza, Tracy

Web Site: 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.

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, and the Tracy Public Library, 20 East Eaton Avenue, and on the City's website: www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. CONSENT CALENDAR

- 1.A. APPROVAL OF MINUTES OCTOBER 15, 2019, REGULAR MEETING MINUTES, NOVEMBER 19, 2019 SPECIAL AND REGULAR MEETING MINUTES, AND DECEMBER 3, 2019, REGULAR MEETING MINUTES
- 1.B. APPROVE AMENDMENT 1 TO THE LICENSE AGREEMENT WITH JAMES McDERMOTT POST NO. 172, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA
- 1.C. APPROVE A THIRD EXTENSION TO 1998-1 AMENDMENT TO THE WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS
- 1.D. APPROVE A SECOND EXTENSION TO THE AGREEMENT FOR PROPERTY TAX ALLOCATION UPON ANNEXATION BETWEEN THE COUNTY OF SAN JOAQUIN AND THE CITY OF TRACY
- 1.E. CONFIRMATION OF MATTERS RELATED TO ANNEXATION OF PROPERTY (ELLIS PHASE 3 TOWN AND COUNTRY NEIGHBORHOOD) INTO IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
- 1.F. ADOPT A RESOLUTION APPROVING THE 2019 ANNUAL REPORT ON DEVELOPMENT IMPACT FEE REVENUES, EXPENDITURES AND FINDINGS REGARDING UNEXPENDED FUNDS IN ACCORDANCE WITH THE MITIGATION FEE ACT
- 1.G. APPROVE THE INSTALLATION OF A NO LEFT-TURN (R3-2) SIGN, WITH SUPPLEMENTAL 'SCHOOL DAYS 7:30-8:30 AM 1:30-3:30 PM' SIGN, IN FRONT OF CENTRAL ELEMENTARY SCHOOL
- 1.H. APPROVE AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICE AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING PROGRAM SERVICES TOTALING \$39,019
- 1.I. WAIVE SECOND READING AND ADOPT ORDINANCE 1280, AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 11.12 OF THE TRACY MUNICIPAL CODE RELATING TO UNIFORM BILLING, COLLECTION AND DELINQUENCY PROCEDURES OF CITY SERVICES
- 1.J. ADOPT A RESOLUTION FORMALLY ESTABLISHING THE TRACY HOMELESSNESS STRATEGIC PLAN DEVELOPMENT AD HOC COMMITTEE THROUGH JUNE 30, 2020

- 1.K. APPROVE THE FINAL SUBDIVISION MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3856 SANTOSHA (BERG ROAD PROPERTIES), AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE SAN JOAQUIN COUNTY RECORDER
- 1.L. APPROVE THE INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES BUREAU OF RECLAMATION AND THE CITY FOR PROVIDING CENTRAL VALLEY PROJECT WATER SERVICE EFFECTIVE MARCH 1, 2020, THROUGH FEBRUARY 28, 2022, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT AND OTHER AGREEMENTS WITH THE BUREAU OF RECLAMATION FOR VARIOUS OPERATIONAL FUNCTIONS RELATED TO THE CENTRAL VALLEY PROJECT
- 1.M. ADOPT REVISED CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES TO APPOINT NEXT HIGHEST VOTE-GETTER TO FILL COUNCIL VACANCY CREATED WITHIN FIRST YEAR OF THE POSITION'S TERM AND UTILIZE CURRENT APPOINTMENT SELECTION PROCESS FOR OTHER VACANCIES
- 1.N. APPROVE AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES IN THE AMOUNT OF \$13,518 FOR DESIGN SUPPORT FOR EXTENSION OF RECYCLED WATER PIPELINE AND AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL IN THE AMOUNT OF \$150,000 FOR THE RECYCLED WATER PROJECT, CIP 74091 AND STATE AGREEMENT NO. 4600011424

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. 1) CITY COUNCIL ADOPTION OF A RESOLUTION APPROVING DOCUMENTS AND ACTIONS RELATING TO THE REFINANCING OF OUTSTANDING LEASE REVENUE BONDS AND RELATED LEASE PAYMENT OBLIGATIONS OF THE CITY
2) TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY BOARD OF DIRECTORS APPROVAL OF A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF LEASE REVENUE BONDS TO REFINANCE OUTSTANDING LEASE REVENUE BONDS, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS
- 3.B. PUBLIC HEARING TO INTRODUCE AN ORDINANCE AMENDING THE I-205 CORRIDOR SPECIFIC PLAN, APPENDIX A, TABLE A-2, PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES, TO ALLOW BREWERIES, WINERIES, AND DISTILLERIES
- 3.C. PUBLIC HEARING TO INTRODUCE AN ORDINANCE AMENDING THE CENTRAL BUSINESS DISTRICT ZONE TO PERMIT HIGH DENSITY RESIDENTIAL USES, INCLUDING SINGLE-FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND MULTI-FAMILY DWELLINGS, AND APPROVAL OF A DEVELOPMENT REVIEW PERMIT TO CONSTRUCT A FIVE-UNIT RESIDENTIAL PROJECT, CONSISTING OF TWO SINGLE-FAMILY DWELLINGS AND A TRIPLEX LOCATED AT 21, 25, AND 29 E. EIGHTH STREET

- 3.D. PROVIDE DIRECTION ON FY 2019/20 STRATEGIC PRIORITIES AND APPROVE COUNCIL WORKSHOP REPORT AS OCTOBER 2, 2019 SPECIAL MEETING MINUTES
- 3.E. RECEIVE AN UPDATE ON CITY'S WATER SYSTEM MASTER PLAN AND WATER RELIABILITY
- 3.F. PROVIDE DIRECTION TO STAFF REGARDING NEGOTIATING AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT (ENRA) WITH PRIVATE PUBLIC INFRASTRUCTURE GROUP LLC (PPIG) REGARDING THE COMPLETION OF A FEASIBILITY STUDY TO DETERMINE THE POTENTIAL MONETIZATION OF THE CITY'S FUTURE RECYCLED WATER SUPPLY
- 3.G. APPOINT FOUR APPLICANTS TO SERVE ON THE TRACY ARTS COMMISSION
- 3.H. APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS TO FILL THREE TERM EXPIRATIONS ON THE PARKS AND COMMUNITY SERVICES COMMISSION
- 3.I. DISCUSS AMENDING THE TRACY MUNICIPAL CODE SECTION 2.08.080 TO REQUIRE A SUPERMAJORITY VOTE OF FOUR (4) MEMBERS OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY AND PROVIDE DIRECTION TO STAFF
- 3.J. CONSIDER AN ORDINANCE AMENDING THE COMPENSATION FOR THE COUNCIL AND MAYOR IN ACCORDANCE WITH STATE LAW
- 3.K. ADOPT A RESOLUTION ESTABLISHING A 2020 CALENDAR OF REGULAR CITY COUNCIL MEETINGS AND WORKSHOPS
- 4. ITEMS FROM THE AUDIENCE
- 5. STAFF ITEMS
- 6. COUNCIL ITEMS
- 7. ADJOURNMENT

October 15, 2019, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Rickman called the meeting to order at 7:03 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Kevin James, New Creation Bible Fellowship offered the invocation.

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

Mayor Rickman presented Certificates of Appointment to new Planning Commissioners Gurtej Atwal, and Maurice Francis.

Mayor Rickman presented a Proclamation for Make a Difference Day to Brian Pekari, Tracy United to Make a Difference.

1. CONSENT CALENDAR – Following the removal of consent items 1.A by Council Member Arriola, 1.B by Mayor Pro Tem Young and 1.C by Alice English, motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

1.D APPROVE THE DEFERRED IMPROVEMENT AGREEMENT WITH MLP REALTY LLC, DBA CENTRAL PLASTICS, FOR A TEMPORARY STORM WATER RETENTION BASIN ON PESCADERO AVENUE, AND AUTHORIZE THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – Resolution 2019-197 approved the agreement with MLP Realty LLC, DBA Central Plastics.

1.E APPROVE A GENERAL SERVICES AGREEMENT WITH SPECTRATURF, OF CORONA, CA, TO PROVIDE FOR THE REPLACEMENT OF POURED-IN-PLACE RUBBER PLAYGROUND SURFACE (CIP 78156) AT VETERAN'S PARK, 177 GLENHAVEN DRIVE, TRACY, FOR AN AMOUNT NOT TO EXCEED \$62,507, AND AUTHORIZE THE CITY MANAGER TO APPROVE AMENDMENTS TO THE AGREEMENT FOR EXTENSIONS TO THE TERM, IF NEEDED - Resolution 2019-198 approved the agreement with Spectraturf.

1.A APPROVAL OF OCTOBER 1, 2019, SPECIAL MEETING, CLOSED SESSION AND REGULAR MEETING MINUTES

Council Member Arriola pulled the item to request that the following language be added to the October 1, 2019 minutes under agenda item 3.A: City Attorney advised that Council had no grounds of which to deny the housing project without violating the California Housing Accountability Act, which would subject the City to legal and financial consequences. Council Member Ransom seconded the request to add the language.

No one from the public wished to speak.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to approve the October 1, 2019, special meeting, and closed session minutes and to amend the regular meeting minutes to include the language above under item 3.A. Roll call found all in favor; passed and so ordered.

1.B APPROVE AMENDMENTS TO THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES

Mayor Pro Tem Young pulled the item for clarification regarding supermajority vote requirement, flying City and U.S. flag, and discussions with the VFW to fly military flags at war memorial.

City Council questions and comments followed.

The item will return to Council in the future regarding the flying of military flags year round at the war memorial.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to adopt **Resolution 2019-199** repealing Resolution No. 2019-138 and approving an amended Council Policy regarding the display of flags at City facilities. Roll call found all in favor; passed and so ordered.

1.C CONSIDER STAFF'S RECOMMENDATION FOR AWARD OF MAYOR'S COMMUNITY YOUTH SUPPORT NETWORK (MCYSN) RECONNECTING OUR YOUTH (ROY) GRANT PROGRAM FUNDS FOR FISCAL YEAR 2019-2020, APPROVE THE FUNDING AGREEMENTS FOR THE PROGRAM, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE FUNDING AGREEMENTS

Alice English pulled the item for discussion.

Christine Mabry, Management Analyst provided the staff report.

Ms. English requested continued transparency, and indicated in the past Council Member Ransom received funds which were not brought before Council.

Council Member Ransom responded to Ms. English's comments stating her employer, Sow A Seed Foundation, was awarded funds through a competitive process.

Barbara Sassa, Board Member of Sow A Seed Foundation, stated Ms. Ransom was directed by the board to apply for this program. The funds have helped with mentoring programs.

City Council questions and comments followed.

Brian MacDonald, Parks and Recreation Director responded to questions.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-200** awarding the Mayor's Community Youth Support Network (MCYSN) Reconnecting Our Youth (ROY) Grant Program funds for Fiscal Year 2019-2020 and authorizing the City Manager to execute the Funding Agreement. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Yubo Cody asked about the City reaching out to big box companies along Schulte Road to keep trucks off the roadway during heavy commute times.

Robert Tanner clarified his comments made at the previous Council meeting stating he was not opposed to the Katerra project, but did not like the look or feel of the project and felt there would be traffic impacts.

Martin Evans spoke about rezoning, boundaries and traffic issues by the hospital.

3. REGULAR AGENDA

3.A RECEIVE PUBLIC TESTIMONY FROM PUBLIC HEARING FOR ANNUAL UNMET TRANSIT NEEDS, CITY OF TRACY, FISCAL YEAR 2019-20

Ed Lovell, Management Analyst provided the staff report.

Mayor Rickman opened the public hearing.

Kathleen Bergthold shared her concerns for seniors regarding the bus stop at Winco, lack of transportation at Morehead Mobile Home Park, and requested an analysis of where seniors are living and how they get around.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Mayor Pro Tem Young requested staff to return with an update of unmet operational transit items. Mayor Rickman seconded the request.

City Council accepted the public testimony from the public hearing for annual unmet transit needs, City of Tracy, Fiscal Year 2019-2020.

3.B PUBLIC HEARING TO INTRODUCE AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION 10.08.3560 REGARDING OFF-STREET PARKING AREA LANDSCAPING REQUIREMENTS

Kimberly Matlock, Associate Planner provided the staff report.

Mayor Rickman opened the public hearing.

Fernando Ricardo, ADM Group advocated for the project and shared some of the benefits.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to waive the reading of the text and introduce Ordinance 1273, an ordinance of the City of Tracy amending Section 10.08.3560 of the Tracy Municipal Code relating to landscaping requirements for parking areas. Roll call found Council all in favor; passed and so ordered.

3.C RECEIVE AND ACCEPT THE PRESENTATION OF THE GRAND THEATRE CENTER FOR THE ARTS ANNUAL REPORT

Kim Scarlata, Division Manager provided the staff report.

City Council questions and comments followed.

Debra Padong, Executive Director of the Grand Foundation acknowledged the continued joint efforts of the City, donors, sponsors, members and volunteers. Ms. Padong provided a copy of the Grand Foundation Gratitude Report for Fiscal Year 2018-2019 to the Clerk for City Council.

No one from the public wished to speak.

City Council comments followed.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Ransom to accept the presentation of the Grand Theatre Center for the Arts Annual Report. Roll call found all in favor; passed and so ordered.

3.D APPROVE AN EMPLOYMENT AGREEMENT BETWEEN LETICIA RAMIREZ AND THE CITY OF TRACY TO SERVE AS CITY ATTORNEY

Kimberly Murdaugh, Director of Human Resources provided the staff report.

No one from the public wished to speak.

There were no comments from City Council.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to adopt **Resolution 2019-201** approving an Employment Agreement between Leticia Ramirez and the City of Tracy to serve as City Attorney. Roll call found all in favor; passed and so ordered.

3.E ACCEPT A REPORT ON SENATE BILL 438, AN ACT TO AMEND SECTION 53110 OF AND TO ADD SECTION 53100.5 TO THE GOVERNMENT CODE, AND TO ADD SECTIONS 1797.223 AND 1798.8 TO THE HEALTH AND SAFETY CODE RELATING TO EMERGENCY SERVICES

Randall Bradley, Fire Chief provided the staff report.

No one from the public wished to speak.

City Council comments followed.

City Council accepted the report on SB-438, an act to amend the California Government Code, and the Health and Safety Code relating to emergency services.

3.F APPROVE AMENDMENT NO. 1 TO THE JOINT POWERS AGREEMENT OF THE SOUTH SAN JOAQUIN COUNTY FIRE AUTHORITY

Randall Bradley, Fire Chief provided the staff report.

No one from the public wished to speak.

There were no comments from City Council.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt **Resolution 2019-202** approving Amendment No. 1 to the Joint Powers Agreement of the South San Joaquin County Fire Authority. Roll call found all in favor; passed and so ordered.

3.G ADOPT PROPOSED CITY OF TRACY CITY COUNCIL CODE OF CONDUCT

Jenny Haruyama, City Manager provided the staff report.

Robert Tanner stated if members of City Council receive more than \$4,000 campaign funds from developers, they should not be able to vote on that developer's projects for fifty percent of their term.

Steve Nicolaou shared his support for the Code of Conduct, and added maybe Campaign Finance Reform should be another project in 2020.

City Council questions and comments followed.

It was Council consensus to add an amendment to Section 2.4: Council will endeavor to rotate Council adhoc standing committee appointments to ensure equitable participation amongst Council.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Ransom to adopt **Resolution 2019-203** approving City of Tracy City Council Code of Conduct as amended from the dais. Roll call found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – No one from the public wished to speak.
5. STAFF ITEMS – Jenny Haruyama, City Manager spoke about the Interactive Voice Response Telephone System being back online, a recruitment to fill four Tracy Arts Commission seats, and announced various upcoming local events.

Leticia Ramirez, City Attorney, informed Council that the Council vacancy process item will be coming back on November 5, 2019.

6. COUNCIL ITEMS

Council Member Vargas asked for support to request formally for San Joaquin Council of Governments to amend the Transportation Plan to allow Valley Link to be added as a priority project. Council Member Arriola seconded the request. Council Member Vargas wished her daughter a happy 23rd birthday, and announced she will be attending a class next week at USC Los Angeles for Urban Planning studies.

Council Member Arriola spoke about two recent murders on Carlton Way and requested a report on what the City is doing to decrease violence in Tracy. Council Member Vargas seconded the request. Council Member Arriola reported on the Council workshop held on October 2, 2019, and announced he will be going to Mexico to celebrate his 30th birthday.

Mayor Pro Tem Young wished her oldest grandson happy 21st birthday, and youngest son happy 19th birthday. Mayor Pro Tem Young reported on the ACE Rail Board meeting held on October 4, 2019, and her attendance at various local events. Mayor Pro Tem Young asked when her request to look at landscaping will return to Council, and requested a commitment by November 5 as to when discussion regarding Measure V will return to Council to get an idea of where the City stands with the aquatics, gymnasium, and Legacy Fields projects.

Council Member Ransom also voiced her concerns regarding having a full discussion related to Measure V. Council Member Ransom requested an update on the homeless strategic plan, and announced that a census meeting will be coming to Tracy in November, and a date will be released at the next meeting.

Jenny Haruyama, City Manager responded that the landscape item and Measure V update will return in November 2019.

Mayor Rickman announced various local events and requested information regarding cases rejected by the District Attorney's office for interests of justice that need to be part of Council Member Arriola's request, or in the Police Annual Report.

7. ADJOURNMENT – Time: 9:15 p.m.

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

The above agenda was posted at the Tracy City Hall on October 10, 2019. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk

November 19, 2019, 6:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. Mayor Rickman called the meeting to order at 6:00 p.m.
2. Roll call found Council Members Arriola, Ransom, Vargas, Mayor Pro Tem Young, and Mayor Rickman present.
3. ITEMS FROM THE AUDIENCE – None
4. CONSENT CALENDAR – Following the removal of consent items 4.I by Mayor Pro Tem Young and 4.A by Chris Long, it was moved by Council Member Vargas and seconded by Council Member Arriola to adopt the consent calendar. Roll call found all in favor; passed and so ordered.
 - 4.B APPROVE THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF TRACY AND HOSPICE OF SAN JOAQUIN – **Resolution 2019-218** approved the Memorandum of Understanding with Hospice of San Joaquin.
 - 4.C APPROVE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH IBI GROUP, A CALIFORNIA PARTNERSHIP, TO INCREASE THE NOT TO EXCEED AMOUNT TO \$140,000 TO COMPLETE AN UPDATED SHORT RANGE TRANSIT PLAN – **Resolution 2019-219** approved Amendment No. 1 to the Agreement with IBI Group.
 - 4.D ACCEPT IMPROVEMENTS FOR THE ELLIS VILLAGE GREEN NEIGHBORHOOD PARK WITHIN THE ELLIS PHASE 1A, TRACT 3764 SUBDIVISION AND DEDICATED PARK SITE, CONSTRUCTED BY STANDARD PACIFIC CORPORATION, ASSUME RESPONSIBILITY FOR FUTURE MAINTENANCE AND REPAIR, AND AUTHORIZE THE CITY ENGINEER TO RELEASE ALL BONDS IN ACCORDANCE WITH THE TERMS OF THE PARK IMPROVEMENT AND REFUND AGREEMENT AND THE DEFERRED IMPROVEMENT AGREEMENT – **Resolution 2019-220** accepted the improvements to the Ellis Village Green Neighborhood Park.
 - 4.E FIND IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO A COMPETITIVE PROPOSAL PROCESS AND APPROVE AN AGREEMENT WITH BARYALAI FEROZ AND LAMIA FEROZ TO SELL APPROXIMATELY 11,192 SQUARE FEET OF SURPLUS CITY REAL PROPERTY (A PORTION OF APN 212-040-67) LOCATED ADJACENT TO THE FEROZ REAL PROPERTY (APN 212-270-21) AND SOUTH OF THE BOUNDARY FENCE OF DETENTION BASIN 10 – **Resolution 2019-221** approved an agreement with Baryalai Feroz and Lamia Feroz.
 - 4.F APPROVE TASK ORDER NOS. 6, 7, AND 8 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT WITH GOODWIN CONSULTING GROUP, INC. FOR TAX CONSULTING AND ADMINISTRATION SERVICES

FOR SPECIAL FINANCING DISTRICTS – **Resolution 2019-222** approved Task Order No. 6 with Goodwin Consulting. **Resolution 2019-223** approved Task Order No. 7 with Goodwin Consulting. **Resolution 2019-224** approved Task Order No. 8 with Goodwin Consulting.

- 4.G APPROVE REAL PROPERTY PURCHASE AGREEMENTS BETWEEN THE CITY OF TRACY AND THREE PROPERTY OWNERS FOR ACQUISITION OF RIGHT-OF-WAY AND EASEMENTS REQUIRED FOR THE WIDENING OF CORRAL HOLLOW ROAD BETWEEN SCHULTE ROAD AND LINNE ROAD, CIP 73144 – **Resolution 2019-225** approved the Property Purchase Agreements with three property owners.
- 4.H ACCEPT TRACY MUNICIPAL AIRPORT NEW ROTATING BEACON ON EXISTING TOWER PROJECT, CIP 77581, AIP NO. 3-06-0259-19, COMPLETED BY VELLUTINI CORPORATION dba ROYAL ELECTRIC COMPANY OF SACRAMENTO, CALIFORNIA, AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE COUNTY, AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT – **Resolution 2019-226** accepted the project.
- 4.J AUTHORIZE THE CITY MANAGER TO SUBMIT A PLANNING GRANT APPLICATION TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT IN COMPLIANCE WITH STATE SENATE BILL 2 AND EXECUTE ANY NECESSARY DOCUMENTS RELATED TO THE GRANT – **Resolution 2019-227** authorized the submittal of the Planning Grant Application.
- 4.A APPROVAL OF OCTOBER 15, 2019 CLOSED SESSION AND SPECIAL MEETING MINUTES AND NOVEMBER 5, 2019 CLOSED SESSION, SPECIAL AND REGULAR MEETING MINUTES

Chris Long pulled the item for discussion. Mr. Long provided handouts to the City Clerk related to item 4.A and item 7. Les Serpa, Surland Companies addressed City Council and referred to Page 3 of the November 5, 2019, special meeting minutes, indicating that the bullet points were not consistent with information within the document on what occurred at the special meeting, and he would like to see consistency.

Marsha McCray referred to the City Manager's summary of agenda item 4 in the November 5, 2019 special meeting minutes and stated that the word potential used in the minutes was not mentioned during the summary.

City Council questions and comments followed.

Jenny Haruyama, City Manager responded to City Council questions and provided clarification on the City Council consensus at the November 5, 2019, special meeting.

Mr. Serpa responded to City Council questions.

Council Member Ransom motioned that the City Clerk can verify that it did not say potential and would like to approve minutes as corrected. Mayor Pro Tem Young seconded the motion. Motion failed.

City Council discussion continued.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to table the November 5, 2019, special meeting minutes to allow the Clerk to bring the minutes back with any corrections as necessary. Roll call found all in favor; passed and so ordered

4.I SUBMIT A LETTER TO THE SAN JOAQUIN COUNCIL OF GOVERNMENTS FORMALLY REQUESTING THAT THE REGIONAL TRANSPORTATION PLAN BE AMENDED TO INCLUDE CONSTRUCTION OF THE VALLEY LINK RAIL PROJECT

Mayor Pro Tem Young pulled the item to suggest that the request be a regional priority which the City of Tracy signs onto, not a separate letter to San Joaquin Council of Governments.

Andy Chesley, Director from San Joaquin Council of Governments responded the letter is not just for the City of Tracy, and will be before other cities (Manteca and Lathrop). Mr. Chesley added the San Joaquin Council of Governments will respond to the City of Tracy's request.

No one from the audience wished to speak.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2019-228** authorizing submission of a letter to the San Joaquin Council of Governments formally requesting that the Regional Transportation Plan be amended to include construction of the Valley Link Rail project. Roll call found all in favor; passed and so ordered

5. RECEIVE AND DISCUSS UPDATE FROM THE TRI-VALLEY-SAN JOAQUIN VALLEY REGIONAL RAIL AUTHORITY ON THE PROGRESS OF THE VALLEY LINK PROJECT

Michael Tree, Executive Director of the Tri-Valley – San Joaquin Valley Regional Rail Authority provided an update regarding the Valley Link project.

City Council questions and comments followed.

Mr. Tree responded to City Council questions.

Todd Lieberg stated he supported Valley Link, but trains aren't going to work for everyone, with new homes being built, new roads are needed.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to accept the update from the Tri-Valley – San Joaquin Valley Regional

Rail Authority on the progress of the Valley Link Project. Roll call found all in favor; passed and so ordered

Mayor Rickman announced that agenda items 6 and 7 will be heard following the adjournment of the regular meeting.

DEVIATION

8. APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS FOR FOUR UPCOMING TERM EXPIRATIONS ON THE TRACY ARTS COMMISSION

Adrienne Richardson, City Clerk provided the staff report.

No one from the public wished to speak.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to appoint Council Member Ransom and Mayor Rickman to interview the applicants for four upcoming term expirations on the Tracy Arts Commission. Roll call found all in favor; passed and so ordered

Mayor Rickman recessed the special meeting at 6:49 p.m.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Ransom to recess the special meeting until after the conclusion of the regular Council meeting. Roll call found Council all in favor; passed and so ordered

Mayor Rickman reconvened the special meeting at 11:47 p.m. and announced that items 6 and 7 would be moved to the regular December 3, 2019 Council meeting.

6. DISCUSS COUNCIL VACANCY POLICY AND PROVIDE DIRECTION TO STAFF –
Item moved to the December 3, 2019 Council meeting.

7. PROVIDE DIRECTION ON FY 2019/20 STRATEGIC PRIORITIES AND APPROVE COUNCIL WORKSHOP REPORT AS OCTOBER 2, 2019 SPECIAL MEETING MINUTES –
Item moved to the December 3, 2019 Council meeting.

Mayor Rickman addressed adoption of item 4.A minus the November 5, 2019, special meeting minutes.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt the minutes included in item 4.A (October 15, 2019 Closed Session and Special Meeting minutes and November 5, 2019 Closed Session and Regular meeting minutes) with the exception of the November 5, 2019 special meeting minutes. Roll call found Council all in favor; passed and so ordered

9. **ADJOURNMENT – Time: 11:50 p.m.**

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

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

Mayor

ATTEST:

City Clerk

November 19, 2019, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Rickman called the meeting to order at 7:03 p.m.

Mayor Rickman led the Pledge of Allegiance.

Deacon Ryan offered the invocation.

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

1. CONSENT CALENDAR – Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.

- 1.A WAIVE SECOND READING AND ADOPT ORDINANCE 1275, AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 5.24 (WASTE DISPOSAL) OF TITLE 5 (SANITATION AND HEALTH) OF THE TRACY MUNICIPAL CODE –
Ordinance 1275 was adopted.

- 1.B WAIVE SECOND READING AND ADOPT ORDINANCE 1276, AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 5.26 (DISCHARGE OF FATS, OILS AND GREASE) OF TITLE 5 (SANITATION AND HEALTH) OF THE TRACY MUNICIPAL CODE – **Ordinance 1276 was adopted.**

2. ITEMS FROM THE AUDIENCE - Melinda Ramirez provided a summary of the Homeless Strategic Planning event for service providers held at the Grand Theatre and encouraged everyone to attend upcoming meetings.

Alice English spoke about a presentation made by Chief Bradley on October 15 related to EMS legislation and thanked Mayor Rickman, Fire Chief Randall Bradley, Tracy residents, Mountain House and Manteca residents for their contribution to the victory for the Tracy community. Ms. English recited a quote from Dave Helm and Ray Moreles.

3. REGULAR AGENDA

DEVIATION

- 3.B CONDUCT A PUBLIC HEARING REGARDING AN ORDINANCE ADOPTING, BY REFERENCE, THE 2019 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING LOCAL STANDARDS RELATED TO EMERGENCY HOUSING, STRAW-CLAY CONSTRUCTION, CORROSIVE SOILS, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS,

OTHER EMERGENCY RESPONDER REQUIREMENTS AND FLOOD PLAIN REGULATIONS

Chris Landreth, Supervising Building Inspector provided the staff report.

Mayor Rickman opened the public hearing.

No one from the audience wished to speak.

Mayor Rickman closed the public hearing.

There were no comments from City Council.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrianne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Ransom to waive the full reading of the text and adopt **Ordinance 1274**, an ordinance of the City of Tracy adopting the 2019 California Building Code, 2019 California Electrical Code, 2019 California Plumbing Code, 2019 California Residential Code, 2019 California Mechanical Code, 2019 California Green Building Standards Code, 2019 California Historical Building Code, 2019 California Existing Building Code, AND 2019 California Energy Code, 2019 California Fire Code, Adopting Appendices C, F, H, I, K and O of the 2019 California Building Code, Appendices A, B, C, D, E, G, H, I, J and K of the 2019 California Plumbing Code, Appendices D and F of the 2019 California Mechanical Code, Appendices H, I, O, R, S, W and X of the 2019 California Residential Code, all Appendices of the 2019 California Historical Building Code, Appendices B, BB, C, CC, D, F, H, L and N of the 2019 California Fire Code, Adopting Standards Related to Emergency Housing, Straw-Clay Construction, Corrosive Soils, Exterior Pallet Storage, Radio Amplification Systems, Other Emergency Response Standards, Floodplain Regulations and Repealing Sections to Reorganize existing ordinance language, correct code references, and clarify language. Roll call found all in favor; passed and so ordered.

3.C ADOPT RESOLUTION SUPPLEMENTING RESOLUTION NO. 2017-025 TO AUTHORIZE THE ISSUANCE AND SALE OF SPECIAL TAX BONDS FOR THE PURPOSE OF FINANCING AUTHORIZED FACILITIES, AND APPROVING AND AUTHORIZING RELATED DOCUMENTS AND ACTIONS

Karin Schnaider, Finance Director provided the staff report.

No one from the audience wished to speak.

Chris Long thanked Karin Schnaider, Finance Director and the consultant team for their responsiveness through the process.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2019-229** approving supplementing Resolution

2019-025 to authorize the issuance and sale of special tax bonds for the purpose of financing authorized facilities, and approving and authorizing related documents and actions – Improvement Area No.1 of the City of Tracy Community Facilities District No. 2016.2 (ECFD). Roll call found all in favor; passed and so ordered.

3.D PUBLIC HEARING TO CONSIDER ADOPTION OF A PRECISE PLAN LINE (ALIGNMENT) FOR THE CHRISMAN ROAD EXTENSION FROM GRANT LINE ROAD TO THE FUTURE I-205 FREEWAY INTERCHANGE

Robert Armijo, City Engineer provided the staff report.

Nanda Gottiparthi, SNG & Associates provided information regarding the item.

Mayor Rickman opened the public hearing.

No one from the public wished to speak.

Mayor Rickman closed the public hearing.

City Council questions followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt **Resolution 2019-230** approving the precise plan line (Alignment) for the Chrisman Road extension from Grant Line Road to the future I-205 freeway interchange. Roll call found all in favor; passed and so ordered.

3.E INTRODUCE ORDINANCES AMENDING CHAPTER 6.36 OF THE TRACY MUNICIPAL CODE (TMC) REGARDING COMMERCIAL CANNABIS ACTIVITY AND AMENDING SECTION 10.08.3196 OF THE TMC REGARDING ESTABLISHING ZONING AND LOCATION REQUIREMENTS FOR COMMERCIAL CANNABIS ACTIVITY IN TRACY

Karin Schnaider, Finance Director provided the staff report.

Alan Monceaux provided the following recommendations for the ordinance: Prioritize local residents as business owners, controlled access – redundancy of secure room within limited access area, visitors must be escorted on site by manager or authorized employee at all times.

Michaela Toscas, H.E. Community Collective provided information regarding her business and supported the ordinance and locally operated permits, exemption of juvenile convictions, and low fees and taxes.

Deanna Garcia, Therapeutic Alternative indicated the information in the proposed ordinance on Page 31, item e, titled Restricted Access to Minors, is outdated.

Christopher Heckler, H.E. Community Collective spoke in favor of the ordinance. Mr. Heckler did not believe juvenile records should not be included in the regulations.

Robert Tanner stated he was in favor of the double investigation by the Police Department, background checks for juveniles arrested for marijuana, cannabis stores banned from downtown, and spoke about the lack of enforcement of the rule that smoking is not allowed within 25 feet of a building.

City Council questions and discussion followed.

Leticia Ramirez, City Attorney stated staff will do homework regarding clarification on the following: Correction to Section 6.36.380 (e) Restricted Access to Minors – no one under 18 is allowed in dispensary, and also look into the State law regarding retailers not being allowed to give out free cannabis goods, and whether that includes during employee off time, and minor amendment to address some of the background check issues.

Council Member Ransom requested language regarding clarification on background checks including who would be excluded, and specifics about when a person would not be recommended for employment and would have to appeal to the City, and timeframes for background. Council Member Arriola seconded the request.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrianne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to introduce **Ordinance 1277** an ordinance of the City of Tracy amending Chapter 6.36 of Title 6, “Businesses, Professions, and Trades” of the Tracy Municipal Code to establish local regulations for commercial cannabis activity in the City of Tracy, as amended. Roll call found all in favor; passed and so ordered.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrianne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to introduce **Ordinance 1278** an ordinance of the City of Tracy amending Section 10.08.3196 of Chapter 10.08 “Zoning Regulations” of Title 10 “Planning and Zoning” of the Tracy Municipal Code to establish land use restrictions on commercial cannabis activity in the City of Tracy. Roll call found all in favor; passed and so ordered.

Ms. Ramirez confirmed that staff was directed by Council, introduced by Council Member Ransom and seconded by Council Member Arriola, to come back with more language on the employee background checks.

3.A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAYS AND TEMPORARY CONSTRUCTION EASEMENTS FROM CERTAIN REAL PROPERTIES FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD, AND AUTHORIZE THE DEPOSIT OF \$15,200 FOR

STEVENSON PARCEL, \$48,000 FOR TLC, INC. PARCEL, \$29,400 FOR PRABHAKARAN PARCEL, \$10,400 FOR CARTER PARCEL, \$90,300 FOR DURKEE PARCEL, \$57,100 FOR GALVAO PARCEL, \$23,800 FOR SCHIRMER PARCEL, \$39,600 FOR KING PARCEL, AND \$32,300 FOR SALOMON AND REITZ PARCEL, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND

Kul Sharma, Utilities Director provided the staff report.

Mayor Rickman opened the public hearing.

Robert Mehlhaff, Attorney on behalf of Maximino and Maria Galvao requested the letter of objection be entered into the record. Mr. Mehlhaff spoke about his client's objections to the Resolution of Necessity in its current form.

Errol King spoke about the effects the road widening would have on their homes and whether it will be equitable to those affected.

Stephen Richard Clark, appraiser for Errol King's home shared his concerns about the City's appraiser not recognizing severance damage in some of the most obvious circumstances.

Errol King continued with his concerns and stated there needs to be a fair and equitable solution to the problem for both parties.

Ms. Durkee expressed her concerns regarding the appraisal and negotiation process and severance damages.

Martin Evans spoke about the Heinz factory and sewer rights.

Robert Mehlhaff urged the City to look at the agreement the City has with the County indicating it does not authorize the City to exercise the County's right of eminent domain.

Mayor Rickman closed the public hearing.

City Council questions and discussion followed.

Todd Amspoker, City's special outside Counsel responded to Council questions and explained the process on behalf of the City.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-231**, a Resolution of Necessity of the City of Tracy to condemn real properties in connection with the widening of Corral Hollow Road from West Schulte Road to Linne Road; make findings and determinations; authorize eminent domain proceedings and applications for possession prior to judgment; draw and deposit warrants (Portion of Stevenson, APN 242-030-41; Tender Loving Care, APN 240-100-07; Prabhakaran, APN 242-030-40; Carter, APN 244-030-13; Durkee, APN 240-090-04; Galvao, APN 240-100-02; Schirmer, APN 240-100-15; King, APN 242-030-42; and Salomon/Reitz, APN 240-100-14). Roll call found all in favor; passed and so ordered.

Mayor Rickman called a recess at 9:28 p.m.

Mayor Rickman reconvened the meeting at 9:40 p.m.

3.F UPDATE ON MEASURE V FUNDED PROJECTS, APPROVE PROJECT PRIORITIES, AND PROVIDE STAFF DIRECTION

Brian MacDonald, Parks and Recreation Director, and Karin Schnaider, Finance Director provided the staff report.

Martin Evans requested a flower garden by the hospital at Bessie and Beverly.

Robert Tanner suggested the pay-go projects could be reduced to \$1 million annually, and asked if grant money from the County is used for ADA upgrades for City facilities. Mr. Tanner supported the City's budget of \$55 million for the aquatic center, the developer putting in \$10 million, and start with pools.

Travis Courtney requested to allocate funds requested to finish Legacy Fields.

Roy Hawkins thanked Council for approving Measure V funding for the aquatic center.

Marsha McCray echoed Mr. Hawkin's comments and stated she was optimistic the project will get started this coming year.

Rod Simmons requested Council finish Legacy Fields first and don't push out four years.

Michel Bazinet, Chair of Measure V Oversight Committee stated there were misalignments in the staff report, and requested the City Council mandate that the Measure V Committee report be included in the report.

Abdul Wahid referred to page 4 of the staff report stating the number that reflected on that page was not the same as on the presentation, and requested Council to hold on making a decision on Measure V funding.

Alice English urged City Council to finish Legacy Fields first, and spoke about the Aquatics Center funding.

Mary Mitracos stated the City needs a pool and added the biggest response in the survey was for new parks and library. Ms. Mitracos spoke about a commitment with General Services Agency to develop 300 acres of Legacy Fields.

City Council questions and discussion followed.

Jenny Haruyama, City Manager summarized Council's consensus regarding Measure V project priorities and funding allocations:

Aquatics Center – \$55 Million
Multi-Gen Rec Center - \$40 Million

Operations and Maintenance - \$40 Million

Remove pay-go reference and return with scenarios separately. The timelines may shift depending on what pay-go scenarios Council ultimately chooses.

Ms. Haruyama also confirmed the following Council consensus: Return to Council no later than the end of the first quarter in 2020 to provide refined information around needs assessment, programmatic opportunities with the multi-Gen Rec Center and also funding approaches, including debt service, cost benefit analysis, and which is better.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Ransom to adopt **Resolution 2019-232** approving Measure V Project Priorities and Funding Allocations with the following modifications: Aquatics Center – \$55 Million, Multi-Gen Rec Center - \$40 Million, Operations and Maintenance - \$40 Million, removing pay-go reference from table in the resolution, and return with scenarios separately. Timelines will shift based on future direction from Council regarding pay-go scenario projects. Roll call found all in favor; passed and so ordered.

Mayor Rickman announced 3.G will be moved to the December 3, 2019, Council meeting.

3.G **ADOPT COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE - Item moved to the December 3, 2019, Council meeting.**

4. ITEMS FROM THE AUDIENCE – None

5. STAFF ITEMS – None

6. COUNCIL ITEMS

Council Member Ransom spoke about a deceased homeless person found in a City park, and stated there are health and safety issues in the parks. Council Member Ransom suggested the following: Council consider using CBD funds as well as working with service providers in order to have an emergency shelter to direct people to, so park curfews can be enforced, funding for lights and cameras in parks, and an RFP to secure City parks and addressing homelessness issues which is contributing to issues in parks. Council Member Arriola seconded the request.

Jenny Haruyama, City Manager responded those issues can be brought back when talking about Council strategic priorities.

Council Member Ransom spoke about families being impacted by landlords trying to get ahead of the Governor's rent control law, and suggested implementing an urgency ordinance in regards to people who are being asked to move with the exemptions of people who do have just cause (not paying rent, damaging property), and provide an exception where the rent that is being collected does not pay the mortgage, tax and insurance.

Leticia Ramirez, City Attorney clarified Council Member Ransom's request: Bring back an urgency ordinance on no fault evictions on December 3, 2019, with the exception that it would not apply to evictions motivated by a landlord whose current rent is not covering

the cost of mortgage or property ownership. Council Member Arriola and Mayor Pro Tem Young supported the request.

Council Member Ransom reported on her attendance at the League of California Cities Annual Conference & Expo, October 16-18, 2019.

Mayor Pro Tem Young reported on her attendance at the League of California Cities Annual Conference & Expo, October 16-18, 2019. Mayor Pro Tem Young announced her 50th birthday and wished her daughter-in-law, nephew and niece a Happy Birthday.

Council Member Arriola reported on his attendance at the League of California Cities Annual Conference and Expo, October 16-18, 2019. Council Member Arriola spoke about the Homeless Strategic Plan session held today, shared his concerns about three homicides in the Lowell neighborhood and stated he would like to bring back policy proposals as action needs to be taken. Council Member Arriola wished everyone a Happy Thanksgiving.

Council Member Vargas wished everyone a wonderful, peaceful, enjoyable Thanksgiving.

Mayor Rickman stated when the emergency shelter item comes back to Council he would like to include a discussion regarding Proposition 47, Assembly Bill 109, why Council did not join other cities against the Idaho case, and the enforcement side. Council Member Vargas supported the request.

7. ADJOURNMENT – City Council adjourned the regular meeting at 11:47 p.m., and reconvened the special meeting.

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

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

ATTEST:

Mayor

City Clerk

December 3, 2019, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Rickman called the meeting to order at 7:02 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Kevin James, New Creation Bible Fellowship offered the invocation.

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

1. CONSENT CALENDAR – Following the removal of agenda items 1.A from Council Member Arriola and 1.E by Zach Drivon, motion was made by Council Member Vargas and seconded by Council Member Ransom to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.B ADOPT RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION, ACCEPTANCE OF AN ALLOCATION OF FUNDS AND EXECUTION OF A GRANT AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, BY THE MAYOR FOR AN AIRPORT IMPROVEMENT PROGRAM (AIP) MATCHING GRANT FOR CIP 77583 -
Resolution 2019-233 authorized the submittal of an application and execution of Grant Agreement.
 - 1.C AWARD A CONSTRUCTION CONTRACT TO ST. FRANCIS ELECTRIC, LLC OF SAN LEANDRO, CALIFORNIA, IN THE AMOUNT OF \$265,400 FOR THE TRAFFIC SIGNAL MODIFICATION AT SCHULTE ROAD/LAURIANA LANE AND TRACY BOULEVARD/TENNIS LANE INTERSECTIONS PROJECT, CIP 72111 AND CIP 72115, WITH A NOT TO EXCEED BUDGET OF \$420,000, AND AUTHORIZE THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO THE CONTINGENCY AMOUNT OF \$27,000, IF NEEDED -
Resolution 2019-234 awarded the Construction Contract with St. Francis Electric, LLC.
 - 1.D ESTABLISH A NEW CIP (78183) FOR CITY WIDE BIKEWAYS MAINTENANCE AND AUTHORIZE AN APPROPRIATION OF \$75,000 FROM TRANSPORTATION DEVELOPMENT ACT (TDA) FUND (F241) -
Resolution 2019-235 established a new CIP (78183) for City wide bikeways maintenance.
 - 1.F WAIVE SECOND READING AND ADOPT ORDINANCE 1278, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3196 OF CHAPTER 10.08 "ZONING REGULATIONS" OF TITLE 10 "PLANNING AND ZONING" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LAND USE RESTRICTIONS ON COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY -
Ordinance 1278 was adopted

1.A APPROVE AMENDED OCTOBER 1, 2019 REGULAR MEETING MINUTES AND NOVEMBER 5, 2019 SPECIAL MEETING MINUTES

Council Member Arriola pulled the item to make a motion to add the following sentence to the amended language in the October 1, 2019, minutes:
Given staff's responses, none of the required findings in order to disapprove the project were found and a motion was introduced by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt a resolution approving the project.

Council Member Ransom concurred with the added language.

City Council comments continued.

ACTION: Motion was made Mayor Pro Tem Young and seconded by Council Member Arriola to adopt the amended October 1, 2019 minutes with the inclusion of the language suggested by Council Member Arriola, and adopt November 5, 2019, Special meeting minutes. Roll call found Council Members Arriola, Ransom, Vargas, and Mayor Pro Tem Young in favor. Mayor Rickman abstained.

1.E WAIVE SECOND READING AND ADOPT ORDINANCE 1277, AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADE" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

Zach Drivon pulled the item and provided information regarding Medallion Wellness, and supported the ordinance.

No one from City Council wished to speak.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt **Ordinance 1277**, an ordinance of the City of Tracy amending Chapter 6.36 of Title "Businesses, Professions, and Trades" of the Tracy Municipal Code to establish local regulations for commercial cannabis. Roll call found all in favor; passed and so ordered.

Council Member Ransom requested that item 3.K be heard before item 3.A.

2. ITEMS FROM THE AUDIENCE – None

3. REGULAR AGENDA

DEVIATION

3.K CONSIDER URGENCY ORDINANCE TO PROVIDE TENANTS WITH JUST CAUSE EVICTION PROTECTION AND INTERIM RENT STABILIZATION UNTIL ASSEMBLY BILL 1482 TAKES EFFECT ON JANUARY 1, 2020

Leticia Ramirez, City Attorney provided the staff report.

Michael Hayes shared his concerns regarding receiving a 60 day eviction notice.

Mr. Diaz thanked Council for putting the urgency ordinance on the agenda and urged Council to support the ordinance.

Hannah Kemp shared her experience regarding an eviction notice she received, and urged Council to pass the temporary protection.

Robert Tanner asked if the ordinance passes today, can it be retroactive.

Melinda Ramirez, Tracy Community Connection Center spoke about families that need help with rent, and added the ordinance will make a difference to people.

Mary Mitracos stated AB1482 is a bad law and requested Council take into account what they would be doing to landlords who are caught in something they have no control over.

Dave Konesky agreed with Ms. Mitracos's comments and shared his concerns regarding the effects of AB1482 on landlords.

City Council questions and discussion followed.

ACTION: Motion was made by Council Member Arriola to adopt the urgency ordinance with the removal of Council Member Ransom's proposal (subsection (d)(1) of Section 3 of the ordinance) plus language for retroactivity to parallel the relevant language of Assembly Bill 1482. Council Member Vargas seconded the motion.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance as stated by Council Member Arriola.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to waive the reading of the full text and adopt the proposed ordinance. Roll call found Council Members Arriola, Vargas and Mayor Rickman in favor. Council Member Ransom and Mayor Pro Tem Young opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Council Member Ransom to adopt the proposed urgency ordinance as drafted by the City Attorney with the removal of Council Member Ransom's amendment (exception for landlords). Council Member Arriola seconded the motion.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance as stated by Council Member Ransom.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the text and adopt the proposed ordinance as stated by Council Member Ransom. Roll call found Council Members Arriola, Ransom and Mayor Pro Tem Young in favor. Council Member Vargas and

Mayor Rickman opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Mayor Pro Tem Young to adopt the proposed urgency ordinance based on what the legislature has proposed for AB1482 as of today with all the provisions as it is with an additional amendment to include retroactivity from October 8, 2019 to December 3, 2019 for the just cause clause. Motion was seconded by Council Member Arriola.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrianne Richardson, City Clerk read the title of the urgency ordinance as stated by Mayor Pro Tem Young.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to waive the full text and adopt the proposed ordinance. Roll call found Council Members Arriola, Ransom and Mayor Pro Tem Young in favor. Council Member Vargas and Mayor Rickman opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Mayor Rickman to make AB1482 effective December 4, 2019 as written by the California State Legislature. Motion was seconded by Council Member Arriola.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrianne Richardson, City Clerk read the title of the proposed urgency ordinance as stated by Mayor Rickman.

City Council discussion continued.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to waive the reading of the text and adopt proposed **Urgency Ordinance 1279** as stated by Mayor Rickman. Roll call found Council Members Arriola, Ransom, Vargas and Mayor Rickman in favor. Mayor Pro Tem Young opposed. Motion carried: 4.1.

Mayor Rickman called for a recess at 8:57 p.m.

Mayor Rickman reconvened the meeting at 9:05 p.m.

3.A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PERMITTED USES IN THE GENERAL HIGHWAY COMMERCIAL ZONE OF THE RESIDENTIAL AREAS SPECIFIC PLAN (SPA19-0003) AND A DEVELOPMENT REVIEW PERMIT FOR AN ASSISTED LIVING AND MEMORY CARE FACILITY (D19-0019) ON APPROXIMATELY 2.73 ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW

ROAD AND ALEGRE DRIVE (2050 W. GRANT LINE ROAD) – THE APPLICANT IS SUMMIT SENIOR LIFE, LLC..

Alan Bell, Senior Planner provided the staff report.

Mayor Rickman opened the public hearing.

Robert Ashin, Vice President, Summit Senior Life, Inc., thanked Council for the proposal opportunity and provided information regarding the project.

Mayor Rickman closed the public hearing.

City Council comments followed.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-236** approving an amendment to the Residential Areas Specific Plan – Permitted Uses within the General Highway Commercial Zone – Section 4.1.2.2. The Applicant is Summit Senior Living. Application number SPA19-0003. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-237** approving Development Review Application Number D19-0019 for Tracy Assisted Living and Memory Care located on approximately 2.73 acres at the northwest corner of Corral Hollow Road and Alegre Drive, (2050 W. Grant Line Road, Assessor's Parcel Numbers 238-190-25 and 26). Roll call found all in favor; passed and so ordered.

3.B INTRODUCE AN ORDINANCE AMENDING CHAPTER 11.12 "UNIFORM BILLING, COLLECTION AND DELINQUENCY PROCEDURES FOR CITY SERVICES" AND ADOPT RESOLUTION ESTABLISHING POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT TO IMPLEMENT SENATE BILL 998

Guadalupe Peña, Accountant provided the staff report.

No one from the audience wished to speak.

City Council questions and comments followed.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to waive the reading of the full text and introduce **Ordinance 1280** an ordinance of the City of Tracy amending Chapter 11.12 of the Tracy Municipal Code relating to uniform billing Collection and delinquency procedures of City services. Roll call found Council all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-238** establishing a policy on Discontinuation of

Residential Water Service for nonpayment. Roll call found all in favor; passed and so ordered

3.C CONDUCT A HEARING TO APPROVE A SALES TAX AGREEMENT WITH HOME DEPOT U.S.A., INC. AS PART OF THE CITY'S OFFICE/INDUSTRIAL INCENTIVE PROGRAM

Barbara Harb, Economic Development Management Analyst provided the staff report.

Mayor Rickman opened the public hearing.

Robert Tanner asked if an agreement is not approved, will the City get sales tax. Mr. Tanner disagreed with having the two 20 year renewal option.

Mayor Rickman closed the public hearing.

Jacob Williams, Home Depot responded to questions from City Council.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to adopt **Resolution 2019-239** approving a Sales Tax Agreement by and between the City of Tracy and Home Depot U.S.A., Inc. Roll call found all in favor; passed and so ordered

3.D RECEIVE PRESENTATION BY VERIZON WIRELESS ABOUT SMALL WIRELESS FACILITIES AND 5G WIRELESS TECHNOLOGY

Andrew Malik, Assistant City Manager provided the staff report and introduced Cris Villegas from Verizon who provided a powerpoint presentation.

Abdul Wahid stated the 5G technology does not benefit the City, adding there are better options.

City Council questions and comments followed.

Mr. Villegas responded to City Council questions.

City Council accepted the presentation by Verizon Wireless about small wireless facilities and 5G wireless technology.

3.E ADOPT COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

Leticia Ramirez, City Attorney provided the staff report.

No one from the public wished to speak.

City Council discussion ensued.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to adopt **Resolution 2019-240** approving Council Meeting Protocols and Rules of Procedure and rescinding Resolution 2015-052. Roll call found all in favor; passed and so ordered.

The amendments below will be included in the Protocols and Rules of Procedure.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Rickman to amend Section 4.3.1 – Replace language *encourage* to *shall*. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to amend Section 6.1 – Replace language *purview* with *scope of influence*. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to amend Section 4.3.1 – Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items and Comments". A time sensitive item may be requested by contacting the City Manager, or their designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. In the interest of transparency and Brown Act compliance, Council is encouraged to limit discussions outside of Council meetings about requests to support agenda items to a maximum of two Council Members. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor. Council Member Vargas opposed.

ACTION: Motion was made by Mayor Rickman to adopt Robert's Rule of Order - 11th Addition - Rules Governing Debate - Maximum time for each speech: In a non legislative body or organization that has no special rule relating to length of speeches to a member having obtained the floor while a debatable motion is immediately pending can speak no longer than 10 minutes unless he or she obtains the consent of the Council, such permission can be given by unanimous consent or by means of a motion to extend the limits of debate which requires two-thirds vote without a debate. Council Member Vargas seconded the motion. Roll call found Council Member Vargas and Mayor Rickman in favor. Council Members Arriola, Ransom and Mayor Pro Tem Young opposed. Motion failed.

ACTION: Motion was made by Council Ransom and seconded by Mayor Pro Tem Young to amend Section 4.3.1.1 to read: In the event of a time sensitive matter request, the City Manager shall notify the rest of the Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations. Roll call found all in favor; passed and so ordered.

Ms. Ramirez confirmed Council's desire for training on Rosenberg's Rules of Order, and will schedule the training with a parliamentarian.

3.F DISCUSS COUNCIL VACANCY POLICY AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney provided the staff report.

Robert Tanner encouraged Council to amend the vacancy policy to include the appointment of the third highest vote getter to the vacant seat.

City Council questions and discussion followed.

ACTION: Motion was made by Council Member Arriola to adopt a Council Vacancy Policy in which the next highest vote-getter is appointed by the Council to fill a seat and if a vacancy opens after one year to continue with the current appointment process, however if a voter petition consisting of 10% of registered voters to then do a special election under any circumstance.

ACTION: Council Member Arriola amended his motion to adopt a vacancy protocol to appoint the next highest vote-getter to fill a council vacancy created during the first year of the position's term. A vacancy created after the first year of the position's term would be filled through the current appointment selection process, which includes an interview process before Council. Council Member Vargas seconded the motion. Roll call vote found all in favor; passed and so ordered.

3.G RECEIVE INFORMATIONAL REPORT ON THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

Don Scholl, Public Works Director and Robin Kloepper, Management Analyst provided the staff report.

City Council comments and questions followed.

It was City Council's consensus to accept the report.

3.H DISCUSS POTENTIAL ORDINANCE REGULATING THE SALE OF E-CIGARETTES/VAPING AND/OR THE SALE OF FLAVORED TOBACCO AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney provided the staff report.

Robert Tanner suggested that Council should take the lead in the County and ban e-cigarettes altogether.

City Council questions and discussion followed.

It was Council's consensus to ban flavored tobacco, and restrict tobacco retailers from locating within 600 feet of sensitive youth uses. Staff to come back with penalties that include administrative citations, infractions, and criminal penalties for Council consideration, and suggested language to include a six month delay from adoption to effective date to give retailers an opportunity to comply with the prohibition.

At 12:20 a.m. Mayor Rickman asked City Council if they wished to proceed or table the remaining agenda items due to the late hour.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to table agenda items 3.I and 3.J to the next agenda. Roll call found all in favor; passed and so ordered.

3.I PROVIDE DIRECTION ON FY 2019/20 STRATEGIC PRIORITIES AND APPROVE COUNCIL WORKSHOP REPORT AS OCTOBER 2, 2019 SPECIAL MEETING MINUTES – **Item tabled to December 17, 2019 meeting.**

3.J CONSIDER AN ORDINANCE AMENDING THE COMPENSATION FOR THE COUNCIL AND MAYOR IN ACCORDANCE WITH STATE LAW – **Item tabled to the December 17, 2019 meeting.**

4. ITEMS FROM THE AUDIENCE – None

5. STAFF ITEMS – Jenny Haruyama, City Manager reported on her attendance at the League of California Cities Expo at Long Beach on October 16 through 18, 2019 and the International City/County Managers Association - ICMA in Nashville, Tennessee on October 20 through 23, 2019.

6. COUNCIL ITEMS

Council Member Arriola announced he is partnering with the office of the District Attorney, office of Senator Galgiani, Tracy Crime Stoppers, and the Southside Community Organization to host a town hall meeting on December 10, 2019, at 6:00 p.m. at Monte Vista, to discuss neighborhood safety.

Mayor Rickman announced the downtown Christmas parade on December 7, 2019 at 6:00 p.m.

7. ADJOURNMENT – Time: 12:24 a.m., December 4, 2019.

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

The above agenda was posted at the Tracy City Hall on November 27, 2019. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

APPROVE AMENDMENT 1 TO THE LICENSE AGREEMENT WITH JAMES McDERMOTT POST NO. 172, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA

EXECUTIVE SUMMARY

The City of Tracy and James McDermott Post No. 172, American Legion entered into a License Agreement on January 15, 2019, which included a budget allocation to repair the on site parking lot at the Legion by December 31, 2019. The City and Legion have agreed to include this parking lot project with an existing CIP for street overlay and slurry seal, to be completed in 2020, which requires an amendment to the Agreement to extend the completion deadline to December 31, 2020.

DISCUSSION

The City of Tracy and James McDermott Post No. 172, American Legion entered into a License Agreement (Agreement) for a non-exclusive license for the joint use of approximately 51 parking spaces located on adjacent City and Legion property. As part of the Agreement, the City Council approved an allocation of \$30,000 in the 2019-2020 budget for the City to repair, slurry seal, and stripe the parking lot located at 1960 N. Tracy Blvd., Tracy, CA, to be completed by December 31, 2019.

Upon review of the parking lot project, City Engineering staff identified a significant cost savings by including it as part of an existing CIP, the Street Overlay and Slurry Seal Project – 2018-2019 Phase 2 (CIP 73166, 78182). Project construction is scheduled to begin in early 2020, after the construction deadline set forth in the Agreement.

The City and Legion have agreed to amend the Agreement to extend the parking lot completion date to December 31, 2020, in order to include the parking lot project with the aforementioned CIP project.

STRATEGIC PLAN

This item supports Quality of Life, Goal 1, “Address City amenities and facility usage with an emphasis on accessibility, streamlined services, and cost recovery,” in the City Council Strategic Priorities 2017-2019.

FISCAL IMPACT

There is no additional impact to the general fund. Project funds in the amount of \$30,000 have already been allocated to CIP 78182.

RECOMMENDATION

That City Council, by resolution, approve Amendment 1 to the License Agreement with James McDermott Post No, 172, The American Legion, Department of California.

Prepared by: Christine Mabry, Management Analyst

Reviewed by: Thien Nguyen, Recreation Services Supervisor
Brian MacDonald, Parks & Recreation Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Amendment 1 to License Agreement with American Legion

Attachment B - License Agreement with American Legion dated January 31, 2019

**CITY OF TRACY
AMENDMENT NO. 1
TO THE LICENSE AGREEMENT WITH JAMES McDERMOTT POST NO. 172, THE
AMERICAN LEGION, DEPARTMENT OF CALIFORNIA**

This Amendment No. 1 (**Amendment**) to the License Agreement is entered into between the City of Tracy, a municipal corporation (**City**), and James McDermott Post No. 172, The American Legion, Department of California (**Licensee**). City and Licensee are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A.** The City and Licensee entered into a License Agreement (**Agreement**) for a non-exclusive license for the joint use of approximately 51 parking spaces located on City and licensed property, and as part of the Agreement, the City Council approved an allocation of \$30,000 during the 2019-2020 budget augmentation process for parking lot repair, slurry seal, and striping provided by the City on January 15, 2019, under Resolution No. 2019-005.
- B.** The City and Licensee have agreed to modify the timeline of the parking lot repair, slurry seal and striping project in order to include it as part of the City's Street Overlay and Slurry Seal Project – 2018-2019 Phase 2 (CIP 73166, 78182).
- C.** This Amendment is being executed pursuant to Resolution No. 19-_____ approved by Tracy City Council on December 17, 2019.

Now therefore, the Parties mutually agree as follows:

1. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.

2. Terms of Amendment.

- A.** Section 6.a.2.ii is hereby amended to read as follows:

"Repair section of asphalt in northwest area of parking lot as designated by City engineering staff (Exhibit C); then, slurry seal and restripe entire parking lot as part of the City's Street Overlay and Slurry Seal Project – 2018-2019 Phase 2 (CIP 73166, 78182), with an expected completion date by December 31, 2020."

3. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

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

5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment.

This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

City of Tracy

James McDermott Post No. 172, The
American Legion, Department of California, a
California nonprofit corporation

By: _____
Robert Rickman, Mayor

By: Vaughn Gates
Vaughn Gates, Commander

Date: _____

Date: 11-13-19

Attest:

By: _____
Adrienne Richardson, City Clerk

By: Wes Huffman
Wes Huffman, Finance Officer

Date: 11-13-19

Approved as to form

City Business License #06003093

By: _____
Leticia Ramirez, City Attorney

**CITY OF TRACY
LICENSE AGREEMENT
WITH JAMES McDERMOTT POST NO. 172., THE AMERICAN LEGION, DEPARTMENT OF
CALIFORNIA**

This License Agreement (hereafter "Agreement") is entered into between the City of Tracy ("CITY") a California Municipal Corporation, and James McDermott Post No. 172, The American Legion, Department of California ("LICENSEE"), a California Domestic Non-profit Corporation, effective on the date of its execution by both parties.

RECITALS

- a. CITY and LICENSEE entered into a License Agreement for the use of a portion of Tracy Ball Park in exchange for constructing, reconstructing, and maintaining parking spaces thereon, approved by the Tracy City Council on November 20, 1991, under Resolution No. 91-097.
- b. Pursuant to the November 20, 1991 License Agreement, CITY and LICENSEE each obtained non-exclusive license to use the parking spaces on the subject CITY property and LICENSEE property for a term of 25 years.
- c. CITY and LICENSEE desire to enter into this Agreement to allow LICENSEE to continue with a non-exclusive license for the joint use of the approximately 51 parking spaces, subject to the hours for exclusive and non-exclusive use set forth below in item 6.
- d. CITY has duly scheduled a public hearing and has adopted a resolution of discontinuance of park use on the licensed property for the duration of this agreement, terminating on December 31, 2023.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **RECITALS TRUE AND CORRECT.** CITY and LICENSEE hereby agree that the recitals set forth above are true and correct.
2. **LICENSE TERM.** The term of this Agreement shall begin on January 15, 2019, and terminate on December 31, 2023, unless otherwise terminated by either party in advance, per Section 9 of this Agreement. City, at the sole discretion of the City Manager, may extend this Agreement for one, additional five-year term.
3. **DESCRIPTION OF LICENSED PROPERTY.** The following described parcel of land called "licensed property" is a minor portion of the Tracy Ball Park (Exhibits A & B: City Property/ "Licensed Property").

A parcel of property located in the City of Tracy, County of San Joaquin, State of California, more particularly described as follows:

A portion of Lot 191 in PARKER VILLAS NO. 3 and a portion of Lot 72 of PARKER ACRES, City of Tracy, situated in the Northwest one-quarter of Section 21, Township 2 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

BEGINNING at the Southeast corner of Parcel "A" as labeled in Exhibit A; thence North 0°01' East, along the East line of said Parcel "A", 143.50 feet to the Northeast corner of said Parcel "A"; thence South 89°53' East, along the Easterly extension of the North line of said Parcel "A", 74.00 feet to a point; thence South 0°1' West, parallel to the East line of said Parcel "A", 1143.50 feet to a point of the Easterly extension of the South line of said Parcel "A"; thence North 89°53' West, along the Easterly extension of the South line of said Parcel "A", 74.00 feet to a point of beginning.

Containing 0.24 acre, more or less.

4. **LICENSE PAYMENT AMOUNT.** The value of the CITY's non-exclusive use of 51 parking spaces provided by LICENSEE is equal or greater to the value of the use of said minor portion of the Tracy Ball Park for the LICENSE TERM, as stated in section 2.
5. **INSURANCE.** LICENSEE, at its sole expense, shall maintain in full force and effect throughout the term of this Agreement the following insurance, and evidence of said insurance shall be provided through a certificate of insurance presented to the CITY.
 - a. **Commercial General Liability Insurance** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage. CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an "additional insured."
6. **MAINTENANCE AND CARE OF LICENSED PROPERTY.** It is agreed by and between the parties hereto that:

The subject property shall be used by either party for non-exclusive, joint parking, excepting the following:

The parties agree that during the months of July to November, on weeknights, Monday through Friday, between the hours of 5:00 pm and 9:00 pm, parking spaces 29 to 51 shall be for the exclusive use and under the control of the Legion. Parking spaces 1 to 28 shall be exclusively under the control of City and subject to the City park ordinance. (Exhibits A & B).

The parties furthermore agree that for up to five (5) pre-designated dates per calendar year, LICENSEE may close the parking lot for exclusive Legion use. The parties shall agree upon the dates in writing.

It is furthermore agreed by and between the parties hereto that each party has the following responsibilities:

- a. **CITY shall:**

1. During permitted use of the Tracy Ball Park, City shall coordinate use of licensed property by LICENSEE and permitted park user group by:
 - i. Providing parking and behavior expectations in writing to permitted park user group for distribution to its members;
 - ii. Providing a schedule of events held at the American Legion building to permitted park user group;
 - iii. Providing one City staff person on site up to the first two weeks of park user group permit to coordinate with LICENSEE and permitted park user group to: maintain safe traffic flow and parking in marked spaces; clean up litter and debris; and refer any and all procedural non-compliance to the user group's Board of Directors for immediate follow up and correction;
 - iv. Facilitating communication between LICENSEE and permitted user group;
 - v. Providing City traffic safety equipment, such as delineators, for the purposes of routing parking lot traffic flow during park user permitted dates and times;
 - vi. Providing City staff and equipment to assist LICENSEE to close parking lot on up to five (5), pre-designated dates per calendar year, agreed upon by both parties in writing, for exclusive Legion use.
2. Maintain property as follows:
 - i. Repair and maintain approximately 290 linear feet of fencing located on the north, east, and south perimeter of parking lot and gate located within north perimeter fencing on licensed property (Exhibits A & B);
 - ii. Repair section of asphalt in northwest area of parking lot as designated by City engineering staff (Exhibit C); then, slurry seal and restripe entire parking lot, to be completed by December 31, 2019.
 - iii. Provide monthly street sweeping, by City street sweeping contractor, of licensed property and LICENSEE property and emergency call out street sweeping on an as-needed basis;
 - iv. Maintain and replace concrete car stop blocks as needed on licensed property;

b. LICENSEE shall:

1. Provide and maintain ADA parking spaces on licensed property, as required for the parking lot.

2. Maintain and replace concrete car stop blocks as needed on LICENSEE property.
3. Maintain property as follows:
 - i. Daily litter and debris cleanup of licensed and LICENSEE property;
 - ii. Monthly street sweeping prep on licensed and LICENSEE property, by blowing dirt and debris to the center of the parking lot on published and scheduled street sweeping days;
 - iii. Weed control, manually or by state-qualified applicator;
 - iv. Maintenance of paint striping on licensed and LICENSEE property.
7. **INDEMNIFICATION.** LICENSEE shall defend, indemnify, save and hold harmless CITY, its officers, agents, volunteers and employees, from any claims or lawsuits arising out of injury to, or death of, any person or damage to any property caused by or alleged to have been caused by any negligent act or omission of LICENSEE, in carrying out the terms of this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of CITY.
8. **ACCESS TO LICENSED PROPERTY.** CITY, its officers, agents, employees, volunteers, assignees, and lessees or subcontractors, shall have the right to enter on to LICENSEE's property for the purposes of accessing licensed property and to perform necessary maintenance and repairs.
9. **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing at least ninety (90) days' advance written notice.
10. **UTILITIES.** LICENSEE has no right, nor shall the CITY provide such right, to any use of CITY utilities as a part of this Agreement.
11. **TIME OF PERFORMANCE.** Time is of the essence in the performance of this Agreement and the parties shall strictly adhere to the timing requirements set forth herein.
12. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
13. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
14. **SEVERABILITY.** In the event any term of this Agreement is held invalid by a court of competent jurisdiction, this Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.

- 15. JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of this 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.
- 16. ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between the parties concerning the license of the premises. This Agreement supersedes all prior negotiations, representations, or agreements.
- 17. NOTICES.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To CITY:

Parks & Recreation Director
333 Civic Center Plaza
Tracy, CA 95376

To LICENSEE:

Commander
American Legion, James McDermott Post No. 172
P.O. Box 156
Tracy, CA 95378

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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 after the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

- 18. 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 LICENSEE and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

*** This section left intentionally blank. ***

CITY OF TRACY

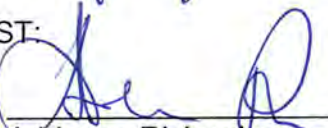
By: 

Randall Bradley

Title: City Manager

Date: 1/31/19

ATTEST:

By: 

Adrienne Richardson

Title: City Clerk

Date: 1/31/2019

APPROVED AS TO FORM:

By:  for

Thomas Watson

Title: City Attorney

Date: 1-23-2019

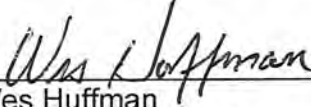
LICENSEE

By: 

Vaughn Gates

Title: Post Commander

Date: 12-18-18

By: 

Wes Huffman

Title: Finance Officer

Date: 12-18-18

EXHIBITS:

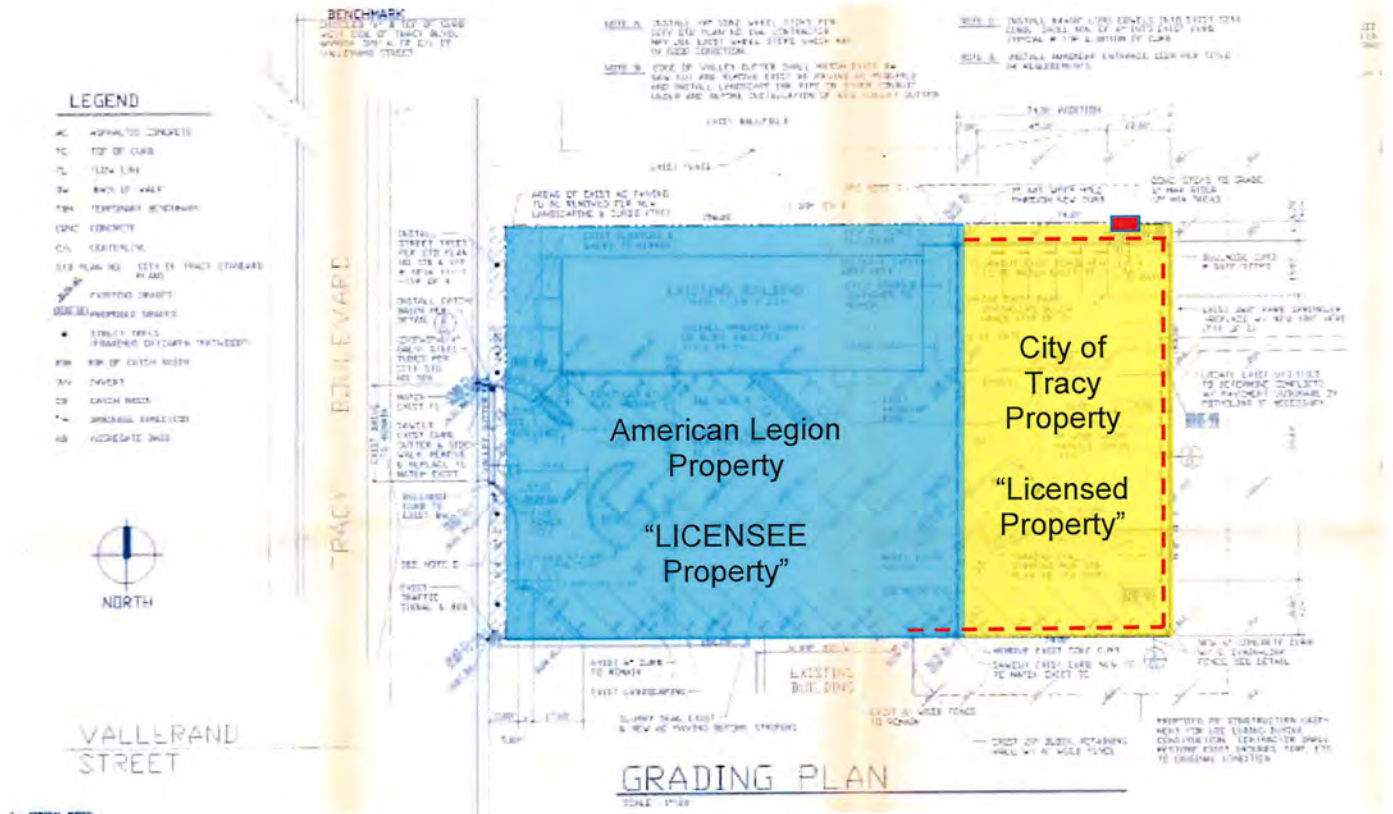
A – Engineer's Drawing of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park

B – Aerial View of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park

C – Engineer's Estimate to Repair, Slurry Seal, and Stripe Parking Lot

Exhibit A

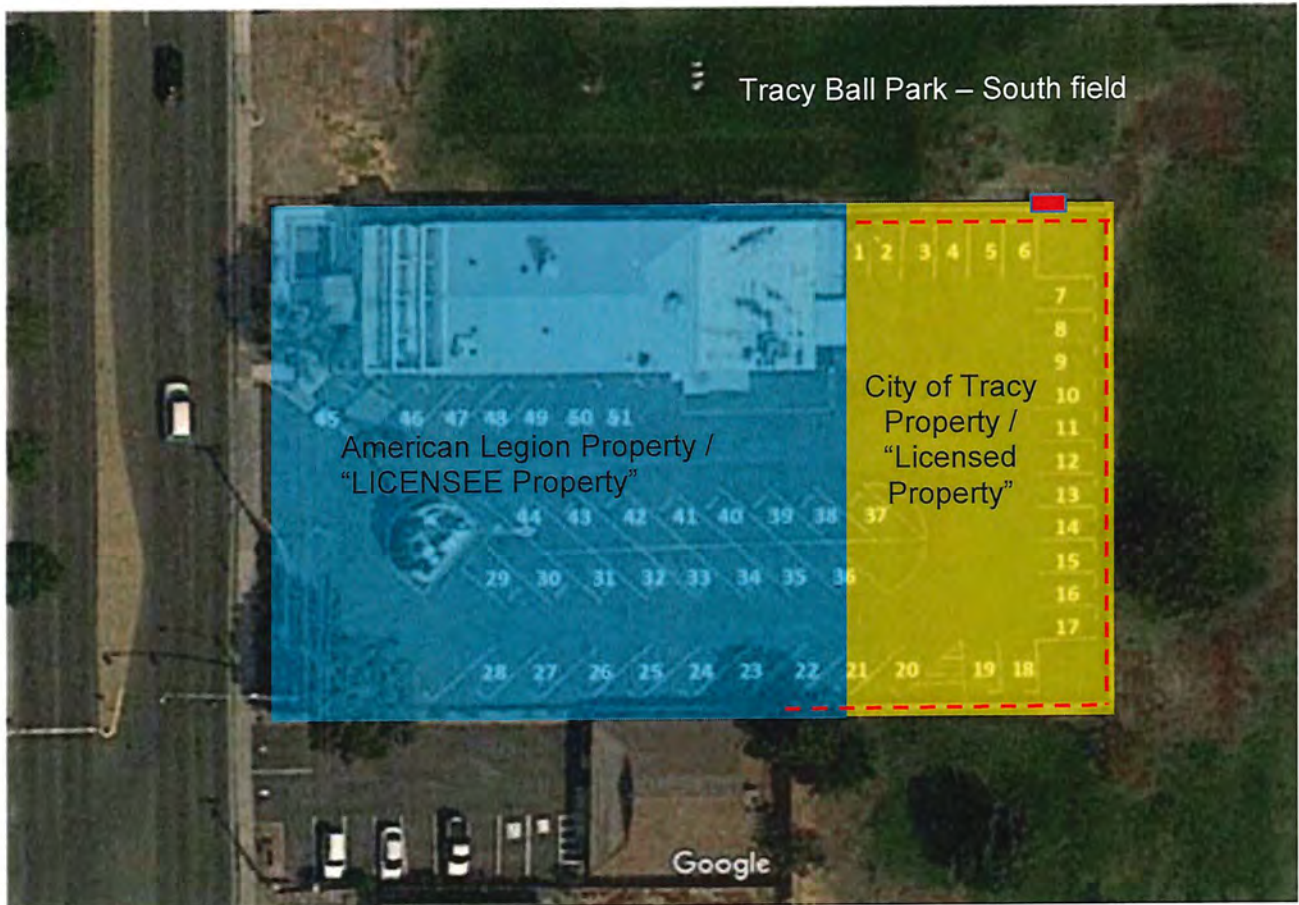
Engineer's Drawing of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park



- = American Legion Property
- = City of Tracy Property / "Parcel A"
- = Perimeter Fence
- = Gate access to Tracy Ball Park @ North Perimeter Fence

Exhibit B

Aerial View of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park



= American Legion Property



= City of Tracy Property / "Parcel A"



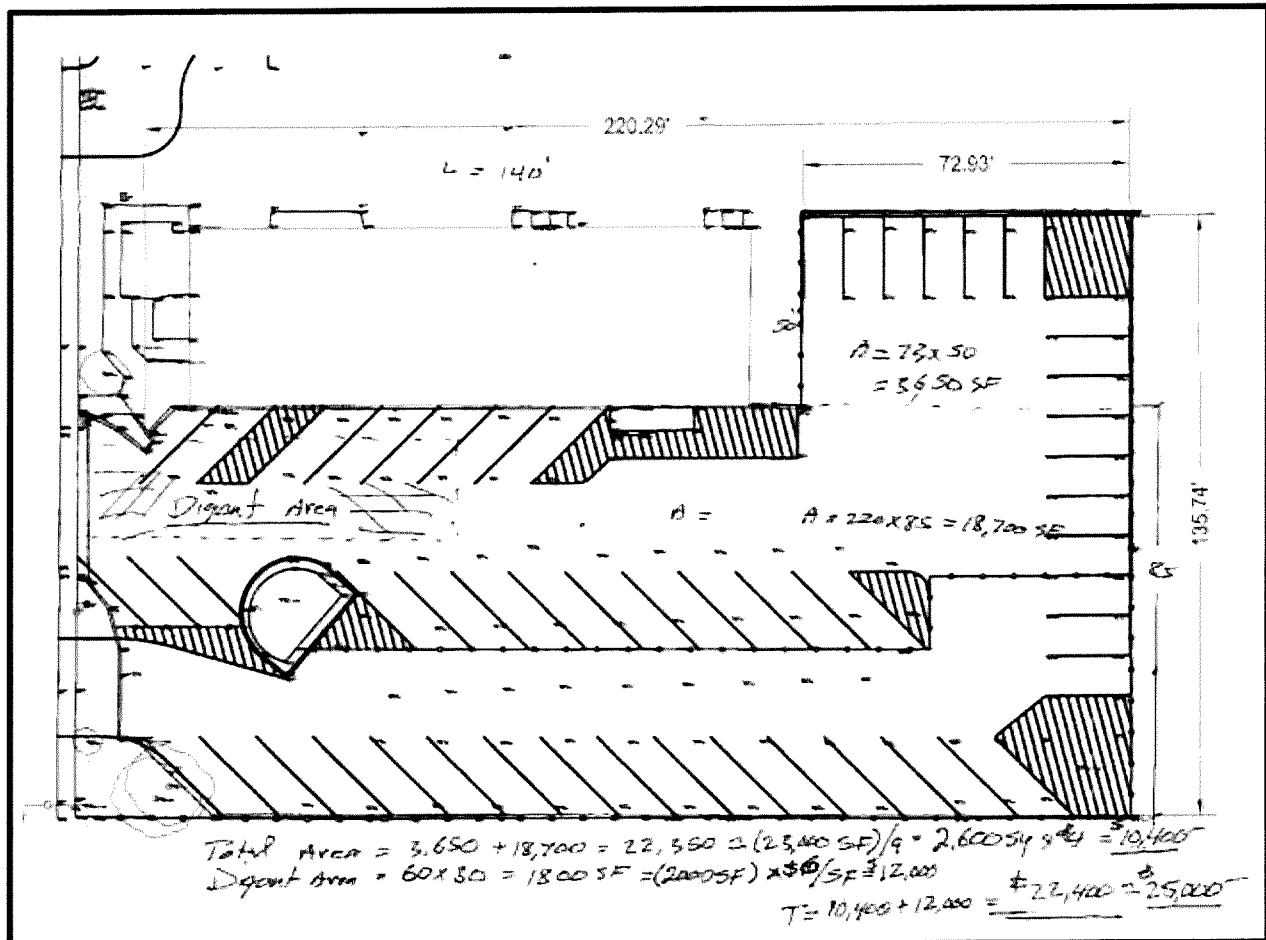
= Perimeter Fence



= Gate access to Tracy Ball Park @ North Perimeter Fence

Exhibit C

Engineer's Estimate to Repair, Slurry Seal, and Stripe Parking Lot





Mercury Casualty Company

Additional Insured/Loss
Payee Copy

AMERICAN LEGION

Effective Date 12/20/2018

Page 1

Amended Declaration Add/Change Certificate Holder

This declaration supersedes any previous declaration bearing the same number for this policy period.

Named Insured: AMERICAN LEGION POST #172; JAMES MCDERMOTT

Mailing Address	Additional Insured/Loss Payee
AMERICAN LEGION POST #172; JAMES MCDERMOTT PO BOX 156 TRACY CA 95378-0156	CITY OF TRACY / COMMUNITY FACILITIES 33 CIVIC CTR PLAZA TRACY TRACY CA 95376

Policy Number	Policy Period From To	Company Name	Producer No.	Producer Phone
CCP0053464	06/08/2018 - 06/08/2019	Mercury Casualty Company	4050	951-674-1531
At 12:01AM Standard Time At Your Mailing Address Shown Above.			O'NEAL, R.W. AGCY, INC	

Business Description: AMERICAN LEGION**Form of Business:** SOCIAL SERVICE CLUBS

TOTAL PROPERTY PREMIUM	\$5,736
TOTAL LIABILITY PREMIUM	\$342
OTHER PREMIUM	\$0
TOTAL PREMIUM	\$6,078

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

Insurance is provided with respect to those premises described herein and with respect to those coverages and kinds of property for which a specific limit of liability is shown, subject to all the terms of this policy including forms and endorsements made a part hereof:

LOCATION OF PREMISES

PREM	BLDG	LOCATION	OCCUPANCY
1	1	1960 N Tracy Blvd - Tracy CA 95376-2423	Not Applicable

SECTION I		PROPERTY COVERAGE				
PREM	BLDG	COVERAGE	LIMIT OF INSURANCE	VALUATION	CO- INSURANCE	DEDUCT- IBLE PREMIUM



Mercury Casualty Company

Additional Insured/Loss Payee Copy

AMERICAN LEGION

Effective Date: 12/20/2018

Page 2

Policy Number: CCP0053464

Insureds Name: AMERICAN LEGION POST #172; JAMES M

1	1	Building	\$1,348,000	Replacement Cost	80%	\$2,500	\$5,422
1	1	Business Personal Property	\$27,000	Replacement Cost	80%	\$2,500	\$108

Automatic Increase - Building Limit 6% and Business Personal Property 4%

ADDITIONAL COVERAGE(S)

PREM	BLDG	COVERAGE	LIMIT OF INSURANCE	DEDUCTIBLE	PREMIUM
1	1	Additional Insured			\$46
1	1	Loss of Earnings	\$10,000		\$46
		33 1/3% each 30 days			
1	1	Loss of Rents	\$25,000		\$114
TOTAL PROPERTY PREMIUM					\$5,736

SECTION II**LIABILITY COVERAGE**

PREM	BLDG	COVERAGE	LIMIT	PREMIUM
		Bodily Injury & Property Damage Liability	\$1,000,000 Per Occurrence/\$2,000,000 Aggregate	\$306
		Combined Single Limits		
		\$250 per Occurrence Deductible for Property Damage Liability		
		Personal & Advertising Injury	\$1,000,000 Per Occurrence/\$2,000,000 Aggregate	
		Products & Completed Operations	\$1,000,000 Per Occurrence/\$2,000,000 Aggregate	
		Medical Expenses	\$5,000 Each Person/\$10,000 Each Accident	
		Additional Coverages:		
		Non-Owned Auto Liability	\$1,000,000	\$36
TOTAL LIABILITY PREMIUM				\$342

Schedule of Forms and Endorsements

It is hereby understood and agreed, in consideration of the premium charged, that the following endorsements are attached to and form part of the aforementioned Policy.

CG2190 0106 Exclusion of Terrorism

IL0030 0106 Exclusion of Terrorism

CG2176 0115 Exclusion of Punitive Damages Related to a Certified Act of Terrorism

IL0953 0115 Exclusion of Certified Acts of Terrorism

CG2173 0115 Exclusion of Certified Acts of Terrorism

CG0001 1207 Commercial General Liability Coverage Form

CG2101 1185 Exclusion - Athletic or Sports Participants

Description of Operations

INCLUDES ALL FUTURE SPONSORSHIPS

CG2147 1207 Employment-Related Practices Exclusion

CG2149 1093 Total Pollution Exclusion Endorsement



Mercury Casualty Company

Additional Insured/Loss Payee Copy

AMERICAN LEGION

Effective Date: 12/20/2018

Page 3

Policy Number: CCP0053464

Insureds Name: AMERICAN LEGION POST #172; JAMES M

CG21671204 Fungi or Bacteria Exclusion
CG2196 0305 Silica or Silica-Related Dust Exc
CP0090 0788 Commercial Property Conditions
CP1030 1012 Causes of Loss Special Form
IL0003 0908 Calculation of Premium
IL0017 1198 Common Policy Conditions
IL0021 0908 Nuclear Energy Liability Exclusion Endorsement
IL0270 0912 California Changes - Cancellation and Nonrenewal
ILN 018 0903 California Fraud Statement
MCCG1 0307 Mercury Casualty Co Empl Non-Owner Auto Liab Ins Endt Schedule
MCC Mold EXC Property 1

PREM BLDG

- 1 1 CP 0010 1012 Building and Personal Property Coverage Form
- 1 1 CP0030 10/12 Business Income (and Extra Expense) Coverage
Each 30 Days
33.33%
- 1 1 X-43 0395 Commercial Property Building Coverage Definition

SCHEDULED ADDITIONAL INSUREDS

PREM BLDG

1 1 CG2026 CITY OF TRACY / COMMUNITY FACILITIES

33 CIVIC CTR PLAZA TRACY
TRACY CA 95376



Mercury Casualty Company

Additional Insured/Loss Payee Copy

AMERICAN LEGION

Effective Date: 12/20/2018

Page 4

Policy Number: CCP0053464

Insureds Name: AMERICAN LEGION POST #172; JAMES MC

FULL POLICY TERM PREMIUM

\$6,078

This policy change has resulted in an additional premium of \$46

CREDITS:

Prem: 1 Bldg: 1 Deductible Credit

Checks or drafts are accepted in payment only if they are honored when first presented.

In Consideration of the Provisions and Stipulations Herein or Added Hereto and of the Premium Above Specified (or specified in endorsement attached hereto), this Company, for the term from inception date shown above (At 12:01 A.M. Standard Time) to expiration date shown above (At 12:01 A.M. Standard Time) at location of property involved, to an amount not exceeding the limit of liability specified, does insure the insured named in the Declarations above and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair; and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all **LOSS BY FIRE, LIGHTNING AND OTHER PERILS INSURED AGAINST IN THIS POLICY INCLUDING REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED** to the property described herein while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided by this policy.

M-1 (6/83)

POLICY NUMBER: CCP0053464

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED-----DESIGNATED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART:

SCHEDULE

Name of Person or Organization

CITY OF TRACY/COMMUNITY FACILITIES

333 CIVIC CENTER PLAZA

TRACY, CA. 95376

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (SECTION II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability out of your operations or premises owned by or rented to you.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER R. W. O'NEAL INSURANCE AGENCY INC. 31736 MISSION TRAIL, SUITE H LAKE ELSINORE, CA. 92530	CONTACT NAME: RICHARD O'NEAL PHONE (A/C, No., Ext): 951-674-1531 E-MAIL: RWONEALINSURANCE@YAHOO.COM FAX (A/C, No): 951-674-5718 ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: MERCURY CASUALTY COMPANY INSURER B: INSURER C: INSURER D: INSURER E: INSURER F: NAIC #
INSURED AMERICAN LEGION POST #172 P.O. BOX 156 TRACY, CA. 95378	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR A GEN'L AGGREGATE LIMIT APPLIES PER ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER: Y		CCP0053464	06/08/2018	06/08/2019	EACH OCCURRENCE \$ 1,000,000. DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000. MED EXP (Any one person) \$ 5,000. PERSONAL & ADV INJURY \$ 1,000,000. GENERAL AGGREGATE \$ 2,000,000. PRODUCTS - COMP/OP AGG \$ 2,000,000. \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTIONS					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A					PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101. Additional Remarks Schedule, may be attached if more space is required)

1960 N TRACY BLVD., TRACY, CA. 95376

CERTIFICATE HOLDER

CANCELLATION

CITY OF TRACY/COMMUNITY FACILITIES
33 CIVIC CENTER PLAZA TRACY,
TRACY, CA. 9537

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Search Businesses

Search By:

Business Name ☒

Value:

legion

Search

[Specify Business Start Date Range \(Optional\)](#)

Account #	Business Name	Start Date	Expire Date	Address	Phone	Website
06003093	AMERICAN LEGION	6/8/2006	6/30/2019	1960 N TRACY BLVD, TRACY, CA 95376-2423	(209) 835-7404	

Total businesses found: 1

RESOLUTION 2019-_____

APPROVING AMENDMENT 1 TO THE LICENSE AGREEMENT WITH JAMES McDERMOTT
POST NO. 172, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA

WHEREAS, The City of Tracy (City) and James McDermott Post No. 172, The American Legion, Department of California (Licensee) entered into a License Agreement (Agreement) which was approved by City Council on January 15, 2019, under Resolution No. 2019-005, and

WHEREAS, The Agreement includes an allocation of funding for the City to repair, slurry seal, and stripe the parking lot located at 1960 North Tracy Boulevard, Tracy, California (Project), to be completed by December 31, 2019, and

WHEREAS, the Project has been added to the City's Street Overlay and Slurry Seal Project – 2018-2019 Phase 2 (CIP 73166, 78182), and

WHEREAS, The City and Licensee have agreed to extend the deadline for completion of the Project, to December 31, 2020;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves Amendment 1 to the License Agreement with James McDermott Post No, 172, The American Legion, Department of California.

* * * * *

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 17th day of December 2019, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

CITY CLERK

AGENDA ITEM 1.C

REQUEST

APPROVE A THIRD EXTENSION TO 1998-1 AMENDMENT TO THE WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS

EXECUTIVE SUMMARY

Leprino Foods has operated pretreatment facilities on City property at the Wastewater Treatment Plant (WWTP) for over 40 years. The initial agreement from 1977 had a term of 20 years and was renewed in 1998 with an agreement referred to as the "1998-1 Amendment" (Agreement). The term of the 1998-1 Amendment was to expire on June 30, 2018, but City Council authorized the First Extension and the Second Extension to the agreement extending the term until December 31, 2019. However, negotiations for the new agreement are still in process and have not concluded. Therefore, staff recommends approval of an extension of the term until March 31, 2020. All other terms of the existing agreements remain unchanged.

DISCUSSION

In 1977, the City and California Cooperative Creamery entered into an agreement for pretreatment of food process wastewater in the City's WWTP. In 1977, this agreement was assigned to Leprino Foods. In 1998, the agreement was modified by amendment to extend the term of the agreement until 2018 (20 years). The 1998-1 Amendment also updated other terms of the agreement. On June 19, 2018, City Council authorized extension of this agreement until June 30, 2019 (Resolution No. 2018-112). Leprino Foods and the City have been negotiating to enter into a new agreement. However, the terms of the agreement have not been finalized. The City and Leprino Foods will continue working diligently to finalize the agreement prior to bringing it for Council's consideration. As a result, staff is recommending a third extension to the existing agreement.

Leprino Foods is the largest discharger to the City's WWTP. Leprino Foods owns and maintains a pipeline from their facility on Grant Line Road to the WWTP. This pipeline is used to convey Leprino food process wastewater directly to aerated lagoons on land leased from the City at the WWTP. Aerated lagoons are used to pre-treat the Leprino food process wastewater before it enters the City's WWTP. Pretreatment is effective for industrial wastes because of the high strength of the wastewater. Pretreatment greatly reduces wastewater strength resulting in reduced wastewater billings from the City. Leprino Foods operates their pretreatment system at no cost to the City. Domestic wastewater from the Leprino Foods facility is discharged into the City wastewater collection system.

STRATEGIC PLAN

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

FISCAL IMPACT

The Wastewater Fund currently receives revenue of \$2,750 per year in rent for the pretreatment facilities.

RECOMMENDATION

That City Council, by resolution, approve the Third Extension to the 1998-1 Amendment to the Wastewater Treatment Discharge Agreement with Leprino Foods.

Prepared by: Steve Bayley, Project Specialist

Reviewed by: Kul Sharma, Utilities Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A: Third Extension to the 1998-1 Amendment to Wastewater Treatment Discharge Agreement

**THIRD EXTENSION TO
1998-1 AMENDMENT TO WASTEWATER TREATMENT
DISCHARGE AGREEMENT**

This Third Extension to 1998-1 Amendment to Wastewater Treatment Discharge Agreement ("Third Extension"), effective as of the 1st day of January, 2020 (the "Effective Date"), is entered into by and between the City of Tracy, a municipal corporation ("City") and Leprino Foods Company, a Colorado corporation ("Leprino"). The City and Leprino may be referred to herein collectively as the "Parties," or individually as a "Party," as the case may be.

RECITALS

A. On or about April 27, 1977, the City entered into a Wastewater Treatment Discharge Agreement with California Cooperative Creamery (the "1977 Agreement") by which, among other things, California Cooperative Creamery agreed to construct a Water Pollution Control Pretreatment Facility ("Pretreatment Facility") on City property, and an 8 inch line from the Pretreatment Facility to the City's wastewater treatment facility (the "Treatment Facility"). In return for this and other consideration, the City agreed, among other things, to lease the City property to California Cooperative Creamery, and to allow California Cooperative Creamery to discharge specified amounts and strengths of wastewater from the Pretreatment Facility to the Treatment Facility.

B. On or about June 1, 1977, California Cooperative Creamery assigned all rights and delegated all duties under the 1977 Agreement to Leprino.

C. On or about June 1, 1998, the Parties entered into the City of Tracy 1998-1 Amendment to Wastewater Treatment Discharge Agreement (the "Amendment"), which amended the 1977 Agreement. Among other things, the Amendment allowed Leprino to use additional City property to construct a supplemental pretreatment facility and discharge additional amounts of wastewater to the Treatment Facility. In exchange therefore, Leprino agreed to pay an additional lease payment to the City and agreed to construct, operate, and maintain the supplemental pretreatment facility.

D. Pursuant to Section 2 of the Amendment, the term thereof was to expire on June 30, 2018. On or about June 19, 2018 the Parties entered into the Extension to the 1998-1 Amendment to Wastewater Treatment Discharge Agreement which modified the term to June 30, 2019. On June 18, 2019 the Parties entered into the Second Extension to the 1998-1 Amendment to the Wastewater Treatment Discharge Agreement which modified the term to December 30, 2019. Accordingly, so that the Parties may negotiate in good faith to reach a new agreement ("New Agreement") regarding Leprino's pretreatment and discharge of wastewater, as well as Leprino's use of City-owned land, the Parties desire to extend the Amendment.

EXTENSION

NOW, THEREFORE, For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by all parties, and further in consideration of the mutual promises and covenants herein, it is agreed by and between the Parties as follows:

1. **Accuracy of Recitals.** The Recitals are hereby incorporated into this Third Extension as express terms and conditions.
2. **Extension of Term.** The term set out in the Amendment shall be extended until March 31, 2020.
3. **New Agreement.** During the time by which this Third Extension modifies the Amendment, the parties agree to negotiate, in good faith, to develop and execute the New Agreement.
4. **Legal effect.** Except as expressly modified by this Third Extension, all of the terms and conditions of the Amendment shall remain unchanged and in full force and effect.
5. **Counterparts.** This Extension may be executed in one or more counterparts. All counterparts so executed shall constitute one Amendment, binding on all Parties, even though all Parties are not signatory to the same counterpart. Facsimiles (including PDFs) of counterparts shall be binding as originals.

IN WITNESS WHEREOF, The Parties execute this Third Extension to 1998-1 Amendment to Wastewater Treatment Discharge Agreement.

City of Tracy	Leprino Foods Company
By:	By: 
<u>Robert Rickman, Mayor</u>	Print Name: <u>Joel H. Krein</u>
Date:	Print Title: <u>VP - TS Operations</u>
ATTEST	Date: <u>11-25-19</u>
By:	
<u>Adrienne Richardson, City Clerk</u>	
APPROVED AS TO FORM	
By:	
<u>Leticia Ramirez</u>	
City Attorney	

RESOLUTION 2019-_____

APPROVING A THIRD EXTENSION TO 1998-1 AMENDMENT TO THE
WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS

WHEREAS, Leprino Foods has operated pretreatment facilities on City property at the Wastewater Treatment Plant (WWTP) for over 40 years, and

WHEREAS, In 1977, the City and California Cooperative Creamery entered into an agreement for pretreatment of food process wastewater in the City's WWTP, and

WHEREAS, In 1977, this agreement was assigned to Leprino Foods, and

WHEREAS, In 1998, the agreement was modified by amendment to extend the term of the agreement until 2018 (20 years), and

WHEREAS, On June 19, 2018, City Council authorized extension of this agreement until June 30, 2019 (Resolution No. 2018-112), and

WHEREAS, On June 18, 2019, City Council authorized a second extension of this agreement until December 31, 2019 (Resolution No. 2019-119), and

WHEREAS, Leprino Foods and the City have been negotiating to enter into an updated agreement, however, more time is needed so that the City and Leprino Foods can continue to work diligently to finalize the agreement, and

WHEREAS, A third extension extending the term of the Agreement until March 31, 2020 is needed, and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a Third Extension to the 1998-1 Amendment to Wastewater Treatment Discharge Agreement with Leprino Foods until March 31, 2020.

* * * * *

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 17th day of December, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

December 17, 2019

AGENDA ITEM 1.D

REQUEST

APPROVE A SECOND EXTENSION TO THE AGREEMENT FOR PROPERTY TAX ALLOCATION UPON ANNEXATION BETWEEN THE COUNTY OF SAN JOAQUIN AND THE CITY OF TRACY

EXECUTIVE SUMMARY

The current property tax allocation agreement between the City of Tracy and San Joaquin County was set to expire on July 31, 2019. City Council authorized a 6-month extension extending the term to January 31, 2020. Negotiations for the new agreement are still in process and have not concluded. Staff recommends extending the term for an additional 60-days, through March 31, 2020 to complete negotiations.

DISCUSSION

In 2004, the City of Tracy and San Joaquin County entered into the current property tax allocation agreement. This property tax sharing agreement is sometimes referred to as the "Master Annexation Agreement." The agreement was renewed in 2012 and was set to expire on July 31, 2019. City Council approved a six-month extension of the agreement, which allowed each agency an opportunity to discuss the agreement and potential changes. The term of this extension expires on January 31, 2020.

The City of Tracy and San Joaquin County have been diligently negotiating to enter into a new agreement; however, the terms of the agreement have not been finalized. As a result, staff is recommending a 60-day extension to the existing agreement to allow continued discussions through March 31, 2020.

STRATEGIC PLAN

This agenda item supports Governance Strategic Goal 2: Ensure continued Fiscal Sustainability through Financial and Budgetary Stewardship.

FISCAL IMPACT

The current tax allocation agreement will be extended for 60-days. Any properties that are annexed into the City and detached from the fire district have an 80/20 split of property tax allocations with San Joaquin County. There is no impact to prior annexed properties' tax allocation apportionment.

RECOMMENDATION

That the City Council, by resolution, approve a 60-day extension to the Agreement for Property Tax Allocation Upon Annexation between the County of San Joaquin and the City of Tracy.

Prepared by: Karin Schnaider, Finance Director

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENT

Attachment A - Master Annexation Agreement between the County of San Joaquin and the City of Tracy

County of San Joaquin & City of _____
Agreement for Property Tax Allocation upon Annexation
A-19-_____

AGREEMENT entered into this ____ day of _____, 2019 by and between the City of Tracy, hereinafter referred to as "CITY" and the County of San Joaquin, hereinafter referred to as "COUNTY";

PREAMBLE:

CITY and COUNTY acknowledge that both CITY and COUNTY have increasing service responsibilities with restrained revenue resources. There is no consensus between CITY and COUNTY regarding the analysis of local government funding issues arising from annexations. CITY and COUNTY each have their own distinctive and differing perspectives on costs and revenues generated by annexed areas. However, there is a statutory requirement for a Property Tax Allocation Agreement for the Local Agency Formation Commission to annex land.

WITNESSETH:

WHEREAS, Article 13A, Section 1 of the Constitution of the State of California limits ad valorem taxes on real property to one percent (1%) of full cash value; and

WHEREAS, Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code (Sections 95 et. seq.) provides for the allocation of property tax revenues; and

WHEREAS, CITY and COUNTY must have an agreement for the allocation of property tax revenues upon annexation.

NOW, THEREFORE, in consideration of the premises and the following terms and conditions, the parties hereto agree as follows:

1. DEFINITIONS. The words and phrases in this Agreement shall have meanings as set forth below:
 - A. "Annexation Property Tax Base" shall mean the Base Year sum of the ad valorem tax allocated to Detaching Special Districts, as defined herein, and to COUNTY within the area being annexed.
 - B. "Detaching Special Districts" shall mean those political subdivisions organized pursuant to the laws of the State of California whose functions within the area being annexed are terminated and/or assumed by CITY.
 - C. "Detachment" shall mean the removal from a special district of any portion of the territory of that special district.

- D. "Base Year" shall mean the assessed valuation applicable to the property and improvements within the area being annexed at the time the application for annexation is submitted to the Local Agency Formation Commission (LAFCo).
 - E. "Incremental Growth" shall mean the total increase or decrease in the property tax base over the base year within the annexed area.
2. PROPERTY TAX ALLOCATION.
- Upon each annexation, property tax allocation shall be determined pursuant to one of the following provisions:
- A. For annexations that involve Detachment from a fire district, CITY and COUNTY shall, upon each annexation that in whole or in part, involves Detachment from a fire district, share in the Annexation Property Tax Base and all Incremental Growth thereof pursuant to the ratio of 20% CITY and 80% COUNTY for all portions of the annexation that involve Detachment from a fire district.
 - B. For annexations that do not involve Detachment from a fire district, CITY and COUNTY shall, upon each annexation that in whole or in part, does not involve Detachment from a fire district, share in the Annexation Property Tax Base and Incremental Growth thereof, for all portions of the annexation that do not involve Detachment from a fire district, as follows:
 - i. Consolidated fire districts established prior to June 15, 1996, pursuant to the ratio of 20% CITY and 80% COUNTY.
 - ii. Consolidated fire districts established between June 15, 1996 and June 15, 2003, pursuant to the ratio of 15% CITY and 85% COUNTY.
 - iii. Consolidated fire districts established subsequent to June 15, 2003, pursuant to the ratio of 10% CITY and 90% COUNTY.
 - C. For annexations by the cities of Escalon and Ripon only, notwithstanding Subsections 2A and 2B, CITY and COUNTY shall, upon each annexation, share in the Annexation Property Tax Base and all Incremental Growth thereof pursuant to the ratio of 36.6% CITY and 63.4% COUNTY, until such time as the current population of CITY, based on the most recent estimates published by the California State Department of Finance, exceeds 18,000.
 - D. For the City of Tracy 2003 Gateway annexation only, CITY and COUNTY, from the date of this agreement forward, shall share in the Annexation Property Tax Base and all Incremental Growth thereof pursuant to the ratio of 15% CITY and 85% COUNTY.
3. APPLICATION OF AGREEMENT.
- A. Term. The provisions of this Agreement shall apply to all pending and future annexations from the effective date of this Agreement through January 31, 2020, unless otherwise terminated under Section 10.

- B. Effective date. The effective date of property tax allocation for each annexation shall be determined in accordance with Government Code Section 54902 and any succeeding statutory provisions. Currently, statements of boundary change must be filed with the State Board of Equalization on or before December 1 of the year immediately preceding the year in which property taxes are to be shared.
 - C. Future property taxes. The provisions of this Agreement would also apply to any property exempt from ad valorem taxes which subsequently became taxable within the area to be annexed.
 - D. Terms of subsequent agreements. Except as noted in Section 2, property tax share allocated to CITY from future annexation areas will be no lower than any other city in San Joaquin County with the same criteria.
4. JOINT REVIEW.
- CITY and COUNTY may jointly review COUNTY property tax records from time to time or as requested by CITY to verify accurate distribution under the Agreement.
5. EXCLUSIONS.
- A. The Agreement shall not apply to proposed annexation areas where the COUNTY is currently receiving transient occupancy tax (TOT) revenues. Annexation agreements for areas where the COUNTY is currently receiving TOT revenues will be individually negotiated between the COUNTY and CITY to address the potential TOT loss to the COUNTY.
 - B. The Agreement shall not apply to proposed annexation areas where gross taxable sales, subject to sales and use taxes, exceed \$1 million in the most recent year that taxable sales data is available from the State Board of Equalization or any other State successor organization that may provide taxable sales information. Annexation agreements for areas containing over \$1 million in taxable sales will be individually negotiated between the COUNTY and CITY to address the potential sales and use tax loss to the COUNTY.
 - C. The Agreement shall not apply to annexations that, in whole or in part, include more than fifty (50) acres of COUNTY owned property. Such annexations will be considered under separately negotiated and mutually beneficial annexation and development agreements.
6. REGIONAL COOPERATION.
- In consideration of the unique and mutual funding difficulties of both CITY and COUNTY, CITY and COUNTY will jointly develop and seek to implement changes in their activities which will improve the cost effectiveness of service delivery by both CITY and COUNTY, including but not limited to consolidation of services between governmental agencies and inter-agency contracting for services.
7. COUNTY CAPITAL FACILITIES FUNDING.
- CITY recognizes the importance of regional services and facilities provided by the COUNTY for all residents of the entire COUNTY.

CITY shall contribute to COUNTY's funding for regional facilities by adopting or renewing a County facilities fee ordinance and resolution enacting and implementing the County Capital Facilities Fee (CFF) Program. In accordance with the requirements of Government Code Sections 66000 et seq., CITY shall adopt this ordinance and resolution prior to or concurrent with execution of this Agreement.

8. URBAN DEVELOPMENT COOPERATION.

A rational pattern of urban land uses is a common goal of CITY and COUNTY, as expressed in their respective General Plans. The efficient construction of urban infrastructure and the delivery of municipal services require cooperation between COUNTY and CITY within areas designated for urban development, specifically CITY'S Sphere of Influence.

- A. County General Plan Policy. COUNTY affirms the policies expressed in its General Plan that support concentration of additional major urban development within urban centers.
- B. Urban Planning and Development Cooperation. The preparation of land use and infrastructure plans within CITY'S Sphere of Influence, consistent with statutory guidelines, is encouraged. COUNTY shall refer all land use applications requiring discretionary approval within CITY'S Sphere of Influence to CITY for review and comment.
- C. Capital Facilities Funding and Cooperation. CITY and COUNTY will cooperate in the development of infrastructure plans within CITY'S Sphere of Influence. Relative to areas for which CITY and COUNTY have jointly adopted master plans for infrastructure and, upon request by CITY, COUNTY will schedule an Area Development Impact Fee (ADIF) for public hearing. This ADIF will incorporate CITY development impact fees that are specifically required to support jointly planned infrastructure. COUNTY shall cooperate in the construction of capital facilities thus funded.

9. COMMUNITY SERVICE FACILITIES

- A. Siting of Community Facilities. CITY and COUNTY recognize the importance of community services provided by COUNTY and other providers and also the importance of these services being convenient to residents of COUNTY making use of these services. Accordingly, as a part of the land use planning and pre-zoning for proposed municipal annexations, CITY will cooperate with COUNTY to identify community service needs of the local community and, where appropriate, work with COUNTY to locate potential sites for these community services facilities.
- B. CITY may elect to adopt or add to existing development impact fees in lieu of providing community service facility sites. Such fees may be administered within CITY or may be included as a component of the above-mentioned County Capital Facilities Fee.

10. TERMINATION.

This Agreement may be terminated, by any party hereto, upon six (6) months written notice which termination shall terminate the agreement for each and every party.

Said termination shall not affect annexations for which the LAFCo Executive Officer has issued a certificate of filing prior to the end of the six (6) month termination period.

11. GOVERNING LAW AND ATTORNEYS' FEES.

This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party because of any default under this Agreement or to enforce any provision of this Agreement, or to obtain a declaration of rights hereunder, the prevailing party shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court. The standard of review for determining whether a default has occurred under this Agreement shall be the standard generally applicable to contractual obligations in California.

12. NOTICES.

Any notice of communication required hereunder among CITY and COUNTY must be in writing, and may be given either personally, by telefacsimile (with original forwarded by regular U.S. Mail) or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given and received when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday, or holiday shall be deemed to have been given and received on the next normal business day. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Such notices or communications shall be given to the parties at their addresses set forth below:

To CITY (City Manager):

With Copies To (City Attorney):

To COUNTY (County Administrator):

With Copies To (County Counsel):

Monica Nino
County Administration Building
44 N. San Joaquin St., Ste. 640
Stockton, California 95202-2931
Telefacsimile: (209) 468-2875

J. Mark Myles
County Administration Building
44 N. San Joaquin St., Ste. 679
Stockton, California 95202-2931
Telefacsimile: (209) 468-0315

Any party hereto may at any time, by giving ten (10) days written notice to the other parties, designate any other address or facsimile number in substitution of the address or facsimile number to which such notice or communication shall be given.

13. SEVERABILITY.

If any provision of this Agreement is held invalid, void, or unenforceable but the remainder of this Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended by mutual consent of the parties. Notwithstanding this severability clause, each subsection of Section 2 Property Tax Allocation and Section 5 Exclusions, is material and substantial and the failure of said subsection is the failure of material consideration, causing the agreement to be void from the date that the subsection is held invalid.

14. FURTHER ASSURANCES.

Each party shall execute and deliver to the other party or parties all such other further instruments and documents and take all such further actions as may reasonably necessary to carry out this Agreement and to provide and secure to the other party or parties the full and complete enjoyment of its rights and privileges hereunder.

15. CONSTRUCTION.

All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend, or affect the meaning of the provision to which they pertain.

16. OTHER MISCELLANEOUS TERMS.

The singular includes the plural; the masculine gender includes the feminine, "shall" is mandatory; "may" is permissive.

17. TIME.

Time is of the essence of each and every provision hereof.

18. COUNTERPART.

This agreement may be executed in counterpart agreements, binding each executing party as if said parties executed the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

RECOMMENDED FOR APPROVAL:

City Manager

Monica Nino
County Administrator

CITY OF _____

COUNTY OF SAN JOAQUIN

Mayor

Miguel Villapudua
Chairman, Board of Supervisors

Approved as to Form

Approved as to Form

City Attorney

J. Mark Myles
County Counsel

ATTEST: _____
City Clerk

ATTEST: Rachel DeBord Acting
Clerk of the Board of
Supervisors

RESOLUTION 2019 _____

APPROVING A SECOND EXTENSION FOR 60-DAYS TO THE AGREEMENT
FOR PROPERTY TAX ALLOCATION UPON ANNEXATION BETWEEN THE
COUNTY OF SAN JOAQUIN AND THE CITY OF TRACY

WHEREAS, In 2004 the City of Tracy and San Joaquin County entered into the current property tax allocation agreement for properties being annexed into the City, and

WHEREAS, The agreement was renewed in 2012 and was set to expire on July 31, 2019, and

WHEREAS, The City Council approved a six-month extension of the agreement, allowing each agency an opportunity to continue negotiating, with the term of the extension expiring on January 31, 2020, and

WHEREAS, The City of Tracy and San Joaquin County have been diligently negotiating to enter into a new agreement, the terms of the agreement have not been finalized, and

WHEREAS, Staff is recommending a 60-day extension to the agreement expiring on March 31, 2020 to conclude negotiations, and

WHEREAS, There is no fiscal impact to the General Fund as a result of this item;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a 60-day extension to the Agreement for Property Tax Allocation Upon Annexation between the County of San Joaquin and the City of Tracy.

* * * * *

The foregoing Resolution 2019 _____ was passed and adopted by the City Council on the 17th day of December, 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

CONFIRMATION OF MATTERS RELATED TO ANNEXATION OF PROPERTY (ELLIS PHASE 3 TOWN AND COUNTRY NEIGHBORHOOD) INTO IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)

EXECUTIVE SUMMARY

On February 7, 2017, pursuant to the Mello-Roos Act Community Facilities Act of 1982 (Mello-Roos Act), Council approved Resolution No. 2017-021 (Resolution of Formation), which Resolution of Formation established Community Facilities District No. 2016-2 (ECFD) (CFD), an Improvement Area No. 1 within the CFD (Improvement Area No. 1) and a Future Annexation Area for the CFD.

The purpose of the CFD is to provide special tax financing for public infrastructure for the Ellis Project (Project) and certain ongoing public services.

The Mello-Roos Act allows for annexation of property from the Future Annexation Area into the CFD by unanimous approval of the property owner. The Resolution of Formation established a process for annexation of property from the Future Annexation Area into the CFD without further Council action.

The property owner in this case, Surland Communities LLC (Property Owner), has executed a unanimous approval to annex its property (Annexation Property) into a new improvement area in the CFD entitled "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" (Improvement Area No. 3). The Unanimous Approval is attached as Attachment A.

Tonight, the Council is asked to confirm the annexation of property and related matters.

DISCUSSION

CFD FORMATION; RESOLUTION OF FORMATION; RESOLUTION OF NECESSITY; PREVIOUS ANNEXATION

On February 7, 2017, Council adopted the Resolution of Formation which (i) established the CFD, Improvement Area No. 1 and the Future Annexation Area, (ii) authorized the levy of a special tax on property within Improvement Area No. 1 and (iii) preliminarily established an appropriations limit for Improvement Area No. 1. The boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area are set forth in the boundary map recorded on January 4, 2017 (Original Boundary Map).

On February 7, 2017, Council also adopted Resolution No. 2017-022 (Resolution of Necessity), which determined the necessity to incur bonded indebtedness and other debt (as defined in the Mello-Roos Act) for the CFD in the aggregate principal amount of

\$53,000,000 with respect to those portions of the CFD that are not included in Improvement Area No. 1 (Non-Improvement Area No. 1 Indebtedness Limit).

On April 16, 2019, Council confirmed the annexation of property to the CFD into an improvement area in the CFD entitled "Improvement Area No. 2 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" (Improvement Area No. 2).

ANNEXATION PROCEDURE UNDER THE MELLO-ROOS ACT AND THE CFD RESOLUTION OF FORMATION

Annexation from the Future Annexation Area by Unanimous Approval. In the Resolution of Formation, consistent with the Mello-Roos Act, Council resolved that parcels within the Future Annexation Area can be annexed to the CFD with the unanimous approval of the owner of each parcel (Unanimous Approval) at the time that parcel is annexed, without any requirement for further public hearings or additional proceedings.

Designation of a New Improvement Area and Related Matters. The Mello-Roos Act allows Council to designate a parcel or parcels as an improvement area within the community facilities district as long as the designation of a parcel or parcels as an improvement area is specified and approved by the Unanimous Approval. No additional hearings or procedures are required. Accordingly, in the Resolution of Formation, Council provided that property within the Future Annexation Area may be annexed into the CFD as its own improvement area (Future Improvement Area) or to an existing improvement area.

In the Resolution of Formation and the Resolution of Necessity, Council further provided that, in connection with an annexation of property into a Future Improvement Area, the following would be identified and approved in the Unanimous Approval and then implemented and completed without the need for Council approval as long as certain conditions are met:

- A. the maximum amount of bonded indebtedness and other debt for such improvement area;
- B. the rate and method of apportionment of special tax for such improvement area; and
- C. the appropriations limit for such improvement area.

UNANIMOUS APPROVAL FROM THE PROPERTY OWNER

Council has been provided with a Unanimous Approval executed by the Property Owner for the Annexation Property. The Unanimous Approval for the Annexation Property identifies, specifies and approves the annexation of the Annexation Property to the CFD as Improvement Area No. 3. Staff has confirmed that the conditions established by Council in the Resolution of Formation for annexation of the Annexation Property into Improvement Area No. 3 without City Council approval have been met.

Under the Mello-Roos Act, a Unanimous Approval constitutes the vote of the Property Owner for purposes of the California Constitution. Accordingly, the Unanimous Approval declares the Property Owner's vote for the following matters:

A. Improvement Area No. 3 Maximum Bonded Indebtedness Limit

The Unanimous Approval approves a maximum principal amount of bonded indebtedness and other debt for Improvement Area No. 3 of \$25,000,000.

In the Resolution of Necessity, Council provided that the maximum indebtedness of a Future Improvement Area will be subtracted from the Non-Improvement Area No. 1 Indebtedness Limit. As a result of subtracting \$25,000,000 from the remaining Non-Improvement Area No. 1 Indebtedness Limit (\$37,000,000, after accounting for the maximum principal amount of bonded indebtedness and other debt for Improvement Area No. 2), the remaining Non-Improvement Area No. 1 Indebtedness Limit that will be available for Future Improvement Areas will be \$12,000,000.

B. Improvement Area No. 3 Rate and Method

The Unanimous Approval approves the levy of special taxes on the taxable property in Improvement Area No. 3 in accordance with the rate and method of apportionment for Improvement Area No. 3 in the form attached to the Unanimous Approval as Exhibit B. The rate and method is also attached to the Resolution as Exhibit A.

In Ordinance 1230 adopted by Council on February 21, 2017, Council previously authorized and levied special taxes on any parcels in the Future Annexation Area that are annexed into a Future Improvement Area at the rate and in accordance with the formula set forth in a Unanimous Approval.

C. Improvement Area No. 3 Appropriations Limit

The Unanimous Approval approves an annual appropriations limit for Improvement Area No. 3 of \$25,000,000.

REQUESTED ACTION

Tonight, Council will be asked to do the following:

1. ***Annexation into Improvement Area No. 3.*** Confirm that the Annexation Property has been added to the CFD and is designated "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)."
2. ***Improvement Area No. 3 Indebtedness Limit.*** Confirm that the maximum aggregate principal amount of bonds and other debt for Improvement Area No. 3 is \$25,000,000 and that, as a result of subtracting \$25,000,000 from the remaining Non-Improvement Area No. 1 Indebtedness Limit of \$37,000,000, the remaining Non-Improvement Area No. 1 Indebtedness Limit is \$12,000,000.

3. **Improvement Area No. 3 Rate and Method.** Confirm that the rate and method of apportionment of the Special Tax for Improvement Area No. 3 are shown in Exhibit A to the Resolution.
4. **Improvement Area No. 3 Appropriations Limit.** Confirm that the annual appropriations limit of Improvement Area No. 3 is \$25,000,000.
5. **Notice of Annexation.** Ratify and confirm the Council's direction to the City Clerk to record notice of the annexation. In the Resolution of Formation, Council determined that any property for which the property owner executes a Unanimous Approval will be added to the CFD and the City Clerk will record an amendment to the notice of special tax lien for the CFD pursuant to Section 3117.5 of the Streets & Highways Code.
6. **Consolidated Map.** Ratify and confirm the Council's prior direction to the City Clerk to record a consolidated map that has been prepared by the Property Owner in the real property records of the County of San Joaquin, which map shall supersede the current boundary map of the CFD.

STRATEGIC PLAN

This action to confirm the annexation of property into the CFD is related to Council's Governance strategic plan, Goal 2: "Ensure continued fiscal sustainability through financial and budgetary stewardship."

FISCAL IMPACT

There is no cost to the General Fund associated with this request.

RECOMMENDATION

That City Council consider and adopt the resolution confirming the annexation of property into the CFD as Improvement Area No. 3 and related matters, and direct recordation of a consolidated boundary map.

Prepared by: Karin Schnaider, Finance Director
Susan Goodwin, Goodwin Consulting Group
Chris Lynch, Jones Hall

Reviewed by: Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Request and Unanimous Approval for Annexation and Landowner-Voter Ballot

**City of Tracy
Community Facilities District No. 2016-2 (ECFD)**

**Request and Unanimous Approval for Annexation
and Landowner-Voter Ballot**

Recitals

- A. The undersigned is an authorized representative of Surland Communities LLC, a California limited liability company (the "**Landowner**").
- B. The Landowner owns the real property identified in Exhibit A, attached hereto and by this reference incorporated herein (the "**Property**").
- C. Pursuant to the Mello-Roos Community Facilities Act of 1982 (the "**Act**"), on February 7, 2017, the City Council (the "**City Council**") of the City of Tracy adopted its Resolution No. 2017-021 (the "**Resolution of Formation**"), which, among other things:
 - 1. established the City of Tracy Community Facilities District No. 2016-2 (ECFD) ("**CFD No. 2016-2**") and designated Improvement Area No. 1 ("**Improvement Area No. 1**"), with an initial boundary shown on the boundary map for CFD No. 2016-2 (the "**Boundary Map**"), which was recorded on January 4, 2017 in the records of the San Joaquin County Recorder in Book 6 of Maps of Assessment and Community Facilities Districts at Page 92;
 - 2. designated certain real property as a future annexation area (the "**Future Annexation Area**") to be annexed in segments to CFD No. 2016-2, without further hearing, subject to certain conditions;
 - 3. authorized CFD No. 2016-2 and every improvement area annexed thereto to finance the costs and expenses of certain public facilities and fees (together, the "**Facilities**") and certain public services (the "**Services**"); and
 - 4. approved the form of the rate and method of apportionment for Improvement Area No. 1.
- D. The Resolution of Formation further provided that property in the Future Annexation Area may be annexed into CFD No. 2016-2 as its own improvement area or to an existing improvement area, and that the designation as an improvement area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and other debt for such improvement area, the rate and method of apportionment of special tax for such improvement area and the appropriations limit for such improvement area shall be identified and approved in a unanimous approval (a "**Unanimous Approval**") executed by property owners in connection with an annexation to the CFD.
- E. Pursuant to the Act, on February 7, 2017, the City Council adopted its Resolution No. 2017-022 (the "**Resolution of Necessity**"), which set forth the necessity for the City to issue special tax bonds or other forms of debt obligations for CFD No. 2016-2 in the maximum principal amount of \$80 million. The Resolution of Necessity preliminarily

allocated the overall \$80 million limit to Improvement Area No. 1 in the amount of \$27 million and to the Future Annexation Area in the amount of \$53 million, with the actual limit for an improvement area created from annexation of all or part of the Future Annexation Area to be identified and approved in a Unanimous Approval so long as the overall bonded indebtedness limit for CFD No. 2016-2 does not exceed \$80 million.

- F. The Landowner believes that the conditions established in the Resolution of Formation for the proposed annexation and related matters to be implemented and completed without City Council approval will be met.
- G. The Landowner has sole ownership of the Property. The Property is part of the Future Annexation Area. By this instrument, the Landowner identifies, specifies and approves the annexation of the Property to CFD No. 2016-2 as Improvement Area No. 3 to CFD No. 2016-2 ("**Improvement Area No. 3**") and the other matters included herein, without a public hearing, as authorized by the Act and the Resolution of Formation.
- H. The Landowner hereby represents and warrants that, to the best of its knowledge without inquiry, there are no persons resident on the property that are registered voters.

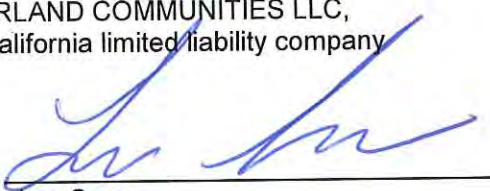
Approval and Vote

1. The Landowner, as the sole owner of the Property, hereby specifies and provides its unanimous approval of the annexation of the Property to CFD No. 2016-2 as Improvement Area No. 3 and related matters, as prescribed and authorized by Section 53339.7 and Section 53350(b) of the Act, the Resolution of Formation, and the Resolution of Necessity.
2. The Landowner, as the sole qualified elector for this annexation, hereby votes in favor of (a) the levy of special taxes on the taxable property being annexed to Improvement Area No. 3 in accordance with the rate and method of apportionment for Improvement Area No. 3 in the form attached hereto as Exhibit B (the "**RMA for Improvement Area No. 3**") and by this reference incorporated herein, (b) the issuance of bonds and other debt of Improvement Area No. 3 in a principal amount not to exceed \$25,000,000, which bonds and other debt shall be secured solely by and to be payable solely from the proceeds of the special taxes levied upon the taxable property within Improvement Area No. 3, and (c) an initial appropriations limit for Improvement Area No. 3 of \$25,000,000. The RMA for Improvement Area No. 3 describes the maximum special tax rate applicable to the Property.
3. The Landowner hereby requests that an annexation map showing the territory to be annexed as Improvement Area No. 3 be as shown on the map attached hereto as Exhibit C.
4. The Landowner hereby acknowledges the following:
 - a. As soon as practicable following receipt of this Unanimous Approval by the City, the City will record an amendment to the Notice of Special Tax Lien for CFD No. 2016-2, listing the name of the Landowner and the assessor's parcel number(s) of the Property, which will result in the establishment of a lien to secure payment of the special tax on the Property; and

- b. the City will levy a special tax upon the taxable property within Improvement Area No. 3, including the Property, at the time and in accordance with the provisions of the RMA for Improvement Area No. 3; and
 - c. this Unanimous Approval constitutes its approval and unanimous vote as described herein and as contemplated by Section 53339.3 et seq. of the Act and Articles XIII A and XIII C of the California Constitution. The Landowner hereby waives all other rights with respect to the annexation of the Property, the levy of the special taxes on the Property and the other matters covered in this Unanimous Approval, including any right the Landowner may otherwise have to protest or challenge the validity of the proceedings to form CFD No. 2016-2 and to authorize the annexation of any property (including the Property) to CFD No. 2016-2, and any necessity, requirement or right for further public hearings or any election pertaining to the annexation of the Property to CFD No. 2016-2 or the levy of special taxes on the Property; and
 - d. (i) the specific purpose of the bonds and other debt is to finance the acquisition and construction of the Facilities described in the Resolution of Formation and pay related costs; (b) any proceeds received from the sale of any bonds and other debt will be applied only for such purpose; (c) the proceeds of any bonds and other debt will be deposited into special accounts to be created therefor as part of the issuance of the bonds and other debt; and (d) the City will cause a report to be prepared annually under Section 53411 of the Government Code; and
 - e. the Expected Land Uses (as defined in the RMA for Improvement Area No. 3) of the Property shall be as specified in the RMA for Improvement Area No. 3.
5. The Landowner warrants to the City that the presentation of this Unanimous Approval, any votes, consents or waivers contained herein, and other actions mandated by the City for the annexation of the Property to CFD No. 2016-2 shall not constitute or be construed as events of default or delinquencies under any existing or proposed financing documents entered into or to be entered into by the Landowner for the Property, including any "due-on-encumbrance" clauses under any existing security instruments secured by the Property.
6. The Landowner agrees to cooperate with the City and its attorneys and consultants and to provide to any subsequent purchaser with notice of the special tax that may be levied by the City Council on the Property pursuant to the RMA for Improvement Area No. 3, to the extent required by applicable law.
7. The Landowner further agrees to execute such additional or supplemental agreements as may be required by the City to provide for any of the actions and conditions described in this Unanimous Approval.

Dated: November 1, 2019

SURLAND COMMUNITIES LLC,
a California limited liability company

By: 

Les Serpa

Its: President / Chief Executive Officer

Exhibit A - Identification of the Property

Exhibit B - RMA for Improvement Area No. 3

Exhibit C - Proposed Annexation Map

EXHIBIT A
IDENTIFICATION OF THE PROPERTY

APN Nos. 240-140-50; 240-140-51; 240-140-52; 240-140-53

EXHIBIT B

RMA FOR IMPROVEMENT AREA NO. 3

[attached]

**IMPROVEMENT AREA NO. 3 OF THE
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(ECFD)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in Improvement Area No. 3, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into Improvement Area No. 3.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

"Acquisition Agreement" means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this RMA.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Authorized Facilities” means the public facilities authorized to be financed, in whole or in part, by the CFD.

“Authorized Services” means the public services authorized to be funded, in whole or in part, by the CFD.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by Improvement Area No. 3 to fund Authorized Facilities.

“Building Permit” means a single permit or set of permits required to construct a residential or non-residential structure. If a permit is issued for a foundation, parking, landscaping or other related facility or amenity, but a building permit has not yet been issued for the structure served by these facilities or amenities, such permit shall not be considered a “Building Permit” for purposes of application of the Special Taxes herein.

“Capitalized Interest” means funds in any capitalized interest account available to pay interest on Bonds.

“CFD” means the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“City” means the City of Tracy.

“City Council” means the City Council of the City of Tracy.

“County” means the County of San Joaquin.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Taxable Owners Association Property or Taxable Public Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Development Class” means, individually, Developed Property, Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property.

“Escalation Factor” means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2019 to April 2020.

“Expected Land Uses” means the number of SFD Lots, the number of Residential Units within each Square Footage Category, and the acreage of the Other Property expected within Improvement Area No. 3 on the IA No. 3 Lien Date, as identified in Attachments 1 and 2 of this RMA. Pursuant to Sections D and E below, the Administrator shall update Attachment 2 each time there is a Land Use Change or property annexes into Improvement Area No. 3.

“Expected Maximum Facilities Special Tax Revenues” means the amount of annual revenue that would be available in Improvement Area No. 3 if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues on the IA No. 3 Lien Date are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within Improvement Area No. 3 prepay a portion of the Facilities Special Tax obligation.

“Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities to be funded directly from Facilities Special Tax proceeds to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“Final Bond Sale” means, at any point in time, the last series of Bonds issued for Improvement Area No. 3, which issuance uses up virtually all of the remaining capacity available from the Expected Maximum Facilities Special Tax Revenues that can be generated within Improvement Area No. 3, as determined by the City.

“Final Map” means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Future Annexation Area” means that geographic area that, at the time of CFD Formation, was considered potential annexation area for the CFD and which was, therefore, identified as “Future Annexation Area” on the recorded CFD boundary map. Such designation does not mean that any or all of the Future Annexation Area will annex into the CFD or Improvement Area No. 3, but should property designated as Future Annexation Area choose to annex, the annexation may be processed pursuant to the streamlined annexation procedures provided in the Act. Nothing shall prevent property identified as Future Annexation Area from annexing under the non-streamlined provisions of the Act.

“IA No. 3 Lien Date” means the date that the Notice of Special Tax Lien affecting the Parcels was recorded in the Official Records of San Joaquin County.

“Improvement Area No 3” means Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“Improvement Fund” means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.

“Indenture” means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Land Use Change” means a proposed or approved change to the Expected Land Uses within Improvement Area No. 3 after the IA No. 3 Lien Date, which shall include approval of Final Maps that reflect a different number of SFD Lots than expected and issuance of Building Permits for more Residential Units than expected in a particular Square Footage Category.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and E below.

“Maximum Services Special Tax” means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C.2 and E below.

“Maximum Special Taxes” means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

“Other Property” means, in any Fiscal Year, all Parcels of Developed Property within Improvement Area No. 3 that are not Single Family Detached Residential Property

“Owners Association” means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within Improvement Area No. 3.

“Owners Association Property” means any property within the boundaries of Improvement Area No. 3 that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

“Proportionately” means (separately for the Facilities Special Tax and Services Special Tax), for Developed Property, that the ratio of the actual Special Taxes levied in any Fiscal Year to the Maximum Special Taxes authorized to be levied in that Fiscal Year is equal for all Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Undeveloped Property. For Taxable Owners Association Property and Taxable Public Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Taxable Owners Association Property and Taxable Public Property.

“Public Property” means any property within the boundaries of Improvement Area No. 3 that is owned by the federal government, State of California or other local governments or public agencies.

“Remainder Taxes” means, after September 1st and before December 31st of any Fiscal Year, any Facilities Special Tax revenues that were levied and collected in the prior Fiscal Year and were not needed to (i) pay debt service on the Bonds that was due in the calendar year in which the Remainder Taxes are being calculated, (ii) replenish Bond reserves, (iii) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, or (iv) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

“Required Coverage” means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Residential Unit” means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Services Special Tax” means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

“Services Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to

cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

“SFD Lot” means an individual residential lot, identified and numbered on a recorded Final Map, on which a Building Permit was or is permitted to be issued for construction of a single family detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

“Single Family Detached Residential Property” means, in any Fiscal Year, all Parcels for which a Building Permit was issued for construction of a Residential Unit.

“Special Taxes” means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

“Square Foot” or **“Square Footage”** means the square footage of living area of a Residential Unit as reflected on a Building Permit.

“Square Footage Category” means one of the three different categories of Single Family Detached Property set forth in Table 1 in Section C below.

“Target Facilities Special Tax” means the Facilities Special Tax per Residential Unit for each Square Footage Category, as set forth in Table 1 below, that was used to determine the Expected Maximum Facilities Special Tax Revenues shown in Attachment 2.

“Taxable Owners Association Property” means, in any Fiscal Year after the first series of Bonds is issued, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Owners Association Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it had become Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Property” means all Parcels within the boundaries of Improvement Area No. 3 that are not exempt from the Special Taxes pursuant to law or Section H below.

“Taxable Public Property” means in any Fiscal Year after the first series of Bonds is issued, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Public Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax

revenues because it has become Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Trigger Event” means that (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 3 have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax shall cease to be levied, and the Maximum Services Special Tax for each Parcel shall be adjusted pursuant to Section C.2 below.

“Unanimous Approval Form” means the form executed by the record owner of fee title to a Parcel or Parcels included within the Future Annexation Area and annexed into Improvement Area No. 3 that constitutes the property owner’s approval and unanimous vote in favor of annexing the property into Improvement Area No. 3 and authorized the levy of Special Taxes against his/her Parcel of Parcels pursuant to this RMA.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Taxable Owners Association Property, or Taxable Public Property.

B. DATA FOR ADMINISTRATION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Undeveloped Property, Taxable Owners Association Property or Taxable Public Property, (ii) for Developed Property, categorize each Parcel as Single Family Detached Residential Property or Other Property, (iii) based on Square Footage reflected on Building Permits issued by June 30 of the prior Fiscal Year, assign each Residential Unit to the appropriate Square Footage Category, (iv) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year, and (v) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, *on an ongoing basis*, monitor Final Maps and track the Square Footage on all Building Permits that have been issued to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D below.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in Improvement Area No. 3 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development

Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAXES

1. Facilities Special Tax

a. Single Family Detached Residential Property

The Maximum Facilities Special Tax for Parcels of Single Family Detached Residential Property shall be the greater of (i) the Target Facilities Special Taxes set forth in Table 1 below, or, (ii) if there are Land Use Changes that would reduce debt service coverage on outstanding Bonds below the Required Coverage, the Maximum Facilities Special Tax determined pursuant to Section D below.

**TABLE 1
IMPROVEMENT AREA NO. 3
TARGET FACILITIES SPECIAL TAX
SINGLE FAMILY DETACHED RESIDENTIAL PROPERTY**

<i>Square Footage Category</i>	<i>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2019-20)*</i>	<i>Target Facilities Special Tax After Trigger Event (Fiscal Year 2019-20)</i>
Residential Units Greater than 4,000 Square Feet	\$3,107.23 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$3,013.83 per Residential Unit	\$0 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$1,964.30 per Residential Unit	\$0 per Residential Unit

*** On July 1, 2020 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

b. Other Property

The Maximum Facilities Special Tax for Other Property prior to the Trigger Event is \$22,700 per Acre for Fiscal Year 2019-20, which amount shall increase on July 1, 2020 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Other Property is \$0 per Acre. If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Facilities Special Tax to the Parcels within the condominium or townhome buildings:

Step 1: Determine the Acreage of the underlying land Parcel on which the building(s) is located.

Step 2: Multiply the Acreage from Step 1 by the Maximum Facilities Special Tax for Other Property in the current Fiscal Year.

Step 3: Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Facilities Special Tax for each condominium or townhome unit, which amount shall escalate by 2.0% in the next Fiscal Year and each following Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property, the Maximum Facilities Special Taxes applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except (i) in the event of a partial prepayment pursuant to Section I, and (ii) pursuant to Section D. Notwithstanding the foregoing, (i) if Bonds have yet to be issued for Improvement Area No. 3, the Parcels can be assigned to the appropriate Square Footage Category, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues based on the corresponding changes in revenues, and (ii) the actual Facilities Special Tax levied on the Parcel in any Fiscal Year may be less than the Maximum Facilities Special Tax if a lower Facilities Special Tax is calculated pursuant to Step 1 in Sections F.1 below.

c. Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Trigger Event is \$22,700 per Acre for Fiscal Year 2019-20, which amount shall increase on July 1, 2020 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

2. *Services Special Tax*

Table 2 below identifies the Maximum Services Special Tax before and after the Trigger Event for Taxable Property in Improvement Area No. 3.

TABLE 2
IMPROVEMENT AREA NO. 3
MAXIMUM SERVICES SPECIAL TAX

<i>Type of Property</i>	<i>Maximum Services Special Tax Before Trigger Event (Fiscal Year 2019-20)*</i>	<i>Maximum Services Special Tax After Trigger Event (Fiscal Year 2019-20)*</i>
Single Family Detached <u>Residential Property</u>		
Residential Units Greater than 4,000 Square Feet	\$1,664.50 per Residential Unit	\$2,316.26 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$1,331.38 per Residential Unit	\$1,964.20 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$998.26 per Residential Unit	\$1,410.48 per Residential Unit
Other Property	\$5,406.50 per Acre	\$5,406.50 per Acre
Undeveloped Property	\$5,406.50 per Acre	\$5,406.50 per Acre

*** On July 1, 2020 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.**

a. Other Property

If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Services Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Services Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Services Special Tax for each condominium or townhome unit, which amount shall be increased by the Escalation Factor in the next Fiscal Year and each following Fiscal Year.

D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were calculated based on the Expected Land Uses on the IA No. 3 Lien Date. As set forth in Section E herein, Attachment 2 shall be modified to reflect the Expected Land Uses and Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3 if property is annexed to Improvement Area No. 3. Attachment 2 is also subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

If, prior to the issuance of the first series of Bonds, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If, *prior to Final Bond Sale*, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D as long as the change in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage. Upon approval or identification of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues, which shall then be the amount used to size future Bond sales.

If a Land Use Change would reduce debt service coverage on outstanding Bonds below the Required Coverage, either: (i) a prepayment of Facilities Special Taxes must be made by the landowner requesting the Land Use Change to retire Bonds in the amount necessary to maintain Required Coverage, or (ii) Step 3 below must be applied to maintain the Expected Maximum Facilities Special Tax Revenues.

If, *after the Final Bond Sale*, a Land Use Change is proposed or identified, Steps 1 through 3 must be applied:

- Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3.
- Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in Improvement Area No. 3 if the Land Use Change occurs.
- Step 3:** If the amount calculated in Step 2 is higher than that determined in Step 1, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, no action will be needed if the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage, and the Administrator shall update Attachment 2 to show the reduced Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below the Required Coverage, one of the following shall occur:

3.a. The landowner requesting the Land Use Change will have the option to prepay Facilities Special Taxes (pursuant to Section I) in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage. If the landowner notifies the Administrator that he/she would like to remedy such reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment or (ii) prior to close of escrow on the first Residential Unit for which the Building Permit was issued that resulted in more Residential Units in a Square Footage Category than was anticipated in the Expected Land Uses. If any prepayment is not received by the City prior to the earlier of clauses (i) and (ii) of the preceding sentence, the Administrator shall levy the required prepayment amount on any Parcel(s) of Taxable Property still owned by the landowner within Improvement Area No. 3,

or, if there are no more Parcels of Taxable Property owned by the landowner who had been expected to prepay, or if a landowner opts not to make a prepayment to mitigate the reduction in the Expected Maximum Facilities Special Tax Revenues, the following Step 3.b shall apply:

3.b. The Maximum Facilities Special Taxes for Parcels owned by the landowner requesting the Land Use Change shall be determined by increasing the Target Facilities Special Taxes shown in Table 1 above proportionately until the amount that could be collected from all SFD Lots that are subject to the Land Use Change (as determined by the Administrator) will be sufficient to maintain Required Coverage. After the Administrator has prepared such calculation for a particular landowner, the Administrator shall closely monitor future Final Maps and Building Permits to determine if a similar increase in the Target Facilities Special Tax must be applied for subsequent Parcels of Single Family Detached Residential Property. On July 1 of each Fiscal Year, all Maximum Facilities Special Taxes determined pursuant to this Section 3.b shall be increased by 2.0% of the amount in effect in the prior Fiscal Year.

The duties imposed on the Administrator to review Land Use Changes, Final Maps, and Building Permits and to make the calculations set forth above, are intended only to facilitate the administration of the Facilities Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider or owner of property any right to receive notice of the potential impact of Land Use Changes on the Facilities Special Tax applicable to a Parcel; and **each developer, subdivider or owner of property in the CFD shall be responsible for understanding the impact thereof on the Facilities Special Tax applicable to such property.**

E. ANNEXATIONS

If, in any Fiscal Year, a property owner within the Future Annexation Area wants to annex property into Improvement Area No. 3, the Administrator shall apply the following steps as part of the annexation proceedings:

- Step 1:** Working with City staff and the landowner, the Administrator shall determine the Maximum Special Taxes that will apply to all Parcels that are expected to be within the area to be annexed. Once determined, the Maximum Special Taxes for the annexing area shall be identified on the Unanimous Approval Form which will be signed by the property owner as part of the annexation process.
- Step 2:** The Administrator shall ensure that a Notice of Special Tax Lien is recorded against all Parcels that are annexed to Improvement Area No. 3.
- Step 3:** The Administrator shall prepare and keep on file an updated Attachment 2 that adds the annexed property and identifies the Expected Land Uses and revised Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3. After the annexation is complete, the application of Sections D, F, and I of this RMA shall be based on the adjusted Expected Land Uses and Expected Maximum Facilities Special Tax Revenues including the newly annexed property.
- Step 4:** The Administrator shall recalculate the Public Facilities Requirement used in the prepayment calculation in Section I below to include the estimated net proceeds that can be generated to fund Authorized Facilities based on the Maximum Facilities Special Tax capacity from the annexed area. The adjusted Public Facilities Requirement shall be calculated by (i) dividing the increased Expected Maximum Facilities Special Tax Revenues that can be collected after the annexation by the Expected Maximum Facilities Special Tax Revenues that were in place prior to the annexation, and (ii) multiplying the quotient by the Public Facilities Requirement that was in place prior to the annexation.

If an owner of a Parcel or Parcels outside the Future Annexation Area wants to annex into the CFD and the City agrees to such annexation, the procedures set forth in Section 53339 *et seq.* of the Act shall be used to process the annexation. The Administrator shall apply the steps set forth above, using, for Step 1, the Maximum Special Taxes identified in the Rate and Method of Apportionment of Special Tax adopted as part of the annexing proceedings instead of the Unanimous Approval Form.

F. METHOD OF LEVY OF THE SPECIAL TAXES

1. Facilities Special Tax

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

Step 1: In the first fifteen (15) Fiscal Years in which a Facilities Special Tax is levied within Improvement Area No. 3, the Maximum Facilities Special Tax shall be levied on each Parcel of Single Family Detached Residential Property and Other Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected that are determined by the Administrator to be Remainder Taxes shall be deposited into the Improvement Fund to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the sixteenth (16th) Fiscal Year in which a Facilities Special Tax is levied within Improvement Area No. 3 and continuing until the Trigger Event, the Facilities Special Tax shall be levied Proportionately on each Parcel of Single Family Detached Residential Property and Other Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Single Family Detached Residential Property and Other Property is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts.

Step 2: If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property and Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Owners Association Property and Taxable Public Property, as applicable, for such Fiscal Year.

2. *Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

Step 1: The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.

Step 2: If additional revenue is needed after Step I, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.

G. MANNER OF COLLECTION OF SPECIAL TAXES

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section I below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Trigger Event, or (ii) Fiscal Year 2060-61. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

H. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Public Property, except Taxable Public Property, and (ii) Owners Association Property, except Taxable Owners Association Property. No Services Special Tax shall be levied on the following: (i) Public Property, including Taxable Public Property, and (ii) Owners Association Property, including Taxable Owners Association Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common

space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the first series of Bonds has yet to be issued for Improvement Area No. 3, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below the Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

I. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX

The following definitions apply to this Section I:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued prior to the date of prepayment.

“Public Facilities Requirements” means: (i) \$13,550,000 in fiscal year 2019-20 dollars, which amount shall, on July 1, 2020 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such lower number as shall be determined by the City to be an appropriate estimate of the net construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of Improvement Area No. 3.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in Improvement Area No. 3, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with

written notice of intent to prepay, which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below the Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3 in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 3 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the "Remaining Facilities Amount"*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the "Redemption Premium"*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest

has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.

- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "*Reserve Fund Credit*").
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (the "*Prepayment Amount*").
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

ATTACHMENT 1

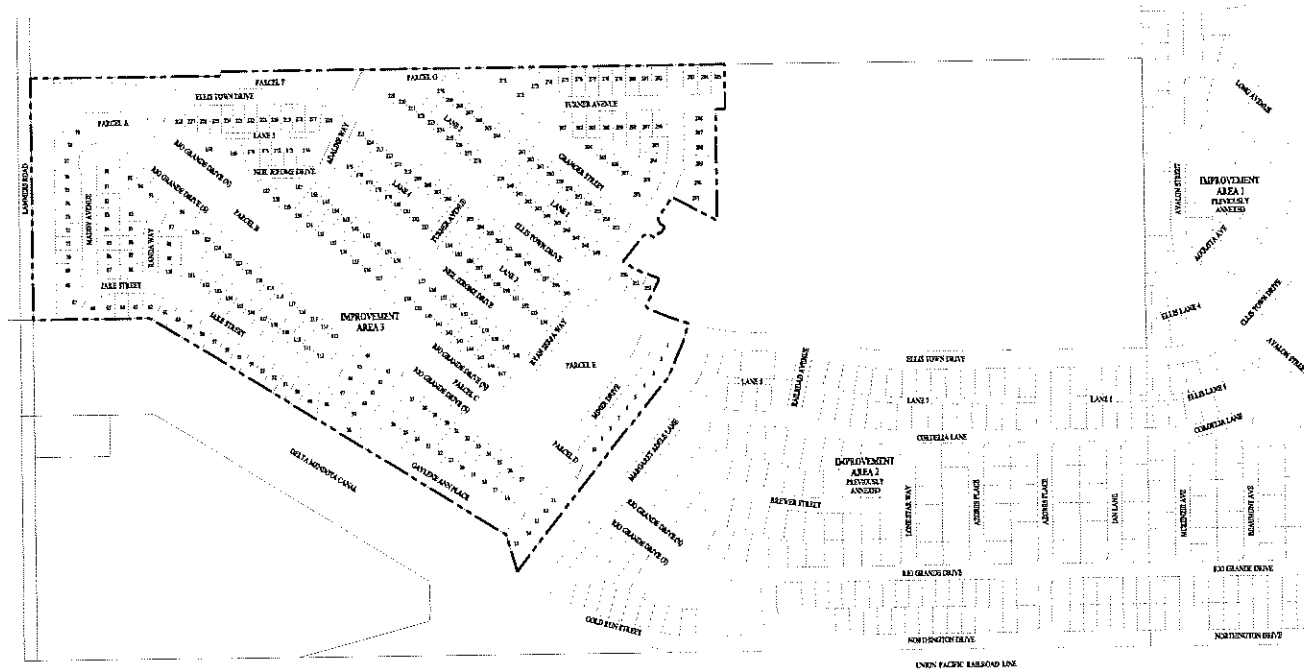
**Improvement Area No. 3 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

**Identification of SFD Lots and Other Property in
Improvement Area No. 3**

PARCEL AREA	
PARCEL	ACRES (ACRES)
A	0.32
B	1.06
C	1.33
D	0.14
E	2.84
F	1.29
G	0.31

IMPROVEMENT AREA NO. 3			
TRACT NO.	APN NO.	AREA (ACRES)	NO. OF LOTS
4002	70-140-41	71.63	367

ATTACHMENT 1
IMPROVEMENT AREA No. 3
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT No. 2016-2
(ECFD)



ATTACHMENT 2

Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)

Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

Square Footage Category	Number of Units	Target Facilities Special Tax (FY 2019-20) *	Expected Maximum Facilities Special Tax Revenues (FY 2019-20) *
Residential Units Greater than 4,000 Square Feet	0 units	\$3,107.23 per Residential Unit	\$0
Residential Units 2,000 – 4,000 Square Feet	307 units	\$3,013.83 per Residential Unit	\$925,246
Residential Units Less than 2,000 Square Feet	0 units	\$1,964.30 per Residential Unit	\$0
Total Expected Maximum Facilities Special Tax Revenues			\$925,246

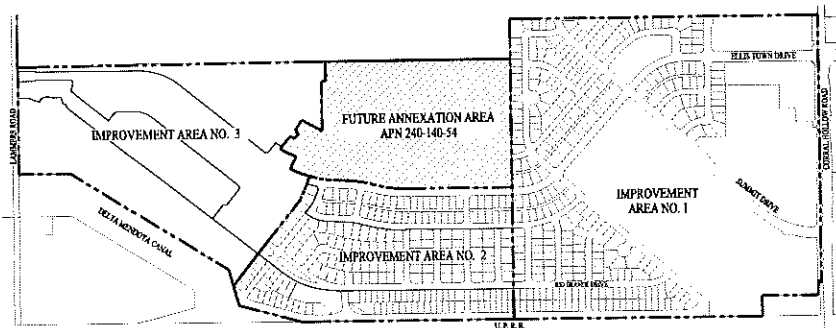
* On July 1, 2020 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.

EXHIBIT C
PROPOSED ANNEXATION MAP

[attached]

VICINITY MAP

801 to 501 E



LEGEND:

CFD NO. 2016-2 (ECFD) BOUNDARY

FUTURE ANNEXATION AREA

THIS MAP REFLECTS THE ANNEXATION INTO THE CITY OF CERTAIN PARCELS IN THE FUTURE ASSOCIATION AREA AS "FUTURE WARD AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (CSD)". THIS MAP SUPERSEDES THE MAP ENTITLED "UNINCORPORATED MAP OF THE BOUNDARIES OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (CSD)".

THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, RECORDS THIS MAP ON MAY 24, 2019 AT 11:44 AM, IN BOOK 6 OF MAPS OF ASSOCIATION AND COMMUNITY FACILITIES SUBJECTS AT PAGE 153 AS DOCUMENT NUMBER 2019-053832 IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF TRACY, STATE OF CALIFORNIA, THIS ____ DAY
OF _____, 2019

CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

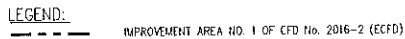
I HEREBY CERTIFY THAT THE WITHIN CONSOLIDATED MAP OF THE BOUNDARIES OF CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF TRACY AT A REGULAR MEETING THEREOF, HELD ON THE ____ DAY OF _____, 2019, BY ITS RESOLUTION NO. _____.

CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

FILED THIS ____ DAY OF _____, 2018, AT THE HOUR OF ____ O'CLOCK ____ M IN BOOK ____ OF
MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT AT PAGE ____ , IN THE OFFICE OF THE
COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

BY: KENNETH W BLANCKFORD
 RECORDER / COUNTY CLERK
 COUNTY OF SAN JOAQUIN

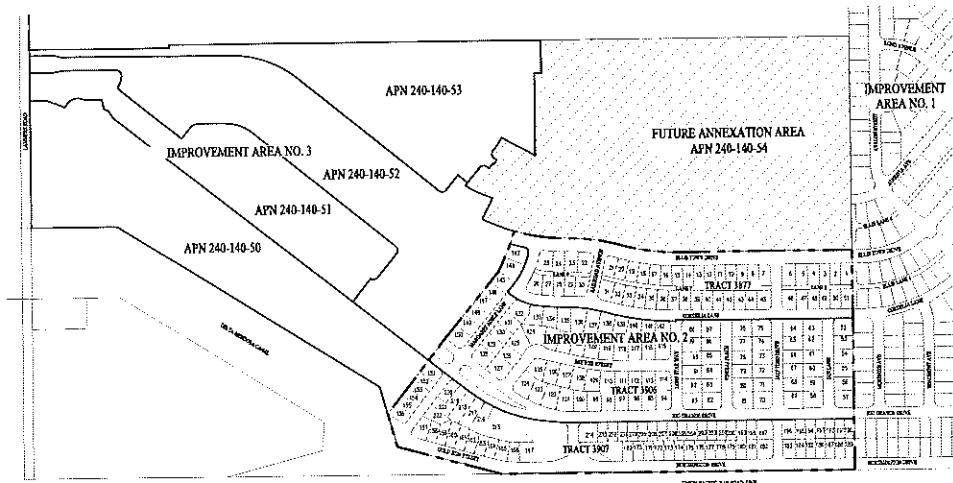
IMPROVEMENT AREA NO. 1 DETAIL



IMPROVEMENT AREA NO. 1											
REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER
1	240-69-01	52	240-69-51	103	240-70-04	154	240-70-17	205	240-70-29	255	240-70-08
2	240-69-01	53	240-69-51	104	240-70-06	155	240-70-18	206	240-70-30	256	240-70-09
3	240-69-03	54	240-69-53	105	240-70-08	156	240-70-20	207	240-70-31	257	240-70-11
4	240-69-04	55	240-69-54	106	240-70-09	157	240-70-21	208	240-70-32	258	240-70-12
5	240-69-06	56	240-69-56	107	240-70-10	158	240-70-23	209	240-70-33	259	240-70-13
6	240-69-05	57	240-69-57	108	240-70-11	159	240-70-24	210	240-70-34	260	240-70-14
7	240-69-07	58	240-69-58	109	240-70-13	160	240-70-25	211	240-70-35	261	240-70-15
8	240-69-08	59	240-69-59	110	240-70-14	161	240-70-26	212	240-70-36	262	240-70-16
9	240-69-09	60	240-70-01	111	240-70-15	162	240-70-27	213	240-70-37	263	240-70-17
10	240-69-10	61	240-70-03	112	240-70-17	163	240-70-28	214	240-70-38	264	240-70-18
11	240-69-11	62	240-70-04	113	240-70-18	164	240-70-29	215	240-70-39	265	240-70-19
12	240-69-12	63	240-70-05	114	240-70-19	165	240-70-30	216	240-70-40	266	240-70-20
13	240-69-13	64	240-70-06	115	240-70-20	166	240-70-31	217	240-70-41	267	240-70-21
14	240-69-14	65	240-70-07	116	240-70-21	167	240-70-32	218	240-70-42	268	240-70-22
15	240-69-15	66	240-70-08	117	240-70-22	168	240-70-33	219	240-70-43	269	240-70-23
16	240-69-16	67	240-70-09	118	240-70-23	169	240-70-34	220	240-70-44	270	240-70-24
17	240-69-17	68	240-70-10	119	240-70-24	170	240-70-35	221	240-70-45	271	240-70-25
18	240-69-18	69	240-70-12	120	240-70-26	171	240-70-36	222	240-70-46	272	240-70-26
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21	240-69-21	72	240-70-17	123	240-70-32	174	240-70-39	225	240-70-49	275	240-70-29
22	240-69-22	73	240-70-19	124	240-70-33	175	240-70-40	226	240-70-50	276	240-70-30
23	240-69-23	74	240-70-19	125	240-70-35	176	240-70-42	227	240-70-51	277	240-70-31
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29	240-69-29	80	240-70-25	131	240-70-40	182	240-70-44	233	240-70-57	283	240-70-36
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41	240-69-41	92	240-70-37	143	240-70-53	194	240-70-56	245	240-70-69	295	240-70-48
42	240-69-42	93	240-70-38	144	240-70-54	195	240-70-57	246	240-70-70	296	240-70-49
43	240-69-43	94	240-70-40	145	240-70-56	196	240-70-58	247	240-70-71	297	240-70-50
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90	240-69-90	141	240-70-88	192	240-71-04	243	240-71-06	294	240-71-18	344	240-70-97
91	240-69-91	142	240-70-89	193	240-71-05	244	240-71-07	295	240-71-19	345	240-70-98
92	240-69-92	143	240-7								

**CONSOLIDATED MAP No. 2 OF THE BOUNDARIES OF
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
CITY OF TRACY
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA**

IMPROVEMENT AREA NO. 2 DETAIL

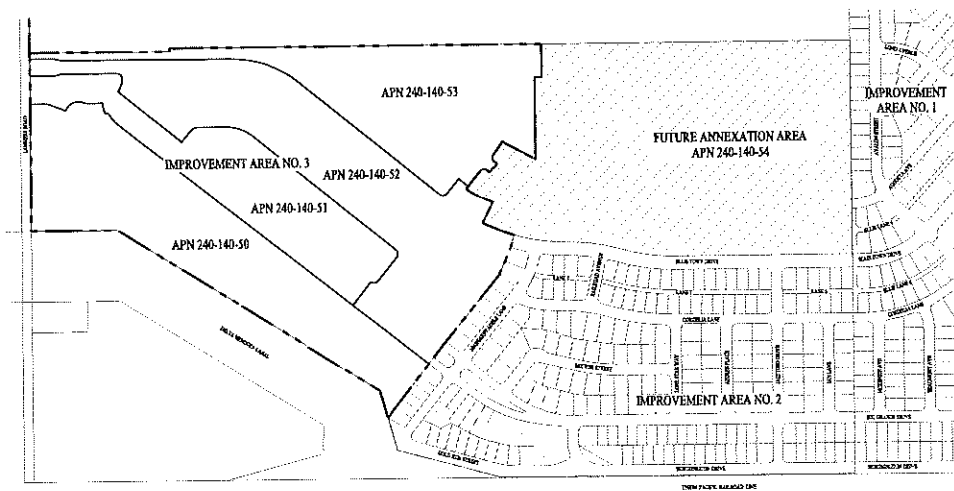


LEGEND:

- IMPROVEMENT AREA NO. 2 OF CFD No. 2016-2 (ECFD)
- FUTURE ANNEXATION AREA
- TRACT BOUNDARY

REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER	REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
1	240-76-01	58	240-76-43	115	240-77-37	172	240-78-04
2	240-76-02	59	240-76-44	116	240-77-38	173	240-78-05
3	240-76-03	60	240-76-45	117	240-77-39	174	240-78-06
4	240-76-04	61	240-76-46	118	240-77-40	175	240-78-07
5	240-76-05	62	240-76-47	119	240-77-41	176	240-78-08
6	240-76-06	63	240-76-48	120	240-77-42	177	240-78-09
7	240-76-07	64	240-76-49	121	240-77-43	178	240-78-10
8	240-76-08	65	240-76-50	122	240-77-44	179	240-78-11
9	240-76-09	66	240-76-51	123	240-77-45	180	240-78-12
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20	240-76-20	77	240-76-62	134	240-77-56	191	240-78-23
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22	240-76-22	79	240-76-64	136	240-77-58	193	240-78-25
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38	240-76-38	95	240-76-80	152	240-77-74	209	240-78-41
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40	240-76-40	97	240-76-82	154	240-77-76	211	240-78-43
41	240-76-41	98	240-76-83	155	240-77-77	212	240-78-44
42	240-76-42	99	240-76-84	156	240-77-78	213	240-78-45
43	240-76-43	100	240-76-85	157	240-77-79	214	240-78-46
44	240-76-44	101	240-76-86	158	240-77-80	215	240-78-47
45	240-76-45	102	240-76-87	159	240-77-81	216	240-78-48
46	240-76-46	103	240-76-88	160	240-77-82	217	240-78-49
47	240-76-47	104	240-76-89	161	240-77-83	218	240-78-50
48	240-76-48	105	240-76-90	162	240-77-84	219	240-78-51
49	240-76-49	106	240-76-91	163	240-77-85	220	240-78-52
50	240-76-50	107	240-76-92	164	240-77-86	221	240-78-53
51	240-76-51	108	240-76-93	165	240-77-87	222	240-78-54
52	240-76-52	109	240-76-94	166	240-77-88	223	240-78-55
53	240-76-53	110	240-76-95	167	240-77-89	224	240-78-56
54	240-76-54	111	240-76-96	168	240-77-90	225	240-78-57
55	240-76-55	112	240-76-97	169	240-77-91	226	240-78-58
56	240-76-56	113	240-76-98	170	240-77-92	227	240-78-59
57	240-76-57	114	240-76-99	171	240-77-93	228	240-78-60

IMPROVEMENT AREA NO. 3 DETAIL



IMPROVEMENT AREA NO. 3	
TRACT 4007	
APN	AREA (ACRES)
240-140-50	21.07
240-140-51	12.64
240-140-52	21.25
240-140-53	16.69
TOTAL	73.65

Trials	No feedback (%)	Feedback (%)
1	65	75
2	75	85
3	80	90
4	85	92
5	88	95
6	90	96
7	92	97
8	93	98
9	94	98
10	95	98

IMPROVEMENT AREA NO. 3 OF CFD No. 2016-2 (ECFD)
FUTURE ANNEXATION AREA
TRACT BOUNDARY

RESOLUTION 2019-__

CONFIRMING ANNEXATION OF PROPERTY (ELLIS PHASE 3 TOWN AND COUNTRY NEIGHBORHOOD) INTO IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD) AND CONFIRMING, ORDERING AND DIRECTING OTHER RELATED MATTERS

WHEREAS, on February 7, 2017, pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Mello-Roos Act"), this City Council (the "City Council") of the City of Tracy (the "City") adopted its Resolution No. 2017-021 entitled "Resolution of Formation of Community Facilities District" (the "Resolution of Formation") which resolution (i) established the "City of Tracy Community Facilities District No. 2016-2 (ECFD)" (the "CFD"), "Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 1") and the "City of Tracy Community Facilities District No. 2016-2 (ECFD) (Future Annexation Area)" (the "Future Annexation Area"), (ii) authorized the levy of a special tax on property within Improvement Area No. 1 and (iii) preliminarily established an appropriations limit for Improvement Area No. 1, and

WHEREAS, the boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area are set forth in the boundary map recorded on January 4, 2017 as Document No. 2017-001220 (the "Original Boundary Map") in Book 6 Page 92 of the Book of Maps of Assessment and Community Facilities Districts in the office of the County Recorder for the County of San Joaquin, State of California, and

WHEREAS, in the Resolution of Formation, this City Council resolved that parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval (each, a "Unanimous Approval") of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings, and

WHEREAS, Section 53329.6 of the Mello-Roos Act provides that a Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in the Unanimous Approval for purposes of the California Constitution, including, but not limited to, Articles XIII A and XIII C, and

WHEREAS, Section 53350(b) of the Mello-Roos Act provides that, (i) in connection with the annexation by Unanimous Approval to a community facilities district of a parcel that was included in territory proposed for annexation in the future to the community facilities district, the local agency may designate a parcel or parcels as an improvement area within the community facilities district, (ii) the designation of a parcel or parcels as an improvement area shall be specified and approved by the Unanimous Approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed to the community facilities district, (iii) no additional hearings or procedures are required and (iv) after the designation of a parcel or parcels as an improvement area, all proceedings for approval of the appropriations limit, the rate and method of apportionment and manner of collection of special taxes, and the authorization to incur bonded indebtedness for the parcel or parcels shall apply only to the improvement area, and

WHEREAS, in the Resolution of Formation, this City Council provided that property within the Future Annexation Area may be annexed into the CFD as its own improvement area (a "Future Improvement Area") or to an existing improvement area, and

WHEREAS, in the Resolution of Formation, this City Council further provided that the designation of any territory annexing to the CFD as a Future Improvement Area, the maximum amount of bonded indebtedness and other debt for such Future Improvement Area, the rate and method of apportionment of special tax for such Future Improvement Area and the appropriations limit for such Future Improvement Area shall be identified and approved in the Unanimous Approval executed by property owners in connection with their annexation to the CFD, and that the annexation and related matters described in the Unanimous Approval shall be implemented and completed without the need for Council approval as long as the following conditions are met:

(i) The rate and method of apportionment of special tax for the Future Improvement Area is prepared by a special tax consultant retained by the City and paid for by the developer of the Future Improvement Area or the applicable property owners submitting the Unanimous Approval.

(ii) The rate and method of apportionment of special tax for the Future Improvement Area complies with the local goals and policies established by the City concerning the use of the Mello-Roos Act, unless otherwise required by law.

(iii) The rate and method of apportionment of special tax for the Future Improvement Area does not establish a maximum special tax amount for the initial fiscal year in which the special tax may be levied for any category of special tax that is greater than 120% of the maximum amount of the same category of special tax for the same fiscal year calculated pursuant to the Improvement Area No. 1 Rate and Method.

(iv) The rate and method of apportionment of special tax for the Future Improvement Area does not introduce a special tax that was not included in the Improvement Area No. 1 Rate and Method (e.g., a special tax that is levied and must be paid in a single fiscal year or over a shorter time period than 30 years).

(v) The rate and method of apportionment of special tax for the Future Improvement Area gives the City the discretion to convert Facilities Special Taxes to Services Special Taxes subject to a similar "Trigger Event" as the Improvement Area No. 1 Rate and Method (modified, as applicable, to represent the timing of the new rate and method of apportionment of special tax for the Future Improvement Area).

(vi) The rate and method of apportionment of special tax for the Future Improvement Area is not inconsistent with the terms of the development agreement with the City that is applicable to the annexing territory, whether or not it is still operative.

(vii) The rate and method of apportionment of special tax for the Future Improvement Area includes a mechanism that protects against revenue loss as a result of land use changes, and

WHEREAS, on February 7, 2017, this City Council also adopted its Resolution No. 2017-022 entitled "Resolution Determining the Necessity to Incur Bonded Indebtedness and Other Debt" (the "Resolution of Necessity"), determining the necessity to incur bonded indebtedness

and other debt (as defined in the Mello-Roos Act) (i) in the maximum aggregate principal amount of \$27,000,000 upon the security of the special tax to be levied within Improvement Area No. 1 pursuant to the Mello-Roos Act and (ii) in the aggregate principal amount of \$53,000,000 with respect to those portions of the CFD that are not included in Improvement Area No. 1 (the "Non-Improvement Area No. 1 Indebtedness Limit"), and

WHEREAS, in the Resolution of Necessity, this City Council further provided that in the event all or a portion of the Future Annexation Area is annexed as one or more Future Improvement Areas, the maximum indebtedness of each such Future Improvement Area shall be identified in the Unanimous Approval of the property owners of the property to be annexed at the time of the annexation, and the amount of the maximum indebtedness for the Future Improvement Area shall be subtracted from the Non-Improvement Area No. 1 Indebtedness Limit, and

WHEREAS, under the provisions of the Resolution of Formation and the Resolution of Necessity and pursuant to a "Resolution Calling Special Election" (the "Election Resolution") heretofore adopted by this City Council, the propositions of the levy of the special tax, the establishment of the appropriations limit, and the incurring of bonded indebtedness and other debt were submitted to the qualified electors of Improvement Area No. 1 as required by the provisions of the Mello-Roos Act and more than two-thirds of the votes cast at the election were in favor of the propositions, and

WHEREAS, Section 53340 of the Mello-Roos Act provides that (i) after a community facilities district has been created and authorized to levy specified special taxes, the legislative body may, by ordinance, levy the special taxes at the rate and apportion them in the manner specified in the resolution of formation for the community facilities district and (ii) after creation of a community facilities district that includes a future annexation area, the legislative body may, by ordinance, provide for the levy of special taxes on parcels that will be annexed to the community facilities district at the rate or rates to be approved unanimously by the owner or owners of each parcel or parcels to be annexed to the community facilities district and for apportionment and collection of the special taxes in the manner specified in the resolution of formation, and

WHEREAS, in Ordinance 1230 adopted by this City Council on February 21, 2017 (the "Special Tax Ordinance"), the City Council authorized and levied special taxes within Improvement Area No. 1 at the rate and in accordance with the formula (the "Improvement Area No. 1 Rate and Method") set forth in the Resolution of Formation and on any parcels in the Future Annexation Area that are annexed into a Future Improvement Area pursuant to the Mello-Roos Act at the rate and in accordance with the formula approved by the qualified electors in the Future Improvement Areas, and

WHEREAS, this City Council was previously provided with a Unanimous Approval executed by the owner of certain property in the Future Annexation Area and previously adopted Resolution 2019-074 (the "Prior Annexation Resolution") confirming the annexation of such property to the CFD as Improvement Area No. 2, and

WHEREAS, this City Council has now been provided with a new Unanimous Approval executed by the owner of certain property in the Future Annexation Area, namely Assessor's Parcel Number(s) 240-140-50, 240-140-51, 240-140-52, and 240-140-53 (the "Annexation Property"), the Unanimous Approval identifies, specifies and approves the annexation of the Annexation Property to the CFD as a separate improvement area and other related matters, and the conditions established by this City Council in the Resolution of Formation for implementation

and completion of the annexation and related matters described in the Unanimous Approval without City Council approval have been met, and

WHEREAS, Section 53339.8 of the Mello-Roos Act provides that upon a determination by the legislative body that the area proposed to be annexed is added to the existing community facilities district, the clerk of the legislative body shall record notice of the annexation pursuant to Section 3114.5 of the Streets and Highways Code, and

WHEREAS, in the Resolution of Formation, this City Council determined that any property for which the owner or owners execute a Unanimous Approval shall be added to the CFD and the City Clerk shall record an amendment to the notice of special tax lien for the CFD pursuant to Section 3117.5 of the Streets & Highways Code, and

WHEREAS, this City Council wishes to confirm that the Annexation Property is added to the CFD and to confirm, order and direct other related matters;

NOW THEREFORE BE IT RESOLVED as follows:

1. Recitals Correct. The foregoing recitals are true and correct.
2. Annexation Property. The City Council has received the Unanimous Approval specifying and approving the annexation of the Annexation Property as a separate improvement area and approving other related matters.

In furtherance of the Resolution of Formation, and in conformance with the Mello-Roos Act, the City Council hereby confirms that the Annexation Property has been added to the CFD as a Future Improvement Area and is designated "Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD)" ("Improvement Area No. 3").

This City Council hereby ratifies and confirms its direction to the City Clerk set forth in the Resolution of Formation to record notice of the annexation pursuant to Section 3114.5 of the Streets and Highways Code.

The owner of the Annexation Property has caused to be prepared a map showing the boundaries of the CFD, Improvement Area No. 1, Improvement Area No. 2 and the Annexation Property to be designated as Improvement Area No. 3, and the City Council hereby ratifies and confirms its direction to the City Clerk to record an updated consolidated map of the boundaries of the CFD, as set forth in the Prior Annexation Resolution.

3. Maximum Principal Amount of Bonded Indebtedness and Other Debt. The City Council hereby confirms that the maximum aggregate principal amount of bonds and other debt for Improvement Area No. 3, as specified and approved by a vote of the qualified elector in Improvement Area No. 3 pursuant to the Unanimous Approval, shall be \$25,000,000 and that, as a result of subtracting such amount from the remaining Non-Improvement Area No. 1 Indebtedness Limit, the Non-Improvement Area No. 1 Indebtedness Limit shall be \$12,000,000.

4. Improvement Area No. 3 Rate and Method. The City Council hereby confirms that the rate and method of apportionment of the Special Tax among the parcels of real property within Improvement Area No. 3, as specified and approved by a vote of the qualified elector in

Improvement Area No. 3 pursuant to the Unanimous Approval, are shown in Exhibit A attached hereto and hereby incorporated herein.

5. Improvement Area No. 3 Appropriations. Limit. The City Council hereby confirms that the annual appropriations limit of Improvement Area No. 3, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, as specified and approved by a vote of the qualified elector in Improvement Area No. 3 pursuant to the Unanimous Approval, is \$25,000,000.

6. Effective Date. This resolution shall take effect upon its adoption.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council the 17th day of December 2019, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

By: _____
Mayor

ATTEST:

City Clerk

EXHIBIT A

IMPROVEMENT AREA NO. 3 RATE AND METHOD

SEE ATTACHED

EXHIBIT A

IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in Improvement Area No. 3, unless exempted by law or by the provisions of Section H below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into Improvement Area No. 3.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Unit" means a second residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a single-family detached unit.

"Acquisition Agreement" means the Master Acquisition Agreement executed by the City and Surland Communities, LLC in connection with the CFD.

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other parcel map recorded at the County Recorder's Office.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its legal counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, costs of the dissemination agent for the City and any party that has undertaken to provide continuing disclosure, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements with respect to the Bonds and the Special Taxes, costs associated with foreclosure and collection of delinquent Special Taxes and all other costs and expenses of the City and County in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this RMA.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Authorized Facilities” means the public facilities authorized to be financed, in whole or in part, by the CFD.

“Authorized Services” means the public services authorized to be funded, in whole or in part, by the CFD.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by Improvement Area No. 3 to fund Authorized Facilities.

“Building Permit” means a single permit or set of permits required to construct a residential or non-residential structure. If a permit is issued for a foundation, parking, landscaping or other related facility or amenity, but a building permit has not yet been issued for the structure served by these facilities or amenities, such permit shall not be considered a “Building Permit” for purposes of application of the Special Taxes herein.

“Capitalized Interest” means funds in any capitalized interest account available to pay interest on Bonds.

“CFD” means the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“City” means the City of Tracy.

“City Council” means the City Council of the City of Tracy.

“County” means the County of San Joaquin.

“Developed Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Taxable Owners Association Property or Taxable Public Property for which a Building Permit was issued prior to June 30 of the preceding Fiscal Year.

“Development Class” means, individually, Developed Property, Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property.

“Escalation Factor” means, in any Fiscal Year, the lesser of (i) the percentage increase from the prior Fiscal Year, if any, in the Index, or (ii) four percent (4%). The Index used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2019 to April 2020.

“Expected Land Uses” means the number of SFD Lots, the number of Residential Units within each Square Footage Category, and the acreage of the Other Property expected within Improvement Area No. 3 on the IA No. 3 Lien Date, as identified in Attachments 1 and 2 of this RMA. Pursuant to Sections D and E below, the Administrator shall update Attachment 2 each time there is a Land Use Change or property annexes into Improvement Area No. 3.

“Expected Maximum Facilities Special Tax Revenues” means the amount of annual revenue that would be available in Improvement Area No. 3 if the Maximum Facilities Special Tax was levied on the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues on the IA No. 3 Lien Date are shown in Attachment 2 of this RMA, and such amount may be adjusted pursuant to Sections D and E of this RMA or if Parcels within Improvement Area No. 3 prepay a portion of the Facilities Special Tax obligation.

“Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds which are due in the calendar year which begins in such Fiscal Year, (ii) to replenish reserve funds to the extent such replenishment has not been included in a computation of the Facilities Special Tax Requirement in a previous Fiscal Year, (iii) to cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, (iv) to pay Administrative Expenses, and (v) to pay the costs of Authorized Facilities to be funded directly from Facilities Special Tax proceeds to the extent that paying directly for such costs does not increase the Facilities Special Taxes levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to the Indenture, (ii) proceeds from the collection of penalties associated with delinquent Facilities Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

“Final Bond Sale” means, at any point in time, the last series of Bonds issued for Improvement Area No. 3, which issuance uses up virtually all of the remaining capacity available from the Expected Maximum Facilities Special Tax Revenues that can be generated within Improvement Area No. 3, as determined by the City.

“Final Map” means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates SFD Lots. The term “Final Map” shall not include any large lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create SFD Lots, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Future Annexation Area” means that geographic area that, at the time of CFD Formation, was considered potential annexation area for the CFD and which was, therefore, identified as “Future Annexation Area” on the recorded CFD boundary map. Such designation does not mean that any or all of the Future Annexation Area will annex into the CFD or Improvement Area No. 3, but should property designated as Future Annexation Area choose to annex, the annexation may be processed pursuant to the streamlined annexation procedures provided in the Act. Nothing shall prevent property identified as Future Annexation Area from annexing under the non-streamlined provisions of the Act.

“IA No. 3 Lien Date” means the date that the Notice of Special Tax Lien affecting the Parcels was recorded in the Official Records of San Joaquin County.

“Improvement Area No 3” means Improvement Area No. 3 of the City of Tracy Community Facilities District No. 2016-2 (ECFD).

“Improvement Fund” means the account (regardless of its name) identified in the Indenture to hold funds which are available to acquire or construct Authorized Facilities.

“Indenture” means the bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Land Use Change” means a proposed or approved change to the Expected Land Uses within Improvement Area No. 3 after the IA No. 3 Lien Date, which shall include approval of Final Maps that reflect a different number of SFD Lots than expected and issuance of Building Permits for more Residential Units than expected in a particular Square Footage Category.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C, D, and E below.

“Maximum Services Special Tax” means the greatest amount of Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year as determined in accordance with Sections C.2 and E below.

“Maximum Special Taxes” means, as the context requires, either or both of the Maximum Facilities Special Tax and Maximum Services Special Tax.

“Other Property” means, in any Fiscal Year, all Parcels of Developed Property within Improvement Area No. 3 that are not Single Family Detached Residential Property

“Owners Association” means a homeowners association or property owners association that provides services to, and collects assessments, fees, dues, or charges from, property within Improvement Area No. 3.

“Owners Association Property” means any property within the boundaries of Improvement Area No. 3 that is owned in fee or by easement by the Owners Association, not including any such property that is located directly under a residential structure.

“Proportionately” means (separately for the Facilities Special Tax and Services Special Tax), for Developed Property, that the ratio of the actual Special Taxes levied in any Fiscal Year to the Maximum Special Taxes authorized to be levied in that Fiscal Year is equal for all Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Undeveloped Property. For Taxable Owners Association Property and Taxable Public Property, “Proportionately” means that the ratio of the actual Special Taxes levied to the Maximum Special Taxes is equal for all Parcels of Taxable Owners Association Property and Taxable Public Property.

“Public Property” means any property within the boundaries of Improvement Area No. 3 that is owned by the federal government, State of California or other local governments or public agencies.

“Remainder Taxes” means, after September 1st and before December 31st of any Fiscal Year, any Facilities Special Tax revenues that were levied and collected in the prior Fiscal Year and were not needed to (i) pay debt service on the Bonds that was due in the calendar year in which the Remainder Taxes are being calculated, (ii) replenish Bond reserves, (iii) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year, or (iv) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

“Required Coverage” means the amount by which the Expected Maximum Facilities Special Tax Revenues must exceed the Bond debt service and required Administrative Expenses, as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Residential Unit” means an individual single-family unit that does not share a common wall with another residential unit. An Accessory Unit that shares a Parcel with a single-family detached unit shall not be considered a separate Residential Unit for purposes of this RMA and shall not be taxed under this RMA.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Services Special Tax” means a special tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

“Services Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to

cure any delinquencies in the payment of Services Special Taxes which have occurred in the prior Fiscal Year. In any Fiscal Year, the Services Special Tax Requirement shall be reduced by surplus amounts available (as determined by the City) from the levy of the Services Special Tax in prior Fiscal Years, including revenues from the collection of delinquent Services Special Taxes and associated penalties and interest.

“SFD Lot” means an individual residential lot, identified and numbered on a recorded Final Map, on which a Building Permit was or is permitted to be issued for construction of a single family detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

“Single Family Detached Residential Property” means, in any Fiscal Year, all Parcels for which a Building Permit was issued for construction of a Residential Unit.

“Special Taxes” means, as the context requires, either or both of the Facilities Special Tax and the Services Special Tax.

“Square Foot” or **“Square Footage”** means the square footage of living area of a Residential Unit as reflected on a Building Permit.

“Square Footage Category” means one of the three different categories of Single Family Detached Property set forth in Table 1 in Section C below.

“Target Facilities Special Tax” means the Facilities Special Tax per Residential Unit for each Square Footage Category, as set forth in Table 1 below, that was used to determine the Expected Maximum Facilities Special Tax Revenues shown in Attachment 2.

“Taxable Owners Association Property” means, in any Fiscal Year after the first series of Bonds is issued, any Parcel of Owners Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Owners Association Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Owners Association Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it had become Owners Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Property” means all Parcels within the boundaries of Improvement Area No. 3 that are not exempt from the Special Taxes pursuant to law or Section H below.

“Taxable Public Property” means in any Fiscal Year after the first series of Bonds is issued, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of issuance of the first series of Bonds, (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Sections D and E below), the Parcel was not anticipated to be Public Property based on the Expected Land Uses, as determined by the Administrator, and (iii) if the Parcel were to be exempt from the Facilities Special Tax

revenues because it has become Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Trigger Event” means that (i) all Bonds secured by the levy and collection of Facilities Special Taxes in Improvement Area No. 3 have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax shall cease to be levied, and the Maximum Services Special Tax for each Parcel shall be adjusted pursuant to Section C.2 below.

“Unanimous Approval Form” means the form executed by the record owner of fee title to a Parcel or Parcels included within the Future Annexation Area and annexed into Improvement Area No. 3 that constitutes the property owner’s approval and unanimous vote in favor of annexing the property into Improvement Area No. 3 and authorized the levy of Special Taxes against his/her Parcel of Parcels pursuant to this RMA.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property that are not Developed Property, Taxable Owners Association Property, or Taxable Public Property.

B. DATA FOR ADMINISTRATION OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall: (i) categorize each Parcel of Taxable Property as Developed Property, Undeveloped Property, Taxable Owners Association Property or Taxable Public Property, (ii) for Developed Property, categorize each Parcel as Single Family Detached Residential Property or Other Property, (iii) based on Square Footage reflected on Building Permits issued by June 30 of the prior Fiscal Year, assign each Residential Unit to the appropriate Square Footage Category, (iv) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year, and (v) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, *on an ongoing basis*, monitor Final Maps and track the Square Footage on all Building Permits that have been issued to determine if there are any proposed Land Use Changes that would change the Expected Maximum Facilities Special Tax Revenues. If the Expected Maximum Facilities Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D below.

In any Fiscal Year, if it is determined that: (i) a parcel map for property in Improvement Area No. 3 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels is in a different Development Class than other Parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the parcel map by determining the Special Taxes that apply separately to the property within each Development

Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAXES

1. Facilities Special Tax

a. Single Family Detached Residential Property

The Maximum Facilities Special Tax for Parcels of Single Family Detached Residential Property shall be the greater of (i) the Target Facilities Special Taxes set forth in Table 1 below, or, (ii) if there are Land Use Changes that would reduce debt service coverage on outstanding Bonds below the Required Coverage, the Maximum Facilities Special Tax determined pursuant to Section D below.

**TABLE 1
IMPROVEMENT AREA NO. 3
TARGET FACILITIES SPECIAL TAX
SINGLE FAMILY DETACHED RESIDENTIAL PROPERTY**

<i>Square Footage Category</i>	<i>Target Facilities Special Tax Prior to Trigger Event (Fiscal Year 2019-20) *</i>	<i>Target Facilities Special Tax After Trigger Event (Fiscal Year 2019-20)</i>
Residential Units Greater than 4,000 Square Feet	\$3,107.23 per Residential Unit	\$0 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$3,013.83 per Residential Unit	\$0 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$1,964.30 per Residential Unit	\$0 per Residential Unit

*** On July 1, 2020 and on each July 1 thereafter, all figures shown in Table 1 above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

b. Other Property

The Maximum Facilities Special Tax for Other Property prior to the Trigger Event is \$22,700 per Acre for Fiscal Year 2019-20, which amount shall increase on July 1, 2020 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Other Property is \$0 per Acre. If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Facilities Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Facilities Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Facilities Special Tax for each condominium or townhome unit, which amount shall escalate by 2.0% in the next Fiscal Year and each following Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property, the Maximum Facilities Special Taxes applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel, except (i) in the event of a partial prepayment pursuant to Section I, and (ii) pursuant to Section D. Notwithstanding the foregoing, (i) if Bonds have yet to be issued for Improvement Area No. 3, the Parcels can be assigned to the appropriate Square Footage Category, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues based on the corresponding changes in revenues, and (ii) the actual Facilities Special Tax levied on the Parcel in any Fiscal Year may be less than the Maximum Facilities Special Tax if a lower Facilities Special Tax is calculated pursuant to Step 1 in Sections F.1 below.

c. Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property

The Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property prior to the Trigger Event is \$22,700 per Acre for Fiscal Year 2019-20, which amount shall increase on July 1, 2020 and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Undeveloped Property, Taxable Owners Association Property, and Taxable Public Property is \$0 per Acre. In addition, any amount levied on a landowner's Parcel(s) of Undeveloped Property due to such landowner's failure to make a prepayment pursuant to Section D below shall be added to the amount determined in the prior sentence to calculate the total Maximum Facilities Special Tax for the landowner's Parcel(s).

2. *Services Special Tax*

Table 2 below identifies the Maximum Services Special Tax before and after the Trigger Event for Taxable Property in Improvement Area No. 3.

TABLE 2
IMPROVEMENT AREA NO. 3
MAXIMUM SERVICES SPECIAL TAX

<i>Type of Property</i>	<i>Maximum Services Special Tax Before Trigger Event (Fiscal Year 2019-20)*</i>	<i>Maximum Services Special Tax After Trigger Event (Fiscal Year 2019-20)*</i>
Single Family Detached <u>Residential Property</u>		
Residential Units Greater than 4,000 Square Feet	\$1,664.50 per Residential Unit	\$2,316.26 per Residential Unit
Residential Units 2,000 – 4,000 Square Feet	\$1,331.38 per Residential Unit	\$1,964.20 per Residential Unit
Residential Units Less than 2,000 Square Feet	\$998.26 per Residential Unit	\$1,410.48 per Residential Unit
Other Property	\$5,406.50 per Acre	\$5,406.50 per Acre
Undeveloped Property	\$5,406.50 per Acre	\$5,406.50 per Acre

*** On July 1, 2020 and on each July 1 thereafter, all figures shown in Table 2 above shall be increased by the Escalation Factor.**

a. Other Property

If Other Property is developed with condominium or townhome units, the Administrator shall apply the following steps to allocate the Maximum Services Special Tax to the Parcels within the condominium or townhome buildings:

- Step 1:** Determine the Acreage of the underlying land Parcel on which the building(s) is located.
- Step 2:** Multiply the Acreage from Step 1 by the Maximum Services Special Tax for Other Property in the current Fiscal Year.
- Step 3:** Divide the product from Step 2 by the total number of townhomes or condominium units built or expected to be built on the underlying land Parcel to determine the Maximum Services Special Tax for each condominium or townhome unit, which amount shall be increased by the Escalation Factor in the next Fiscal Year and each following Fiscal Year.

D. CHANGES TO MAXIMUM FACILITIES SPECIAL TAX

The Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 were calculated based on the Expected Land Uses on the IA No. 3 Lien Date. As set forth in Section E herein, Attachment 2 shall be modified to reflect the Expected Land Uses and Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3 if property is annexed to Improvement Area No. 3. Attachment 2 is also subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Facilities Special Tax Revenues.

If, prior to the issuance of the first series of Bonds, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D. Upon approval of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If, *prior to Final Bond Sale*, a Land Use Change is proposed or identified that will result in a change in the Expected Maximum Facilities Special Tax Revenues, no action will be needed pursuant to this Section D as long as the change in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage. Upon approval or identification of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues, which shall then be the amount used to size future Bond sales.

If a Land Use Change would reduce debt service coverage on outstanding Bonds below the Required Coverage, either: (i) a prepayment of Facilities Special Taxes must be made by the landowner requesting the Land Use Change to retire Bonds in the amount necessary to maintain Required Coverage, or (ii) Step 3 below must be applied to maintain the Expected Maximum Facilities Special Tax Revenues.

If, *after the Final Bond Sale*, a Land Use Change is proposed or identified, Steps 1 through 3 must be applied:

- Step 1:** By reference to Attachment 2 (which shall be updated by the Administrator each time a Land Use Change has been processed according to this Section D), the Administrator shall identify the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3.
- Step 2:** The Administrator shall calculate the Expected Maximum Facilities Special Tax Revenues that could be collected from Taxable Property in Improvement Area No. 3 if the Land Use Change occurs.
- Step 3:** If the amount calculated in Step 2 is higher than that determined in Step 1, no further action is needed, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, no action will be needed if the reduction in Expected Maximum Facilities Special Tax Revenues does not reduce debt service coverage on outstanding Bonds below the Required Coverage, and the Administrator shall update Attachment 2 to show the reduced Expected Maximum Facilities Special Tax Revenues.

If the revenues calculated in Step 2 are less than those calculated in Step 1, and the Administrator determines that the reduction in Expected Maximum Facilities Special Tax Revenues would reduce debt service coverage on outstanding Bonds below the Required Coverage, one of the following shall occur:

3.a. The landowner requesting the Land Use Change will have the option to prepay Facilities Special Taxes (pursuant to Section I) in an amount that will ensure that the reduced Expected Maximum Facilities Special Tax Revenues are sufficient to provide Required Coverage. If the landowner notifies the Administrator that he/she would like to remedy such reduction by making a prepayment, such prepayment must be made by the earlier of (i) 30 days from the date of delivery of the prepayment or (ii) prior to close of escrow on the first Residential Unit for which the Building Permit was issued that resulted in more Residential Units in a Square Footage Category than was anticipated in the Expected Land Uses. If any prepayment is not received by the City prior to the earlier of clauses (i) and (ii) of the preceding sentence, the Administrator shall levy the required prepayment amount on any Parcel(s) of Taxable Property still owned by the landowner within Improvement Area No. 3,

or, if there are no more Parcels of Taxable Property owned by the landowner who had been expected to prepay, or if a landowner opts not to make a prepayment to mitigate the reduction in the Expected Maximum Facilities Special Tax Revenues, the following Step 3.b shall apply:

3.b. The Maximum Facilities Special Taxes for Parcels owned by the landowner requesting the Land Use Change shall be determined by increasing the Target Facilities Special Taxes shown in Table 1 above proportionately until the amount that could be collected from all SFD Lots that are subject to the Land Use Change (as determined by the Administrator) will be sufficient to maintain Required Coverage. After the Administrator has prepared such calculation for a particular landowner, the Administrator shall closely monitor future Final Maps and Building Permits to determine if a similar increase in the Target Facilities Special Tax must be applied for subsequent Parcels of Single Family Detached Residential Property. On July 1 of each Fiscal Year, all Maximum Facilities Special Taxes determined pursuant to this Section 3.b shall be increased by 2.0% of the amount in effect in the prior Fiscal Year.

The duties imposed on the Administrator to review Land Use Changes, Final Maps, and Building Permits and to make the calculations set forth above, are intended only to facilitate the administration of the Facilities Special Tax and to better assure the sufficiency of tax capacity to pay debt service on Bonds. Such duties are not intended to give any developer, subdivider or owner of property any right to receive notice of the potential impact of Land Use Changes on the Facilities Special Tax applicable to a Parcel; and **each developer, subdivider or owner of property in the CFD shall be responsible for understanding the impact thereof on the Facilities Special Tax applicable to such property.**

E. ANNEXATIONS

If, in any Fiscal Year, a property owner within the Future Annexation Area wants to annex property into Improvement Area No. 3, the Administrator shall apply the following steps as part of the annexation proceedings:

- Step 1:** Working with City staff and the landowner, the Administrator shall determine the Maximum Special Taxes that will apply to all Parcels that are expected to be within the area to be annexed. Once determined, the Maximum Special Taxes for the annexing area shall be identified on the Unanimous Approval Form which will be signed by the property owner as part of the annexation process.
- Step 2:** The Administrator shall ensure that a Notice of Special Tax Lien is recorded against all Parcels that are annexed to Improvement Area No. 3.
- Step 3:** The Administrator shall prepare and keep on file an updated Attachment 2 that adds the annexed property and identifies the Expected Land Uses and revised Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3. After the annexation is complete, the application of Sections D, F, and I of this RMA shall be based on the adjusted Expected Land Uses and Expected Maximum Facilities Special Tax Revenues including the newly annexed property.
- Step 4:** The Administrator shall recalculate the Public Facilities Requirement used in the prepayment calculation in Section I below to include the estimated net proceeds that can be generated to fund Authorized Facilities based on the Maximum Facilities Special Tax capacity from the annexed area. The adjusted Public Facilities Requirement shall be calculated by (i) dividing the increased Expected Maximum Facilities Special Tax Revenues that can be collected after the annexation by the Expected Maximum Facilities Special Tax Revenues that were in place prior to the annexation, and (ii) multiplying the quotient by the Public Facilities Requirement that was in place prior to the annexation.

If an owner of a Parcel or Parcels outside the Future Annexation Area wants to annex into the CFD and the City agrees to such annexation, the procedures set forth in Section 53339 *et seq.* of the Act shall be used to process the annexation. The Administrator shall apply the steps set forth above, using, for Step 1, the Maximum Special Taxes identified in the Rate and Method of Apportionment of Special Tax adopted as part of the annexing proceedings instead of the Unanimous Approval Form.

F. METHOD OF LEVY OF THE SPECIAL TAXES

1. *Facilities Special Tax*

Each Fiscal Year, the Administrator shall determine the Facilities Special Tax Requirement and levy the Facilities Special Tax on all Parcels of Taxable Property as follows:

Step 1: In the first fifteen (15) Fiscal Years in which a Facilities Special Tax is levied within Improvement Area No. 3, the Maximum Facilities Special Tax shall be levied on each Parcel of Single Family Detached Residential Property and Other Property, prior to applying any Capitalized Interest that is available in the CFD accounts. Any Facilities Special Tax proceeds collected that are determined by the Administrator to be Remainder Taxes shall be deposited into the Improvement Fund to pay costs associated with the acquisition of Authorized Facilities eligible to be financed by the Remainder Taxes under the Acquisition Agreement and that were not paid with Bond proceeds or Facilities Special Taxes levied in prior Fiscal Years.

Beginning in the sixteenth (16th) Fiscal Year in which a Facilities Special Tax is levied within Improvement Area No. 3 and continuing until the Trigger Event, the Facilities Special Tax shall be levied Proportionately on each Parcel of Single Family Detached Residential Property and Other Property up to 100% of the Maximum Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Single Family Detached Residential Property and Other Property is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts.

Step 2: If additional revenue is needed after Step 1 and after applying Capitalized Interest to the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property up to 100% of the Maximum Facilities Special Tax for Undeveloped Property for such Fiscal Year.

Step 3: If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Owners Association Property and Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Owners Association Property and Taxable Public Property, as applicable, for such Fiscal Year.

2. *Services Special Tax*

Each Fiscal Year, the Administrator shall determine the Services Special Tax Requirement and levy the Services Special Tax on all Parcels of Taxable Property as follows:

Step 1: The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.

Step 2: If additional revenue is needed after Step 1, the Services Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Services Special Tax for Undeveloped Property for such Fiscal Year.

G. MANNER OF COLLECTION OF SPECIAL TAXES

Each of the Facilities Special Taxes and the Services Special Taxes shall be identified and collected separately. Facilities Special Taxes collected shall be used only to satisfy the Facilities Special Tax Requirement or to finance Authorized Facilities. Services Special Taxes collected shall be used only to satisfy the Services Special Tax Requirement.

Each of the Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that partial prepayments of the Facilities Special Tax are permitted as set forth in Section I below and provided further that the City may directly bill each of the Special Taxes, may collect each of the Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Trigger Event, or (ii) Fiscal Year 2060-61. Under no circumstances may the Facilities Special Tax on a Parcel in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. The Services Special Tax may be levied and collected in perpetuity.

H. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Facilities Special Tax may be levied on the following: (i) Public Property, except Taxable Public Property, and (ii) Owners Association Property, except Taxable Owners Association Property. No Services Special Tax shall be levied on the following: (i) Public Property, including Taxable Public Property, and (ii) Owners Association Property, including Taxable Owners Association Property. In addition, no Special Taxes shall be levied on: (i) Parcels that are designated as permanent open space or common

space on which no structure is permitted to be constructed, (ii) Parcels owned by a public utility for an unmanned facility, and (iii) Parcels subject to an easement that precludes any use on the Parcel other than that permitted by the easement. Notwithstanding the foregoing, if a Facilities Special Tax has been levied on a Parcel in any Fiscal Year, and the entire Parcel subsequently becomes open space, an unmanned utility facility, or subject to an easement that precludes a residential or non-residential use, the Parcel shall remain subject to the Facilities Special Tax levy, unless: (i) the first series of Bonds has yet to be issued for Improvement Area No. 3, or (ii) the Administrator determines that, if such Parcel becomes exempt from the Facilities Special Tax, the corresponding reduction in the Expected Maximum Facilities Special Tax Revenues would not reduce debt service coverage on outstanding Bonds below the Required Coverage. In either case, such property shall be categorized as Public Property, and the Administrator shall recalculate the Expected Maximum Facilities Special Tax Revenues to reflect the corresponding loss in revenues.

I. PARTIAL PREPAYMENT OF FACILITIES SPECIAL TAX

The following definitions apply to this Section I:

“Outstanding Bonds” means all Previously Issued Bonds which remain outstanding, with the following exception: if a Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

“Previously Issued Bonds” means all Bonds that have been issued prior to the date of prepayment.

“Public Facilities Requirements” means: (i) \$13,550,000 in fiscal year 2019-20 dollars, which amount shall, on July 1, 2020 and on each July 1 thereafter, be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year, or (ii) such lower number as shall be determined by the City to be an appropriate estimate of the net construction proceeds that will be generated from all Bonds that have been or are expected to be issued on behalf of Improvement Area No. 3.

“Remaining Facilities Costs” means the Public Facilities Requirements (as defined above), minus public facility costs funded by Previously Issued Bonds (as defined above), Facilities Special Taxes, or prior prepayments.

A property owner may prepay up to 80% of the Facilities Special Tax obligation applicable to a Parcel in Improvement Area No. 3, thereby reducing the Maximum Facilities Special Tax applicable to the Parcel, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay a portion of the Facilities Special Tax obligation shall provide the City with

written notice of intent to prepay, which shall identify the percentage of the Maximum Facilities Special Tax that is to be prepaid. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Parcel. Prepayment must be made not less than 50 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Facilities Special Taxes. Under no circumstance shall a prepayment be allowed that would reduce debt service coverage below the Required Coverage. The Prepayment Amount shall be calculated as follows (capitalized terms as defined above or below):

Bond Redemption Amount	
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Determine the Maximum Facilities Special Tax that could be levied on the Parcel based on Expected Land Uses at the time the prepayment is calculated.
- Step 2.** Divide the Maximum Facilities Special Tax computed pursuant to Step 1 by the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 3 in that Fiscal Year.
- Step 3.** Multiply the quotient computed in Step 2 by the percentage of the Maximum Facilities Special Tax that the property owner wants to prepay, which percentage shall not exceed 80%.
- Step 4.** Multiply the quotient computed pursuant to Step 3 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 5.** Compute the current Remaining Facilities Costs (if any).
- Step 6.** Multiply the quotient computed pursuant to Step 3 by the amount determined pursuant to Step 5 to compute the amount of Remaining Facilities Costs to be prepaid (*the "Remaining Facilities Amount"*).
- Step 7.** Multiply the Bond Redemption Amount computed pursuant to Step 4 by the applicable redemption premium as shown in the Indenture, if any, on the Outstanding Bonds to be redeemed (*the "Redemption Premium"*).
- Step 8.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the last Bond interest payment date on which interest

has been or will be paid by Facilities Special Taxes already levied until the earliest redemption date for the Outstanding Bonds. If Bonds are callable at, or prior to, the last Bond interest payment date on which interest has been or will be paid by Facilities Special Taxes already levied, Steps 8, 9 and 10 of this prepayment formula will not apply.

- Step 9.** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 10.** Subtract the amount computed pursuant to Step 9 from the amount computed pursuant to Step 8 (the *"Defeasance Requirement"*).
- Step 11.** The administrative fees and expenses associated with the prepayment will be determined by the Administrator and include the costs of computing the prepayment, redeeming Bonds and recording any notices to evidence the prepayment and the redemption (the *"Administrative Fees and Expenses"*).
- Step 12.** If, at the time the prepayment is calculated, the reserve fund is greater than or equal to the reserve requirement, and to the extent so provided in the Indenture, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the *"Reserve Fund Credit"*).
- Step 13.** The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 4, 6, 7, 10, and 11, less the amount computed pursuant to Step 12 (the *"Prepayment Amount"*).
- Step 14.** From the Prepayment Amount, the amounts computed pursuant to Steps 4, 7, and 10 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds (including the payment of any accrued interest). The amount computed pursuant to Step 6 shall be deposited into the Improvement Fund. The amount computed pursuant to Step 11 shall be retained in the account or fund that is established to pay Administrative Expenses of the CFD.

Once a partial prepayment has been received, an Amendment to Special Tax Lien shall be recorded against the Parcel to reflect the reduced Facilities Special Tax lien for the Parcel, which shall be equal to the portion of the Maximum Facilities Special Tax that was not prepaid, and the Administrator shall update Attachment 2 to show the revised Expected Maximum Facilities Special Tax Revenues. However, an Amendment to Special Tax Lien shall not be recorded until all Special Taxes levied on the Parcel in the current or prior Fiscal Years have been collected. The prepayment of a portion of the Facilities Special Tax shall not affect the perpetual obligation to pay the Services Special Tax.

J. INTERPRETATION OF SPECIAL TAX FORMULA

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes and any security for any Bonds.

ATTACHMENT 1

**Improvement Area No. 3 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

**Identification of SFD Lots and Other Property in
Improvement Area No. 3**

ATTACHMENT 2

**Improvement Area No. 3 of the
City of Tracy
Community Facilities District No. 2016-2
(ECFD)**

Expected Land Uses and Expected Maximum Facilities Special Tax Revenues

Square Footage Category	Number of Units	Target Facilities Special Tax (FY 2019-20) *	Expected Maximum Facilities Special Tax Revenues (FY 2019-20) *
Residential Units Greater than 4,000 Square Feet	0 units	\$3,107.23 per Residential Unit	\$0
Residential Units 2,000 – 4,000 Square Feet	307 units	\$3,013.83 per Residential Unit	\$925,246
Residential Units Less than 2,000 Square Feet	0 units	\$1,964.30 per Residential Unit	\$0
Total Expected Maximum Facilities Special Tax Revenues			\$925,246

*** On July 1, 2020 and on each July 1 thereafter, all figures shown above shall be increased by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year.**

EXHIBIT C
PROPOSED ANNEXATION MAP

[attached]

CONSOLIDATED MAP No. 2 OF THE BOUNDARIES OF
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
CITY OF TRACY
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA



VICINITY MAP
NOT TO SCALE



LEGEND:
CITY OF TRACY - CITY BOUNDARY
FUTURE ANNEXATION AREA

RECORDER'S STATEMENT

THIS MAP REFLECTS THE ANNEXATION INTO THE CFB OF CERTAIN PARCELS IN THE FUTURE ANNEXATION AREA AS IMPROVEMENT AREA NO. 3 OF THE CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD). THIS MAP SUPERSEDES THE MAP TITLED "CONSOLIDATED MAP OF THE BOUNDARIES OF CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA" RECORDED ON MAY 24, 2019 AT 10:44 AM IN BOOK 6 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 153 AS DOCUMENT NUMBER 2019-051032 IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF TRACY, STATE OF CALIFORNIA, THIS ____ DAY OF _____, 2019.

CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN CONSOLIDATED MAP OF THE BOUNDARIES OF CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD), CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF TRACY AT A REGULAR MEETING THEREOF, HELD ON THE ____ DAY OF _____, 2019, BY ITS RESOLUTION NO. _____.

CITY CLERK
CITY OF TRACY
STATE OF CALIFORNIA

FILED THIS ____ DAY OF _____, 2019, AT THE HOUR OF ____ O'CLOCK, AM IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

BY
KAREN W. BLANDFORD
RECORDER / COUNTY CLERK
COUNTY OF SAN JOAQUIN

IMPROVEMENT AREA NO. 1 DETAIL

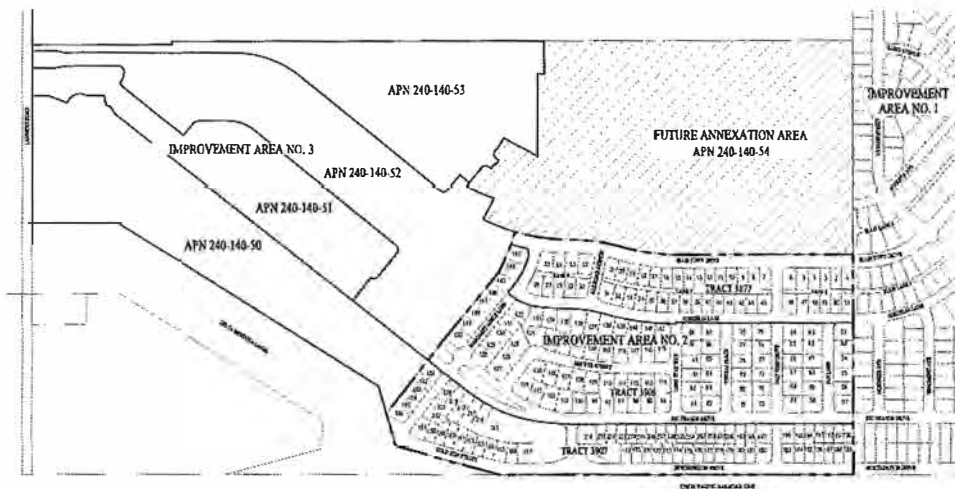


IMPROVEMENT AREA NO. 1 OF CFD NO. 2016-2 (ECFD)

IMPROVEMENT AREA NO. 1													
APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER	APPLICANT NUMBER	ASSIGNOR PARCEL NUMBER
1	240-09451	57	240-09044	107	240-09044	314	240-09147	278	240-09048	251	240-09048		
2	240-09049	31	240-09034	104	240-09049	105	240-09048	104	240-09049	257	240-09049		
3	240-09043	54	240-09043	105	240-09049	105	240-09048	104	240-09049	257	240-09049		
4	240-09043	55	240-09043	105	240-09049	105	240-09048	104	240-09049	257	240-09049		
5	240-09049	56	240-09049	107	240-09049	107	240-09048	104	240-09049	257	240-09049		
6	240-09049	57	240-09049	108	240-09049	108	240-09048	104	240-09049	257	240-09049		
7	240-09049	58	240-09049	109	240-09049	109	240-09048	104	240-09049	257	240-09049		
8	240-09049	59	240-09049	110	240-09049	110	240-09048	104	240-09049	257	240-09049		
9	240-09049	60	240-09049	111	240-09049	111	240-09048	104	240-09049	257	240-09049		
10	240-09049	61	240-09049	112	240-09049	112	240-09048	104	240-09049	257	240-09049		
11	240-09049	62	240-09049	113	240-09049	113	240-09048	104	240-09049	257	240-09049		
12	240-09049	63	240-09049	114	240-09049	114	240-09048	104	240-09049	257	240-09049		
13	240-09049	64	240-09049	115	240-09049	115	240-09048	104	240-09049	257	240-09049		
14	240-09049	65	240-09049	116	240-09049	116	240-09048	104	240-09049	257	240-09049		
15	240-09049	66	240-09049	117	240-09049	117	240-09048	104	240-09049	257	240-09049		
16	240-09049	67	240-09049	118	240-09049	118	240-09048	104	240-09049	257	240-09049		
17	240-09049	68	240-09049	119	240-09049	119	240-09048	104	240-09049	257	240-09049		
18	240-09049	69	240-09049	120	240-09049	120	240-09048	104	240-09049	257	240-09049		
19	240-09049	70	240-09049	121	240-09049	121	240-09048	104	240-09049	257	240-09049		
20	240-09049	71	240-09049	122	240-09049	122	240-09048	104	240-09049	257	240-09049		
21	240-09049	72	240-09049	123	240-09049	123	240-09048	104	240-09049	257	240-09049		
22	240-09049	73	240-09049	124	240-09049	124	240-09048	104	240-09049	257	240-09049		
23	240-09049	74	240-09049	125	240-09049	125	240-09048	104	240-09049	257	240-09049		
24	240-09049	75	240-09049	126	240-09049	126	240-09048	104	240-09049	257	240-09049		
25	240-09049	76	240-09049	127	240-09049	127	240-09048	104	240-09049	257	240-09049		
26	240-09049	77	240-09049	128	240-09049	128	240-09048	104	240-09049	257	240-09049		
27	240-09049	78	240-09049	129	240-09049	129	240-09048	104	240-09049	257	240-09049		
28	240-09049	79	240-09049	130	240-09049	130	240-09048	104	240-09049	257	240-09049		
29	240-09049	80	240-09049	131	240-09049	131	240-09048	104	240-09049	257	240-09049		
30	240-09049	81	240-09049	132	240-09049	132	240-09048	104	240-09049	257	240-09049		
31	240-09049	82	240-09049	133	240-09049	133	240-09048	104	240-09049	257	240-09049		
32	240-09049	83	240-09049	134	240-09049	134	240-09048	104	240-09049	257	240-09049		
33	240-09049	84	240-09049	135	240-09049	135	240-09048	104	240-09049	257	240-09049		
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36	240-09049	87	240-09049	138	240-09049	138	240-09048	104	240-09049	257	240-09049		
37	240-09049	88	240-09049	139	240-09049	139	240-09048	104	240-09049	257	240-09049		
38	240-09049	89	240-09049	140	240-09049	140	240-09048	104	240-09049	257	240-09049		
39	240-09049	90	240-09049	141	240-09049	141	240-09048	104	240-09049	257	240-09049		
40	240-09049	91	240-09049	142	240-09049	142	240-09048	104	240-09049	257	240-09049		
41	240-09049	92	240-09049	143	240-09049	143	240-09048	104	240-09049	257	240-09049		
42	240-09049	93	240-09049	144	240-09049	144	240-09048	104	240-09049	257	240-09049		
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45	240-09049	96	240-09049	147	240-09049	147	240-09048	104	240-09049	257	240-09049		
46	240-09049	97	240-09049	148	240-09049	148	240-09048	104	240-09049	257	240-09049		
47	240-09049	98	240-09049	149	240-09049	149	240-09048	104	240-09049	257	240-09049		
48	240-09049	99	240-09049	150	240-09049	150	240-09048	104	240-09049	257	240-09049		
49	240-09049	100	240-09049	151	240-09049	151	240-09048	104	240-09049	257	240-09049		
50	240-09049	101	240-09049	152	240-09049	152	240-09048	104	240-09049	257	240-09049		
51	240-09049	102	240-09049	153	240-09049	153	240-09048	104	240-09049	257	240-09049		
52	240-09049	103	240-09049	154	240-09049	154	240-09048	104	240-09049	257	240-09049		
53	240-09049	104	240-09049	155	240-09049	155	240-09048	104	240-09049	257	240-09049		
54	240-09049	105	240-09049	156	240-09049	156	240-09048	104	240-09049	257	240-09049		
55	240-09049	106	240-09049	157	240-09049	157	240-09048	104	240-09049	257	240-09049		
56	240-09049	107	240-09049	158	240-09049	158	240-09048	104	240-09049	257	240-09049		
57	240-09049	108	240-09049	159	240-09049	159	240-09048	104	240-09049	257	240-09049		
58	240-09049	109	240-09049	160	240-09049	160	240-09048	104	240-09049	257	240-09049		
59	240-09049	110	240-09049	161	240-09049	161	240-09048	104	240-09049	257	240-09049		
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61	240-09049	112	240-09049	163	240-09049	163	240-09048	104	240-09049	257	240-09049		
62	240-09049	113	240-09049	164	240-09049	164	240-09048	104	240-09049	257	240-09049		
63	240-09049	114	240-09049	165	240-09049	165	240-09048	104	240-09049	257	240-09049		
64	240-09049	115	240-09049	166	240-09049	166	240-09048	104	240-09049	257	240-09049		
65	240-09049	116	240-09049	167	240-09049	167	240-09048	104	240-09049	257	240-09049		
66	240-09049	117	240-09049	168	240-09049	168	240-09048	104	240-09049	257	240-09049		
67	240-09049	118	240-09049	169	240-09049	169	240-09048	104	240-09049	257	240-09049		
68	240-09049	119	240-09049	170	240-09049	170	240-09048	104	240-09049	257	240-09049		
69	240-09049	120	240-09049	171	240-09049	171	240-09048	104	240-09049	257	240-09049		
70	240-09049	121	240-09049	172	240-09049	172	240-09048	104	240-09049	257	240-09049		
71	240-09049	122	240-09049	173	240-09049	173	240-09048	104	240-09049	257	240-09049		
72	240-09049	123	240-09049	174	240-09049	174	240-09048	104	240-09049	257	240-09049		
73	240-09049	124	240-09049	175	240-09049	175	240-09048	104	240-09049	257	240-09049		
74	240-09049	125	240-09049	176	240-09049	176	240-09048	104	240-09049	257	240-09049		
75	240-09049	126	240-09049	177	240-09049	177	240-09048	104	240-09049	257	240-09049		
76	240-09049	127	240-09049	178	240-09049	178	240-09048	104	240-09049	257	240-09049		
77	240-09049	128	240-09049	179	240-09049	179	240-09048	104	240-09049	257	240-09049		
78	240-09049	129	240-09049	180	240-09049	180	240-09048	104	240-09049	257	240-09049		
79	240-09049	130	240-09049	181	240-09049	181	240-09048	104	240-09049	257	240-09049		
80	240-09049	131	240-09049	182	240-09049	182	240-09048	104	240-09049	257	240-09049		
81	240-09049	132	240-09049	183	240-09049	183	240-09048	104	240-09049	257	240-09049		
82	240-09049	133	240-09049	184	240-09049	184	240-09048	104	240-09049	257	240-09049		
83	240-09049	134	240-09049	185	240-09049	185	240-09048	104	240-09049	257	240-09049		
84	240-09049	135	240-09049	186	240-09049	186	240-09048	104	240-09049	257	240-09049		
85	240-09049	136	240-09049	187	240-09049	187	240-09048	104	240-09049	257	240-09049		
86	240-09049	137	240-09049	188	240-09049	188	240-09048	104	240-09049	257			

CONSOLIDATED MAP No. 2 OF THE BOUNDARIES OF
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 2016-2 (ECFD)
CITY OF TRACY
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

IMPROVEMENT AREA NO. 2 DETAIL

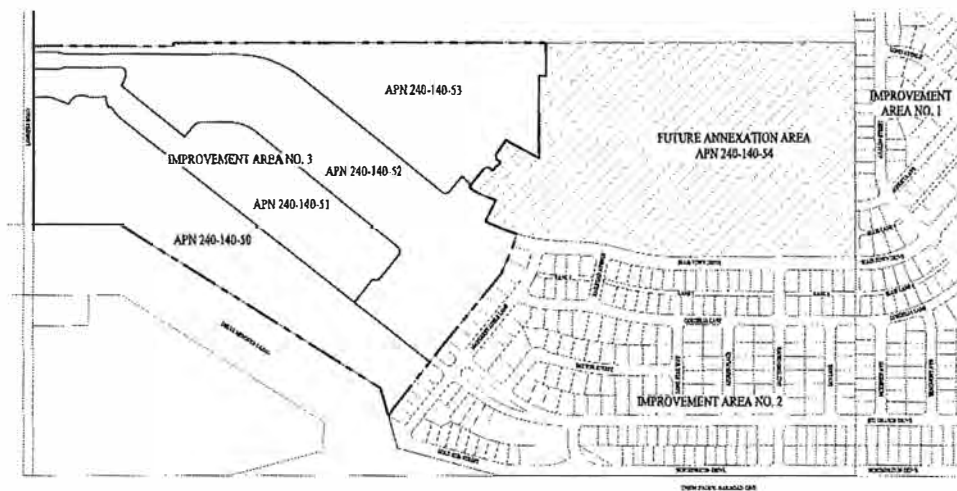


LEGEND:

- IMPROVEMENT AREA NO. 2 OF CFD No. 2016-2 (ECFD)
- FUTURE ANNEXATION AREA
- TRACT BOUNDARY

REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER	REFERENCE NUMBER	PARCEL NUMBER
1	240-76-01	54	240-76-03	105	240-77-37	172	240-78-04
2	240-76-02	55	240-76-04	106	240-77-38	173	240-78-05
3	240-76-03	56	240-76-05	107	240-77-39	174	240-78-06
4	240-76-04	57	240-76-06	108	240-77-40	175	240-78-07
5	240-76-05	58	240-76-07	109	240-77-41	176	240-78-08
6	240-76-06	59	240-76-08	110	240-77-42	177	240-78-09
7	240-76-07	60	240-76-09	111	240-77-43	178	240-78-10
8	240-76-08	61	240-76-10	112	240-77-44	179	240-78-11
9	240-76-09	62	240-76-11	113	240-77-45	180	240-78-12
10	240-76-10	63	240-76-12	114	240-77-46	181	240-78-13
11	240-76-11	64	240-76-13	115	240-77-47	182	240-78-14
12	240-76-12	65	240-76-14	116	240-77-48	183	240-78-15
13	240-76-13	66	240-76-15	117	240-77-49	184	240-78-16
14	240-76-14	67	240-76-16	118	240-77-50	185	240-78-17
15	240-76-15	68	240-76-17	119	240-77-51	186	240-78-18
16	240-76-16	69	240-76-18	120	240-77-52	187	240-78-19
17	240-76-17	70	240-76-19	121	240-77-53	188	240-78-20
18	240-76-18	71	240-76-20	122	240-77-54	189	240-78-21
19	240-76-19	72	240-76-21	123	240-77-55	190	240-78-22
20	240-76-20	73	240-76-22	124	240-77-56	191	240-78-23
21	240-76-21	74	240-76-23	125	240-77-57	192	240-78-24
22	240-76-22	75	240-76-24	126	240-77-58	193	240-78-25
23	240-76-23	76	240-76-25	127	240-77-59	194	240-78-26
24	240-76-24	77	240-76-26	128	240-77-60	195	240-78-27
25	240-76-25	78	240-76-27	129	240-77-61	196	240-78-28
26	240-76-26	79	240-76-28	130	240-77-62	197	240-78-29
27	240-76-27	80	240-76-29	131	240-77-63	198	240-78-30
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32	240-76-32	85	240-76-34	136	240-77-68	203	240-78-35
33	240-76-33	86	240-76-35	137	240-77-69	204	240-78-36
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36	240-76-36	89	240-76-38	140	240-77-72	207	240-78-39
37	240-76-37	90	240-76-39	141	240-77-73	208	240-78-40
38	240-76-38	91	240-76-40	142	240-77-74	209	240-78-41
39	240-76-39	92	240-76-41	143	240-77-75	210	240-78-42
40	240-76-40	93	240-76-42	144	240-77-76	211	240-78-43
41	240-76-41	94	240-76-43	145	240-77-77	212	240-78-44
42	240-76-42	95	240-76-44	146	240-77-78	213	240-78-45
43	240-76-43	96	240-76-45	147	240-77-79	214	240-78-46
44	240-76-44	97	240-76-46	148	240-77-80	215	240-78-47
45	240-76-45	98	240-76-47	149	240-77-81	216	240-78-48
46	240-76-46	99	240-76-48	150	240-77-82	217	240-78-49
47	240-76-47	100	240-76-49	151	240-77-83	218	240-78-50
48	240-76-48	101	240-76-50	152	240-77-84	219	240-78-51
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91	240-76-91	144	240-76-93	195	240-77-127	262	240-78-94
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106	240-76-106	159	240-76-108	210	240-77-142	277	240-79-09
107	240-76-107	160	240-76-109	211	240-77-143	278	240-79-10
108	240-76-108	161	240-76-110	212	240-77-144	279	240-79-11
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110	240-76-110	163	240-76-112	214	240-77-146	281	240-79-13
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113	240-76-113	166	240-76-115	217	240-77-149	284	240-79-16
114	240-76-114	167	240-76-116	218	240-77-150	285	240-79-17
115	240-76-115	168	240-76-117	219	240-77-151	286	240-79-18
116	240-76-116	169	240-76-118	220	240-77-152	287	240-79-19
117	240-76-117	170	240-76-119	221	240-77-153	288	240-79-20
118	240-76-118	171	240-76-120	222	240-77-154	289	240-79-21
119	240-76-119	172	240-76-121	223	240-77-155	290	240-79-22
120	240-76-120	173	240-76-122	224	240-77-156	291	240-79-23
121	240-76-121	174	240-76-123	225	240-77-157	292	240-79-24
122	240-76-122	175	240-76-124	226	240-77-158	293	240-79-25
123	240-76-123	176	240-76-125	227	240-77-159	294	240-79-26
124	240-76-124	177	240-76-126	228	240-77-160	295	240-79-27
125	240-76-125	178	240-76-127	229	240-77-161	296	240-79-28
126	240-76-126	179	240-76-128	230	240-77-162	297	240-79-29
127	240-76-127	180	240-76-129	231	240-77-163	298	240-79-30
128	240-76-128	181	240-76-130	232	240-77-164	299	240-79-31

IMPROVEMENT AREA NO. 3 DETAIL



IMPROVEMENT AREA NO. 3	
TRACT 4007	
APN	AREA (ACRES)
240-140-50	21.07
240-140-51	12.64
240-140-52	23.25
240-140-53	16.69
TOTAL	73.65

LEGEND:

IMPROVEMENT AREA NO 3 OF CFD No 2016-2 (ECFD)

FUTURE ANNEXATION AREA

TRACT BOUNDARY

AGENDA ITEM 1.F

REQUEST

**ADOPT A RESOLUTION APPROVING THE 2019 ANNUAL REPORT ON
DEVELOPMENT IMPACT FEE REVENUES, EXPENDITURES AND FINDINGS
REGARDING UNEXPENDED FUNDS IN ACCORDANCE WITH THE
MITIGATION FEE ACT**

EXECUTIVE SUMMARY

The City is required by law to issue an annual fiscal report identifying the development impact fees collected and expended during the prior fiscal year.

The City maintains 43 different development impact fee funds, with combined collected revenues of \$28,204,178 (including interest), in Fiscal Year 2018-2019. Development impact capital expenditures for Fiscal Year 2018-2019 totaled \$10,545,769. For Council consideration is the resolution regarding the annual report on development impact fee revenues and expenditures and the findings as to the unexpended development impact fees.

DISCUSSION

The Mitigation Fee Act, commonly referred to as AB1600 and codified as Government Code sections 66000-66006, imposes requirements for the collection and expenditure of development impact fees. Section 66006(b)(1) requires the City to prepare and make available to the public information for each separate account or fund, including:

- (a) a brief description of the fee;
- (b) the amount of the fee;
- (c) the beginning and ending balance;
- (d) the amount of the fees collected and interest earned;
- (e) an identification of each public improvement on which fees were expended, the amount of expenditures on each improvement including the total percentage of the cost that was funded with fees;
- (f) an identification of an approximate date by which the construction of the public improvement will begin if the city determines sufficient funds have been collected;
- (g) a description of each interfund transfer or loan, including the public improvements on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest; and
- (h) the amount of refunds made, if any.

The report must be made available to the public within 180 days after the end of each fiscal year.

Historically, the City has complied with this requirement through the City Council's acceptance of the Development Impact Fee Annual Report containing the required

information and adopting a resolution confirming acceptance of the report. This report and the information attached to the proposed Resolution satisfy the statutory requirements for the account of development impact fees.

STRATEGIC PLAN

The agenda item is mandated by state law and does not have bearing on the City Council's Strategic Plans.

FISCAL IMPACT

The costs of these projects are reflected in the CIP Project list as identified in Exhibit C of this report.

RECOMMENDATION

That the City Council adopt the attached resolution approving the annual report on development impact fee revenues, expenditures and findings as to unexpended funds.

Prepared by: Felicia Galindo, Senior Accountant, Finance Department
Alison Bouley, Harris and Associates

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Development Impact Fees Annual Report, December 2019 for Fiscal Year
July 1, 2019 - June 30, 2019

- Exhibit A: Summary of Fund Balances, Fees Collected, Interest Earned and Project Expenditures
- Exhibit B: Brief Description of Fees and Amounts of Fees
(Including Exhibits B-1 through B-16)
- Exhibit C: Fee-funded Capital Improvement Projects
- Exhibit D: Report of Findings for Development Fee Funds



CITY OF TRACY

DEVELOPMENT IMPACT FEES

ANNUAL REPORT, DECEMBER 2019 FOR FISCAL YEAR JULY 1, 2018 – JUNE 30, 2019

Adopted by City Council Resolution 2019-_____

December 17, 2019

This Annual Report is adopted pursuant to Government Code sections 66006(b) and 66001(d). The Report consists of four main parts, which are attached:

Exhibit A	Summary of Fund Balances, Fees Collected, Interest Earned and Project Expenditures
Exhibit B	Brief Description of Fees and Amounts of Fees, Including Exhibits B-1 through B-17
Exhibit C	Fee-Funded Capital Improvement Projects
Exhibit D	Report of Findings for Development Fee Funds

EXHIBIT A
Fund Balances, Fees Collected, Interest Earned, and Project Expenditures
for Fiscal Year Ended June 30, 2019
(Government Code Subsection 66006(b)(1)(C) and (D))

New Rev Total (E-H)	Fund	Fund Description	Beginning Fund Balance 07/01/18	Capital Development Fees Collected ¹	Interest / Investment Earnings ²	Fiscal Agent Earnings ³	Other Revenues ⁴	CIP Expenditures ⁵	Project Reimbs &/or Interfund Transfers ⁶	Other Expenditures 7	Ending Fund Balance 06/30/19
\$ 332,797	311	Infill, Parks	\$ 2,100,848	\$ 277,460	\$ 55,337	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,433,645
\$ 47,896	312	Infill, Strm Drn	(92,954)	45,559	2,337			(1,496)			\$ (46,554)
\$ 370,378	313	Infill, Arterials	350,165	359,978	10,400			(9,087)			\$ 711,456
\$ 249,649	314	Infill, Bldg & Eqpt	824,248	226,118	23,531						\$ 1,073,897
\$ 3	315	Infill, Prgrm Mgmt	1,228		3						\$ 1,231
\$ 2,109	316	Infill, Parking	86,703	-	2,109						\$ 88,812
\$ 205,411	321	Plan C, Parks	2,905,972	132,420	72,991						\$ 3,111,383
\$ 383,912	322	Plan C, Strm Drn	6,841,560	215,613	168,299			(149,170)			\$ 7,076,302
\$ 261,739	323	Plan C, Arterials	3,080,303	179,218	82,521			370,541			\$ 3,712,583
\$ 274,507	324	Plan C, Gen Fac	6,303,852	120,111	154,396						\$ 6,578,359
\$ 407,018	325	Plan C, Utilities	4,589,081	291,101	115,917			(58,371)			\$ 4,937,728
\$ 23,205	331	Ellis Area Traffic	-	8,194	15,011				1,160,671		\$ 1,183,876
\$ 25,074	332	Ellis Area Drainage	-	8,933	16,141				1,247,070		\$ 1,272,144
\$ -	333	Ellis Area Parks	-	-	-				4,621		\$ 4,621
\$ 20,992	334	Ellis Area Public Bldgs	-	6,710	14,282				1,105,024		\$ 1,126,016
\$ 8,598	335	Ellis Area Water	-	-	8,598				15,734		\$ 24,332
\$ 7,406	336	Ellis Area Recycled Water	-	5,118	2,288			(700,000)	725,056		\$ 32,462
\$ 41,267	337	Ellis Area Wastewater	-	16,079	25,188				1,945,761		\$ 1,987,028
\$ 163,395	345	RSP, Prgrm Mgt	2,947,304		71,406		91,989	(19,037)		(91,989)	\$ 2,999,673
\$ 1,055,070	350	NEI Storm Drain	-	982,906	72,164				6,142,612		\$ 7,197,683
\$ 5,328,520	351	NEI, Ph 1	3,253,857	5,142,764	185,756			(6,007)	2,748,714		\$ 11,325,084
\$ 498,177	352	S MacArthur Area	10,782,419	234,920	258,869	4,388		(3,946)	(255,253)		\$ 11,021,397
\$ 293,178	353	I-205 Corridor	10,894,734		293,178			(39,691)			\$ 11,148,221
\$ 306,089	354	ISP, South	1,925,888	238,832	67,257			(1,227,175)	1,597,775		\$ 2,602,577
\$ 149,222	355	Presidio	5,312,685		149,146	76		(4,528)	(5,127)		\$ 5,452,253
\$ 42,733	356	Gateway	466,039		42,733			(115,297)	1,712,087		\$ 2,105,562
\$ 150,224	357	NEI, Ph 2	9,652,488		84,241	65,983		(90,411)	(12,093,901)		\$ (2,381,600)
\$ 170,664	358	Ellis Area Prgrm Mgmt	8,197,776	68,898	101,766			(7,576)	(8,298,021)		\$ 62,843
\$ 705,385	361	TIMP, Parks	5,926,423	558,693	146,692			(490,258)			\$ 6,141,550
\$ 149,588	362	TIMP, Strm Drn	915,785	127,016	22,572			(124,116)			\$ 941,257
\$ 3,330,686	363	TIMP, Traffic	6,157,530	3,137,954	192,732			(949,626)			\$ 8,538,590
\$ 2,812,903	364	TIMP, Wastewater	19,246,001	2,329,620	483,283			(2,597,235)			\$ 19,461,669
\$ 1,947,811	365	TIMP, Water	4,676,747	1,735,591	212,220			170,008	(578,087)		\$ 6,216,479
\$ 320,424	366	TIMP, Public Fac	1,483,570	291,718	28,706			(1,041,353)			\$ 762,641
\$ 299,112	367	TIMP, Public Safety	1,400,483	260,827	38,285			(11,313)			\$ 1,688,282
\$ 620,329	368	TIMP, Recycled Water	-	619,938	391			(3,000,000)	2,418,752		\$ 39,080
\$ 1,013,856	391	Urban Mgt Plan-PM	3,016,943	840,885	131,263		41,708	(311,024)	975,063	(85,348)	\$ 4,609,490
\$ 375,996	511	Infill, Water	-	375,996					(375,996)		\$ -
\$ 618,468	521	Infill, Wastewater	-	618,468					(618,468)		\$ -
\$ 2,329,987	808	Reg Transp Imp	7,737,740	2,329,987				(129,601)			\$ 9,938,126
\$ 346,295	N/A	Ag Mit Fees	-	346,295						(346,295)	\$ -
\$ 1,628,690	N/A	County Facilities Fees	-	1,628,690						(1,628,690)	\$ -
\$ 885,416	N/A	Habitat Mitigation Fees	-	885,416	-	-	-	-	-	(885,416)	\$ -
\$ 28,204,178		TOTALS	\$ 130,985,418	\$ 24,648,024	\$ 3,352,009	\$ 70,448	\$ 133,697	\$ (10,545,769)	\$ (425,911)	\$ (3,037,738)	\$ 145,180,178

Footnotes:

¹ No Capital Development Fees collected were refunded in FY18-19

² Investment Earnings total includes cash-fair market value offsets.

³ Fiscal Agent Earnings are cash reserves held by bond Trustees.

⁴ Other Revenues: FD345 Tracy Mall Partners Loan

⁵ Capital Improvement Project (CIP) Expenditures: See Exhibit C for more detail;

⁶ New Ellis Area Funds Created -FD358 Transfers into FD331-FD337, New NEI Storm Drain FD350 Created Transfers from FD351 & FD357, FD365 Transfer to New Recycled Water FD368

⁷ Other Expenditures: FD345 Tracy Mall Partners Loan

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2018
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)				
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail
311	¹ Infill Area, Parks	Mini/Neighborhood and Community Parks	2012-060	13.12.010	\$5,429.00	\$4,524.00	\$3,619.00	N/A	N/A	N/A	N/A	N/A
312	¹ Infill Area, Strm Drn	Storm Drainage	2012-060	13.04.010	\$1,429.00	\$949.00	\$850.00	N/A	\$22,141	\$22,141	N/A	\$22,141
313	¹ Infill Area, Arterials	Traffic Safety, Streets & Highways	2012-060	13.04.010	\$2,700.00	\$1,296.00	\$1,296.00	N/A	\$25,781	\$35,230	N/A	\$50,834
314	^{1a, 18} Infill Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$3,335.81	\$2,490.48	\$2,480.21	N/A	\$162.85 ^{1a}	\$815.25 ^{1a}	N/A	\$489.55 ^{1a}
513	¹ Infill Area, Water	Water Supply, Treatment, Storage and Distribution	2012-060	13.04.010	\$5,850.00	\$4,212.00	\$2,984.00	N/A	\$18,251.00	\$18,251.00	N/A	\$24,334.00
523	¹ Infill Area, Wastewater	Wastewater Treatment and Conveyance	2012-060	13.04.010	Exh B-1	Exh B-1	Exh B-1	Exh B-1	Exh B-1	Exh B-1	N/A	Exh B-1
316	² Infill Area, Downtown Imprvs Parking	Downtown Incentive Area Parking Fee	2015-168	10.08.3470	N/A	N/A	N/A	N/A	N/A	Exh B-2	N/A	Exh B-2
321	³ Plan C Area, Parks	Mini/Neighborhood and Community Parks	2007-133	13.12.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
322	³ Plan C Area, Strm Drn	Storm Drainage	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
323	^{3,17} Plan C Area, Arterials	Traffic Safety, Streets & Highways	2014-070	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
324	¹⁸ Plan C Area, General Facilities	General Government & Public Safety Facilities	2014-158	13.04.010	\$5,661.81	\$5,649.48	\$2,589.21	N/A	N/A	N/A	N/A	\$10,903.55
325	³ Plan C Area, Utilities - Water	Water Supply, Treatment, Storage and Conveyance	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
325	³ Plan C Area, Utilities - Wastewater	Wastewater Treatment and Conveyance	2007-133	13.04.010	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	Exh B-3	N/A	Exh B-3
341	⁴ Residential Specific Plan Area, Parks	Mini/Neighborhood and Community Parks	2003-266	13.12.010	Exh B-4	Exh B-4	Exh B-4	N/A	N/A	N/A	N/A	N/A
342	⁴ Residential Specific Plan Area, Strm Drn	Storm Drainage	2003-266	13.20.010	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	N/A	Exh B-4
344	⁴ Residential Specific Plan Area, Pub Bldgs	General Government & Public Safety Facilities	2003-266	13.20.010	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	Exh B-4	N/A	Exh B-4
351	⁵ Northeast Industrial Area, Ph 1, Arterials	Traffic Safety, Streets & Highways	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	^{5,21} Northeast Industrial Area, Ph 1, Strm Drn	Storm Drainage	2018-204	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	Northeast Industrial Area, Ph 1, Water	Water Supply, Treatment, Storage and Distribution	2008-065	13.04.010	N/A	N/A	N/A	N/A	\$5,228.00	N/A	N/A	N/A
351	⁵ Northeast Industrial Area, Ph 1, Wastewater	Wastewater Treatment and Conveyance	2008-065	13.04.010	N/A	N/A	N/A	N/A	Exh B-5	N/A	N/A	N/A
351	¹⁸ Northeast Industrial Area, Ph 1, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	N/A	\$3,708.19	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Arterials	Traffic Safety, Streets & Highways	2011-227	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Strm Drn	Storm Drainage	2005-253	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Parks	Mini/Neighborhood and Community Parks	2005-253	13.12.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	South MacArthur Plan Area, Water	Water Supply, Treatment, Storage and Distribution	2005-253	13.04.010	\$4,646.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
352	⁶ South MacArthur Plan Area, Wastewater	Wastewater Treatment and Conveyance	2005-253	13.04.010	Exh B-6	Exh B-6	Exh B-6	N/A	N/A	N/A	N/A	N/A
352	¹⁸ South MacArthur Plan Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$3,322.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
354	Industrial Specific Plan South Area, Arterials	Traffic Safety, Streets & Highways	2009-048	13.04.010	\$6,645.00	\$3,189.00	\$3,189.00	N/A	\$74,620.00	\$86,714.00	N/A	\$125,120.00
354	⁷ Industrial Specific Plan South Area, Strm Drn	Storm Drainage	2009-048	13.04.010	Exh B-7	Exh B-7	Exh B-7	N/A	Exh B-7	Exh B-7	N/A	Exh B-7
354	Industrial Specific Plan South Area, Parks	Mini/Neighborhood and Community Parks	2009-048	13.12.010	\$7,309.00	\$6,091.00	\$4,872.00	N/A	N/A	N/A	N/A	N/A
354	¹⁸ Industrial Specific Plan South Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	\$2,779.81	\$2,315.48	\$1,853.21	N/A	\$4,318.19	\$18,371.37	N/A	\$17,968.55
354	Industrial Specific Plan South Area, Water	Water Supply, Treatment, Storage and Distribution	2009-048	13.04.010	\$4,613.00	\$3,829.00	\$3,091.00	N/A	\$8,448.00	\$8,448.00	N/A	\$8,448.00
354	⁷ Industrial Specific Plan South Area, Wastewater	Wastewater Treatment and Conveyance	2009-048	13.04.010	Exh B-7	Exh B-7	Exh B-7	N/A	Exh B-7	Exh B-7	N/A	Exh B-7
355	⁸ Presidio Area, Arterials	Traffic Safety, Streets & Highways	2001-351	13.04.010	\$6,736.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	Presidio Area, Arterials-Regional Fee	Regional Traffic Fee	2000-265	13.04.010	\$1,500.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	⁸ Presidio Area, Strm Drn	Storm Drainage	2000-265	13.04.010	Exh B-8	Exh B-8	Exh B-8	Exh B-8	Exh B-8	Exh B-8	N/A	Exh B-8
355	¹⁸ Presidio Area, Pub Bldgs	General Government & Public Safety Facilities	2000-265	13.04.010	\$1,620.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
355	⁸ Presidio Area, Water	Water Supply, Treatment, Storage and Distribution	2001-351	13.04.010	\$555.75	N/A	N/A	N/A	N/A	N/A	N/A	N/A

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2018
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)				
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail
355	Presidio Area, Wastewater	Wastewater Treatment and Conveyance	2000-265	13.04.010	\$1,105.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A
356	^{9,17} Tracy Gateway Area, Arterials	Traffic Safety, Streets & Highways	2011-227	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9
356	⁹ Tracy Gateway Area, Strm Drn	Storm Drainage	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9
356	^{9,18} Tracy Gateway Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9
356	⁹ Tracy Gateway Area, Water	Water Supply, Treatment, Storage and Distribution	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9
356	⁹ Tracy Gateway Area, Wastewater	Wastewater Treatment and Conveyance	2007-175	13.04.010	N/A	N/A	N/A	Exh B-9	Exh B-9	Exh B-9	N/A	Exh B-9
357	^{10,17} Northeast Industrial Area, Ph 2, Arterials	Traffic Safety, Streets & Highways	2012-077	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A
357	^{10,21} Northeast Industrial Area, Ph 2, Strm Drn	Storm Drainage	2018-204	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A
357	Northeast Industrial Area, Ph 2, Water	Water Supply, Treatment, Storage and Distribution	2008-010	13.04.010	N/A	N/A	N/A	N/A	\$17,639.00	N/A	N/A	N/A
357	¹⁰ Northeast Industrial Area, Ph 2, Wastewater	Wastewater Treatment and Conveyance	2008-010	13.04.010	N/A	N/A	N/A	N/A	Exh B-10	N/A	N/A	N/A
357	¹⁸ Northeast Industrial Area, Ph 2, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	N/A	N/A	N/A	N/A	\$2,953.19	N/A	N/A	N/A
353	¹¹ I-205 Corridor Area, Arterials	Traffic Safety, Streets & Highways	2007-136	13.04.010	11	11	11	11	11	11	N/A	11
353	¹¹ I-205 Corridor Area, Strm Drn	Storm Drainage	2007-136	13.04.010	11	11	11	11	11	11	N/A	11
353	¹¹ I-205 Corridor Area, Parks	Mini/Neighborhood and Community Parks	2007-136	13.12.010	11	11	11	11	11	11	N/A	11
353	^{11,18} I-205 Corridor Area, Pub Bldgs	General Government & Public Safety Facilities	2014-158	13.04.010	11	11	11	11	11	11	N/A	11
353	¹¹ I-205 Corridor Area, Water	Water Supply, Treatment, Storage and Distribution	2007-136	13.04.010	11	11	11	11	11	11	N/A	11
353	¹¹ I-205 Corridor Area, Sewer Treatment	Wastewater Treatment and Conveyance	2007-136	13.04.010	11	11	11	11	11	11	N/A	11
391	¹² Habitat Mitigation Fees	Multi-Species Habitat Conservation & Open Space	2017-222	13.04.010	Exh B-12	Exh B-12	Exh B-12	Exh B-12	Exh B-12	Exh B-12	N/A	Exh B-12
207	¹³ Agricultural Mitigation Fees	Agricultural Land Mitigation/Farmland Preservation	2005-278	13.28.010	Exh B-13	Exh B-13	Exh B-13	Exh B-13	Exh B-13	Exh B-13	N/A	Exh B-13
391	¹⁴ County Facilities Fees (CFF)	San Joaquin County Public Facilities	2005-142	13.24.010	Exh B-14	Exh B-14	Exh B-14	Exh B-14	Exh B-14	Exh B-14	N/A	Exh B-14
808	¹⁵ Regional Transportation Fees (RTIF)	Regional Transportation Impact Fees (RTIF)	Ord 1087	13.32.010	Exh B-15	Exh B-15	Exh B-15	Exh B-15	Exh B-15	Exh B-15	N/A	Exh B-15
391	¹⁶ Infill Area, Prgm Mgmt	Specific Plan Area Program Management	2012-060	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Plan C Area, Prgm Mgmt	Specific Plan Area Program Management	2007-133	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Residential Specific Plan Area, Prgm Mgmt	Specific Plan Area Program Management	2003-266	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Northeast Industrial Area, Ph 1, Prgm Mgmt	Specific Plan Area Program Management	2008-065	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ South MacArthur Plan Area, Prgm Mgmt	Specific Plan Area Program Management	2005-253	13.04.010	16	16	16	16	16	16	16	16
353	¹⁶ I-205 Corridor Area, Prgm Mgmt	Specific Plan Area Program Management	2007-136	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Industrial Specific Plan South Area, Prgm Mgmt	Specific Plan Area Program Management	2009-048	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Presidio Area, Prgm Mgmt	Specific Plan Area Program Management	2000-265	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Tracy Gateway Area, Prgm Mgmt	Specific Plan Area Program Management	2007-175	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Northeast Industrial Area, Ph 2, Prgm Mgmt	Specific Plan Area Program Management	2008-010	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Ellis Program Area, Prgm Mgmt	Specific Plan Area Program Management	2013-136	13.04.010	16	16	16	16	16	16	16	16
391	¹⁶ Citywide Master Plan Prgm Area, Prgm Mgmt	Specific Plan Area Program Management	2014-10	13.04.010	16	16	16	16	16	16	16	16
333	¹⁹ Ellis Program Area	Parks and Recreation	2013-136	13.04.010	\$ 8,128.00	\$ 6,651.00	\$ 5,419.00	N/A	N/A	N/A	N/A	N/A
332	¹⁹ Ellis Program Area	Storm Drainage	2013-136	13.04.010	\$ 1,797.00	\$ 981.00	\$ 2,229.00	N/A	N/A	N/A	\$ 6,691.00	\$ 23,836.00
331	¹⁹ Ellis Program Area	Traffic	2013-136	13.04.010	\$ 2,693.00	\$ 2,693.00	\$ 1,293.00	N/A	N/A	N/A	\$ 2,693.00	\$ 42,825.00
331	¹⁹ Ellis Program Area	County Traffic	2013-136	13.04.010	\$ 1,500.00	\$ 1,500.00	\$ 720.00	N/A	N/A	N/A	\$ -	\$ -
334	¹⁸ Ellis Program Area	Public Buildings	2014-158	13.04.010	\$ 3,479.00	\$ 2,846.00	\$ 2,319.00	N/A	N/A	N/A	\$ 2,369.00	\$ 2,369.00

EXHIBIT B
Brief Descriptions of Fees and Amounts of Fees
For Fiscal Year Ended June 30, 2018
 (Government Code §66006(b)(1)(A) and (B).)

Fund	Fund Description	Finance and Implementation Plan (FIP) Fee Descriptions	Resolution Number	Tracy Municipal Code §	Residential Fees Per Dwelling Unit (Except as indicated)			Non-Residential Fees Per Gross Acre (Except as indicated)				
					SFDU	2 - 4	≥ 5	Institution	Industrial	Office	Storage	Retail
335	¹⁹ Ellis Program Area	Water Supply, Treatment, Storage and Distribution	2013-136	13.04.010	\$ 7,058.00	\$ 6,070.00	\$ 4,094.00	N/A	N/A	N/A	\$ 39,736.00	\$ 39,736.00
337	¹⁹ Ellis Program Area	Wastewater Treatment and Conveyance	2013-136	13.04.010	\$ 8,337.00	\$ 6,753.00	\$ 5,586.00	N/A	N/A	N/A	\$ 3,168.00	\$ 43,352.00
336	¹⁹ Ellis Program Area	Recycled Water	2013-136	13.04.010	\$ 2,654.00	\$ 2,282.00	\$ 1,539.00	N/A	N/A	N/A	\$ 14,942.00	\$ 14,942.00
361	^{20, 22} Citywide Master Plan Fees	Parks	2014-10	13.04.010	\$ 8,329.00	\$ 6,815.00	\$ 5,553.00	N/A	N/A	N/A	N/A	N/A
362	^{20, 21} Citywide Master Plan Fees	Storm Drainage	2014-10	13.04.010	Exh B-16	Exh B-16	Exh B-16	Exh B-16	Exh B-16	Exh B-16	N/A	Exh B-16
363	^{20, 22} Citywide Master Plan Fees	Transportation	2014-10	13.04.010	\$ 5,716.00	\$ 3,487.00	\$ 3,487.00	N/A	\$ 79,623.00	\$ 139,240.00	N/A	\$ 174,564.00
367	^{18, 22} Citywide Master Plan Fees	Public Safety Facilities	2014-158	13.04.010	\$ 1,487.00	\$ 1,216.00	\$ 991.00	N/A	\$150.15 ^{19a}	\$750.69 ^{19a}	N/A	\$450.42 ^{19a}
366	^{20, 22} Citywide Master Plan Fees	Public Facilities	2014-10	13.04.010	\$ 3,255.00	\$ 2,663.00	\$ 2,170.00	N/A	\$28.18 ^a	\$140.88 ^{19a}	N/A	\$84.52 ^{19a}
365	^{20, 22} Citywide Master Plan Fees	Water Supply, Treatment, Storage and Distribution	2014-10	13.04.010	\$ 10,299.00	\$ 7,415.00	\$ 5,252.00	N/A	\$ 32,131.00	\$ 32,131.00	N/A	\$ 42,842.00
364	^{20, 22} Citywide Master Plan Fees	Wastewater Treatment and Conveyance (East Conveyance)	2014-10	13.04.010	\$ 10,065.00	\$ 8,235.00	\$ 6,710.00	N/A	\$ 40,260.00	\$ 43,462.00	N/A	\$ 43,462.00
364	^{20, 22} Citywide Master Plan Fees	Wastewater Treatment and Conveyance (West Conveyance)	2014-10	13.04.010	\$ 9,188.00	\$ 7,518.00	\$ 6,126.00	N/A	\$ 36,755.00	\$ 39,679.00	N/A	\$ 39,679.00
368	^{20, 22} Citywide Master Plan Fees	Recycled Water	2014-10	13.04.010	\$ 2,925.00	\$ 2,516.00	\$ 1,697.00	N/A	\$ 13,426.00	\$ 13,426.00	N/A	\$ 16,468.00
391	^{20, 22} Citywide Master Plan Fees	Program Management	2014-10	13.04.010	¹⁶	¹⁶	¹⁶	¹⁶	¹⁶	¹⁶	N/A	¹⁶

Footnotes:

¹ Infill Area - Parks, Storm Drain, Arterials, Water and Program Management fee adopted April 2012. Wastewater fees: See Exhibit B-1; Public Building Fee Updated 9/16/14.

^{1a} Infill Area - Pub Bldgs fees for non-residential development are per 1,000 Sq Ft of building area; Public Building Fees Updated 9/16/14.

² Infill Area - Downtown Improvements is for a Downtown Incentive Area Parking Fee. Fee was updated and adopted on October 6, 2016. See Exhibit B-2 for fee schedule.

³ Plan C Area - Parks, Storm Drain, Water and Wastewater fees: See Exhibit B-3, Adopted 6/19/07. Arterials fees: See Exhibit B-3.

⁴ Residential Specific Plan Area - Arterial fees were no longer applicable after the July 2003 FIP Update.

⁵ Northeast Industrial Area, Ph 1 - Arterials, Storm Drain and Wastewater fees: See Exhibit B-5; Roadway Update adopted 5/1/12. Strm Drn adopted 10/2/18.

⁶ South MacArthur Plan Area - Arterials, Storm Drain, Parks and Wastewater fees: See Exhibit B-6; Roadway Fee Update adopted 12/6/11 by Resolution Number 2011-227.

⁷ Industrial Specific Plan South Area - Storm Drain and Wastewater fees: See Exhibit B-7.

⁸ Presidio Area - Water and Arterial Fees updated October 2, 2001 by Resolution 2001-351. Storm Drain fees: See Exhibit B-8.

⁹ Tracy Gateway Area - Golf Course, Golf Course Club House and Golf Maintenance Facilities fees were spread to other Phase 1 land uses: See Exhibit B-9; Roadway Fee Update adopted 12/6/11 by Resolution Number 2011-227.

¹⁰ Northeast Industrial Area, Ph 2 - Arterials, Storm Drain and Wastewater fees: See Exhibit B-10; Roadway adopted 5/1/12. Strm Drn adopted 10/2/18.

¹¹ I-205 Corridor Area - Obligations vary between parcels: See Exhibit B-17 (Exhibit E titled "Current Approved Finance Plans, June 2007").

¹² Habitat Mitigation fees are collected to mitigate loss of multi-species habitat. Fees are paid to San Joaquin Council of Governments (SJCOG). See Exhibit B-12.

¹³ Agricultural Mitigation fees are collected to mitigate loss of farmland and open spaces. See Exhibit B-13.

¹⁴ County Facilities Fees are collected to offset costs associated with County capital facilities. Fees are paid to San Joaquin County. See Exhibit B-14.

¹⁵ Regional Transportation Impact Fees are collected to finance the regional transportation capital projects. See Exhibit B-15.

¹⁶ Program Management fees are 5% of Construction Costs.

¹⁷ As amended on 4/4/14 by Resolution 2014-070.

¹⁸ As amended on 9/16/14 by Resolution 2014-158.

¹⁹ Adopted by Resolution Number 2013-136 on 8/20/13.

²⁰ Adopted by Resolution Number 2014-10 on 1/7/14. Strm Drn see Exh B-16.

²¹ Storm Drainage Fees: Northeast Industrial Area (NEI) Fee and Eastside Industrial Fee were Adopted by Resolution Number 2018-204 on 10/2/18.

²² Citywide Master Plan Fees updated on 7/1/2018 by the City. Except drainage NEI and Eastside Industrial Fees.

EXHIBITS B-1 THROUGH B-17
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2018
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-1: INFILL AREA - WATER, WASTEWATER, STORM DRAINAGE FEES

Public Facilities	Residential Fees Per Unit			Non-Residential Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
WW Conveyance-Corral Hollow Sewer	\$9,394.00	\$7,609.00	\$6,294.00	\$37,576.00	\$37,576.00	\$40,394.00	\$48,849.00
WW Conveyance-Eastside Sewer	\$9,293.00	\$7,527.00	\$6,226.00	\$37,172.00	\$37,172.00	\$39,960.00	\$48,324.00
WW Conveyance-City Core Sewer	\$10,125.00	\$8,201.00	\$6,784.00	\$40,500.00	\$40,500.00	\$43,538.00	\$52,650.00
WW Conveyance-MacArthur	\$9,816.00	\$7,951.00	\$6,577.00	\$39,264.00	\$39,264.00	\$42,209.00	\$51,043.00

EXHIBIT B-2: INFILL AREA - DOWNTOWN INCENTIVE AREA PARKING FEE

Parking Fee	\$0

EXHIBIT B-3: PLAN C AREA - WATER, WASTEWATER, ROADWAYS, STORM DRAINAGE, PARKS

Public Facilities	Residential Fees Per Unit			Non-Residential (Edgewood Subd Only) Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Mini/Neighborhood Parks	\$4,693.00	\$3,911.00	\$3,129.00	N/A	N/A	N/A	N/A
Community Parks	\$1,549.00	\$1,290.00	\$1,032.00	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Byron Zone	\$3,953.00	\$2,451.00	\$2,010.00	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Purple Zone	\$6,642.00	\$4,117.00	\$3,375.00	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Yellow Zone	\$5,392.00	\$3,343.00	\$2,742.00	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Orange Zone	\$4,146.00	\$2,571.00	\$2,109.00	N/A	N/A	N/A	\$52,575.00
Storm Drainage-Upgrade-Blue Zone	\$6,593.00	\$4,087.00	\$4,193.00	N/A	N/A	N/A	N/A
Storm Drainage-Upgrade-Pink Zone	\$4,876.00	\$3,024.00	\$2,486.00	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zn-Huntington Park	\$138.00	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-Lyon Crossroads	\$281.00	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-San Marco	\$346.00	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drn-Subdrains-Byron Zone-Westgate	\$334.00	N/A	\$97.00	N/A	N/A	N/A	N/A
Arterials-Upgrade-Northwest	\$9,717.00	\$4,626.00	\$4,626.00	N/A	N/A	N/A	N/A
Arterials-Upgrade-Southwest	\$4,413.00	\$2,103.00	\$2,103.00	N/A	N/A	N/A	\$68,894.00
Arterials-Upgrade-Southeast	\$6,615.00	\$3,150.00	\$3,150.00	N/A	N/A	N/A	N/A
Water Supply-Edgewood	\$1,363.00	\$1,131.00	\$913.00	N/A	N/A	N/A	\$982.00
Water SSJID-Edgewood	\$746.00	\$621.00	\$497.00	N/A	N/A	N/A	\$1,123.00
Wastewater Conveyance	\$328.00	\$272.00	\$220.00	N/A	N/A	N/A	\$1,749.00
Wastewater Collection-Corral Hollow	\$774.00	\$645.00	\$516.00	N/A	N/A	N/A	\$3,546.00
Wastewater Collection-East Side	\$570.00	\$475.00	\$379.00	N/A	N/A	N/A	\$2,610.00
WW Treatment Plant Expansion	\$12,807.00	\$10,677.00	\$8,539.00	N/A	N/A	N/A	\$29,280.00

EXHIBIT B-4: RESIDENTIAL SPECIFIC PLAN AREA - STORM DRAINAGE, PUBLIC BUILDINGS, PARKS

Public Facilities	Fees based on number of Project Equivalent Consumer Units	
	All Residential Projects	All Non-Residential Projects
Parks	\$523	N/A
Storm Drainage	\$9,105	\$9,105
Public Buildings	\$19,672	N/A

EXHIBITS B-1 THROUGH B-17
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2018
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-5: NORTHEAST INDUSTRIAL AREA, PH 1 - WASTEWATER, ARTERIALS, STORM DRAINAGE

Public Facilities	Residential Fees Per Unit			Non-Residential (Industrial Only) Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Arterials Upgrades	N/A	N/A	N/A	\$65,609.00	N/A	N/A	N/A
Arterials CFD 89-1 Reimb	N/A	N/A	N/A	\$382.00	N/A	N/A	N/A
Arterials RSP Reimb	N/A	N/A	N/A	\$1,484.00	N/A	N/A	N/A
Storm Drainage - Watershed	N/A	N/A	N/A	\$30,946.60	N/A	N/A	N/A
Storm Drainage - Eastside Channel Fee	N/A	N/A	N/A	\$3,908.24	N/A	N/A	N/A
Wastewater Conveyance Upgrade	N/A	N/A	N/A	\$8,428.00	N/A	N/A	N/A
Wastewater Treatment Plant Upgrade	N/A	N/A	N/A	\$28,617.00	N/A	N/A	N/A
Wastewater CFD 89-1 Reimb	N/A	N/A	N/A	\$1,405.00	N/A	N/A	N/A

EXHIBIT B-6: SOUTH MACARTHUR PLAN AREA - ALL FEES

Public Facilities (Residential Projects Only)	Yosemite Vista Subdivision			Elissagaray Ranch Subdivision		
	Fees Per Unit			Fees Per Unit		
	SFD	2 - 4	≥ 5	SFD	2 - 4	≥ 5
Arterials - Upgrades	\$7,858.00	N/A	N/A	\$7,858.00	N/A	N/A
Arterials - CFD 89-1 Reimb	\$89.00	N/A	N/A	\$89.00	N/A	N/A
Arterials - RSP Reimb	\$664.00	N/A	N/A	\$664.00	N/A	N/A
Storm Drainage - Upgrade	\$3,855.00	N/A	N/A	\$3,855.00	N/A	N/A
Mini/Neighborhood and Community Parks	\$5,636.00	N/A	N/A	\$5,636.00	N/A	N/A
Wastewater-Eastside Sewer System Connection	\$543.00	N/A	N/A	\$27.00	N/A	N/A
Wastewater-Gravity Sewer Improvements	\$406.00	N/A	N/A	\$58.00	N/A	N/A
Wastewater Treatment Plant Upgrade	\$10,436.00	N/A	N/A	\$7,405.00	N/A	N/A

EXHIBIT B-7: INDUSTRIAL SPECIFIC PLAN SOUTH AREA - STORM DRAINAGE, WASTEWATER

Public Facilities	Residential			Non-Residential			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Storm Drainage - Upgrades - Zone 1	\$3,654.00	\$2,265.00	\$1,847.00	\$46,037.00	N/A	\$46,037.00	\$46,037.00
Storm Drainage - Westside Outfall - Zone 1	\$449.00	\$220.00	\$227.00	\$5,662.00	N/A	\$5,662.00	\$5,662.00
Storm Drainage - Upgrades - Zone 2	\$1,311.00	\$642.00	\$526.00	\$16,519.00	N/A	\$16,519.00	\$16,519.00
Storm Drainage - Westside Outfall - Zone 2	\$449.00	\$220.00	\$227.00	\$5,662.00	N/A	\$5,662.00	\$5,662.00
Wastewater Treatment Plant Upgrade	\$1,943.00	\$1,620.00	\$1,295.00	\$10,356.00	N/A	\$8,938.00	\$8,938.00
Wastewater - Sewer Collection Conveyance	\$3,237.00	\$2,676.00	\$2,158.00	\$1,995.00	N/A	\$1,995.00	\$1,995.00
Wastewater - Cheng Diversion Reimb	\$208.00	\$173.00	\$139.00	\$1,108.00	N/A	\$970.00	\$970.00

EXHIBITS B-1 THROUGH B-17
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2018
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-8: PRESIDIO AREA - STORM DRAINAGE							
Public Facilities Residential Only Single Family Dwelling Units	Fees Per Unit			Non-Residential			
	Pink Zone	Purple Zone	Yellow Zone	Fee Per Gross Acre			
				Industrial	Institutional	Office	Retail
Storm Drainage - Westside Channel Reimb	\$963	N/A	N/A	N/A	N/A	N/A	N/A
Storm Drainage - Upgrades	N/A	\$336.00	\$691.00	N/A	N/A	N/A	N/A
Storm Drainage - RSP Reimb	N/A	\$1,153.00	\$1,112.00	N/A	N/A	N/A	N/A

EXHIBIT B-9: TRACY GATEWAY AREA - ALL FEES							
Public Facilities	Residential			Non-Residential			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Retail	Ofc w/o Def	Ofc w/ Def	Hotel (200 Room)
Arterials - Streets & Highways	N/A	N/A	N/A	\$36,952.00	\$25,610.00	\$1,626.00	\$34,606.00
Storm Drainage	N/A	N/A	N/A	\$9,549.00	\$9,549.00	\$4,350.00	\$5,199.00
Public Buildings	N/A	N/A	N/A	\$7,385.00	\$17,806.00	\$17,806.00	\$15,307.00
Water & Non-Potable Water	N/A	N/A	N/A	\$80,459.00	\$116,237.00	\$72,302.00	\$352,851.00
Wastewater-Conveyance & WRF	N/A	N/A	N/A	\$28,176.00	\$40,706.00	\$1,106.00	\$123,567.00

EXHIBIT B-10: NORTHEAST INDUSTRIAL AREA, PH 2 - WASTEWATER, ARTERIALS, STORM DRAINAGE							
Public Facilities	Residential			Non-Residential (Industrial Only)			
	Fees Per Unit			Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Arterials - Upgrades	N/A	N/A	N/A	\$44,059.00	N/A	N/A	N/A
Arterials - RSP Reimb	N/A	N/A	N/A	\$416.00	N/A	N/A	N/A
Arterials - Traffic Signals	N/A	N/A	N/A	\$1,412.00	N/A	N/A	N/A
Arterials - Land/Easement Acquisitions	N/A	N/A	N/A	\$18,721.00	N/A	N/A	N/A
Storm Drainage - Watershed	N/A	N/A	N/A	\$30,946.60	N/A	N/A	N/A
Storm Drainage - Eastside Channel Fee	N/A	N/A	N/A	\$3,908.24	N/A	N/A	N/A
Wastewater - Collections System Improvements	N/A	N/A	N/A	\$16,494.00	N/A	N/A	N/A
Wastewater - Treatment Plant Upgrade	N/A	N/A	N/A	\$16,786.00	N/A	N/A	N/A
Wastewater - CFD 89-1 Reimb	N/A	N/A	N/A	\$1,431.00	N/A	N/A	N/A

EXHIBITS B-1 THROUGH B-17
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2018
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-12: HABITAT MITIGATION FEES				
Land Use	Multi-Purpose Open Space	Natural and Agricultural Lands	Vernal Pool - Uplands	Vernal Pool - Wetted
Fee Per Gross Acre (EFFECTIVE 1/1/18-12/31/18)	\$9,701	\$19,400	\$72,523	\$116,871
Fee Per Gross Acre (EFFECTIVE 1/1/19-12/31/19)	\$6,700	\$13,399	\$54,576	\$101,033

EXHIBIT B-13: AGRICULTURAL MITIGATION FEES	
Description	Fee Per Gross Acre
Agricultural Mitigation-Ag Land Purchase (EFFECTIVE 3/1/18-2/28/19)	\$2,781.09
Agricultural Mitigation-Ag Land Purchase (EFFECTIVE 3/1/19-2/28/20)	\$2,906.23

EXHIBIT B-14: COUNTY FACILITIES FEES (EFFECTIVE 7/1/18 to 6/30/19)							
Fee Category	Fee Per Dwelling Unit			Fee Per Building Square Foot			
	SFDU	2 - 4	≥ 5	Industrial	Institution	Office	Retail
County Facilities Fee	\$ 2,487.00	\$ 1,846.00	\$ 1,846.00	\$ 0.11	N/A	\$ 0.62	\$ 0.41

EXHIBIT B-15: REGIONAL TRANSPORTATION IMPACT FEES (EFFECTIVE 7/1/18 to 6/30/19)								
Fee Category	Fee Per Dwelling Unit			Fee Per Building Square Foot				
	SFDU	2 - 4	≥ 5	Warehouse	Industrial	Institution	Office	Retail
Regional Transportation Impact Fee	\$ 3,406.35	\$ 2,043.81	\$ 2,043.81	\$ 0.43	\$ 1.03	\$ 1.03	\$ 1.71	\$ 1.36

EXHIBIT B-16: CITYWIDE MASTERPLANS- STORM DRAINAGE (EFFECTIVE 7/1/18 to 6/30/19)							
Fee Category	Residential Fees Per Unit			Non-Residential (Industrial Only) Fee Per Gross Acre			
	SFD	2 - 4	≥ 5	Industrial	Institutional	Office	Retail
Public Facilities							
Storm Drainage - Keenan	\$ 2,360.00	\$ 1,594.00	\$ 1,425.00	N/A	N/A	N/A	N/A
Storm Drainage - Westside Residential	\$ 5,038.00	\$ 3,375.00	\$ 3,011.00	N/A	N/A	N/A	N/A
Storm Drainage - NW WSO	N/A	N/A	N/A	\$ 18,058.00	N/A	\$ 18,058.00	\$ 18,058.00
Storm Drainage - Larch Clover	N/A	N/A	N/A	N/A	N/A	N/A	\$ 11,083
Storm Drainage - Eastside Industrial	N/A	N/A	N/A	\$ 43,549.28	N/A	N/A	\$ 43,549.28
Storm Drainage - Northeast Industrial Area	\$ 2,057.11	\$ 1,269.60	\$ 1,170.11	\$ 34,854.84	N/A	\$ 34,854.84	\$ 34,854.84
Storm Drainage - South MacArthur & Rocha	\$ 4,926.00	\$ 3,275.00	\$ 2,931.00	N/A	N/A	N/A	\$ 89,827.00
Storm Drainage - Mtn. House	N/A	N/A	N/A	\$ 17,409.00	N/A	\$ 17,409.00	\$ 17,409.00
Storm Drainage - Lammers Watershed	\$ 1,437.00	\$ 957.00	\$ 856.00	\$ 26,251.00	N/A	\$ 26,251.00	\$ 26,251.00
Storm Drainage - Kagehiro & West Larch Clover	\$ 586.00	\$ 413.00	\$ 369.00	N/A	N/A	N/A	N/A

EXHIBITS B-1 THROUGH B-17
SUPPLEMENTAL DATA TO EXHIBIT B
Amounts and Descriptions of Fees
For Fiscal Year Ended June 30, 2018
(Government Code §66006(b)(1)(A) and (B).)

EXHIBIT B-17: I-205 AREA - ROAD, WATER, WASTEWATER, ROADWAYS, STORM DRAINAGE, PARKS									
	Total	Total	Total	Total	Total	Total	Total	Total	Total
	PCL GL-2B (7)	PCL GL-6	PCL GL-8	PCL GL-15 1(A)	PCL GL-15-1(B)	PCL GL-16	PCL GL-24c	PCL M1	PCL M2
	(SC)	(GC)	(FC)	(GC)	(GC)	(SC)	(GC)	(LI)	(LI)
Cost Allocations									
1. Road Circulation	\$889,337	\$68,349	\$226,508	\$136,699	\$182,265	\$254,905	\$2,415,008	\$0	
2. Freeway Interchange	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
3. Signals	\$46,764	\$3,594	\$11,910	\$7,188	\$9,584	\$13,404	\$126,987	\$0	\$0
3a. Intersection Mitigation	\$80,876	\$6,216	\$20,598	\$12,431	\$16,575	\$23,181	\$219,619	\$0	\$0
4. Sub-Total Road Costs	\$1,016,976	\$78,159	\$259,017	\$156,318	\$208,424	\$291,490	\$2,761,615	\$0	\$0
5A. Sanitary Sewer Treatment	\$184,868	\$10,125	\$66,181	\$20,250	\$26,999	\$52,988	\$357,743	\$151,113	\$419,976
5B. Sanitary Sewer Collection	\$37,261	\$2,041	\$13,339	\$4,081	\$5,442	\$10,680	\$72,104	\$0	\$0
6A. Water Distribution (on-site)	\$26,813	\$1,518	\$8,421	\$3,037	\$4,049	\$7,685	\$53,653	\$0	\$0
6B. Water Distribution (off-site)	\$237,559	\$13,454	\$74,607	\$26,908	\$35,877	\$68,090	\$475,367	\$186,111	\$517,243
6C. Water Supply (9)	-\$134,513	-\$7,618	-\$42,245	-\$15,236	-\$20,315	-\$38,555	-\$269,167	-\$105,381	-\$292,878
6D. Water Treatment / Storage	\$273,603	\$15,495	\$85,927	\$30,990	\$41,320	\$78,421	\$547,493	\$214,349	\$595,722
7. Storm Drains	\$5,456	\$347	\$811	\$695	\$927	\$1,564	\$12,278	\$0	\$0
8. Irrigation (NBID)	\$43,426	\$2,766	\$6,454	\$5,532	\$7,376	\$12,447	\$97,731	\$0	\$0
9. Entries & Gateways (1)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
10. I-205 Mini Parks	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
11. Downtown Assistance	\$6,314	\$402	\$938	\$804	\$1,072	\$1,810	\$14,209	\$5,161	\$14,343
12. Park & Ride	\$9,445	\$602	\$1,404	\$1,203	\$1,604	\$2,707	\$21,257	\$0	\$0
13. Air Quality	\$538	\$34	\$80	\$69	\$91	\$154	\$1,210	\$440	\$1,222
14. Swainson Hawk	\$18,442	\$1,175	\$2,741	\$2,349	\$3,132	\$5,286	\$41,504	\$15,075	\$41,896
15A. Fire / Public Works Capital	\$102,856	\$6,551	\$15,286	\$13,103	\$17,470	\$29,481	\$231,481	\$84,075	\$233,664
15B. Agricultural Conversion Fee	\$1,758	\$112	\$261	\$224	\$299	\$504	\$3,957	\$1,437	\$3,994
16A. Park Land	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
16B. Park Land Credit	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
16C. Park Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
17A. Master Landscape Plan	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
17B. Master Landscape Plan Credit	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
18. Public Buildings	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
19. RSP Storm Drain Fee	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
20. I-205 Entry	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
21. AD 84-1 Sewer Collection Fee (2)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
22. AD 87-3 Water Distribution Fee (2)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
23. Communication Tower (10)	\$ 2,529.72	\$ 161.13	\$ 375.97	\$ 322.26	\$ 429.68	\$ 725.08	\$ 5,693.20	\$ 1,148.79	\$ -
24. TOTAL DISTRICT DIRECT COSTS	\$1,833,330	\$125,324	\$493,598	\$250,649	\$334,198	\$525,477	\$4,428,128	\$553,527	\$1,535,182
25. Contingency (15%) *	\$278,608	\$18,726	\$76,627	\$37,453	\$49,937	\$79,856	\$661,665	\$95,347	\$264,991
26. Design & Construction Fees (15%) *	\$278,608	\$18,726	\$76,627	\$37,453	\$49,937	\$79,856	\$661,665	\$95,347	\$264,991
27. TOTAL CONST., DESIGN & CONTING **	\$2,390,545	\$162,777	\$646,852	\$325,554	\$434,072	\$685,188	\$5,751,459	\$744,222	\$2,065,164
28. Credit from CFD 91-1 Overlap (3)	-\$30,359								
29. Soundwall - Corral Hollow Rd @ Greenleaf	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
30. Program Management	\$78,045	\$4,971	\$11,599	\$9,942	\$13,256	\$22,370	\$175,643	\$63,795	\$177,300
31. Credit for Land Dedication for well (8)									
32. TOTAL NET COST	\$2,438,231	\$167,748	\$658,451	\$335,496	\$447,328	\$707,558	\$5,927,101	\$808,016	\$2,242,463
33. TOTAL COST/NET ACRE	\$258,836	\$279,580	\$470,322	\$279,580	\$279,580	\$262,058	\$279,580	\$104,937	\$104,788
34. TOTAL COST/SQ. FT. OF LAND	\$5.94	\$6.42	\$10.80	\$6.42	\$6.42	\$6.02	\$6.42	\$2.41	\$2.41

* Fee on construction items only (1,3,5A-6B,6D,7,8,10,12,15A).

** Includes no District formation or Bond financing costs.

(1) Item 9 funds transferred to water treatment / storage per City Council direction.

(2) AD 84-1 & 87-3 are for sewer collection fees and water distribution fees and does not include wastewater or water treatment cost participation.

(3) Credit from CFD 91-1 overlap.

(4) GL-5B is the remnant of GL-5, GL-11, and Old Naglee Road.

(5) GL-27 is the remnant from the following parcels: GL-5, GL-6, GL-7, GL-9, GL-10 & GL-11.

(6) M-1 & M-2 Net Area was calculated to be approximately 55 percent of gross area due to parcels within flood plain.

(7) GL-2b has a finance plan that is subject to update with the latest spreadsheet. Parcel E (3.64 acres) has pulled a permit and was removed from the spread.

(8) \$146,780 will be paid to the redevelopment agency for the cost of the land that was used for the well near the corner of Grant Line and Naglee Road (part of GL-27).

(9) These numbers are negative due to a change between spreadsheet #42 and #43 where project funds from CIP 7514 in Water Supply were shifted to CIP 7533 under Water Distribution off-site and 7532 under Water Treatment/Storage. Remaining parcels therefore are receiving a 'credit' for excess money in water supply but are paying more towards Water Distribution off-site and Water Treatment/Storage.

(10) Communication tower based on building SF. Costs shown here are costs assumed per acre based on estimated FAR. Fee is \$20.55 per 1000 sf of building for commercial/retail, \$34.25 for office, and \$6.85 per 1000 sf of light industrial sf of building.

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

Funding Source	Project Number	Project Title	Project Budget
TIMP Public Facilities	71091	PW Yard Renovation - Phase II	\$ 744,000.00
TIMP Public Safety	71110	Police Department Gun Range	\$ 200,000.00
Arterials Plan "C"	72068	TS: Lammers/West Schulte	\$ 547,160.00
TIMP Traffic	72068	TS: Lammers/West Schulte	\$ 751,740.00
Industrial SP, South	72073	IS Imp: MacA & Valpico	\$ 306,100.00
Industrial SP, South	72074	IS Imp: Tracy & Valpico	\$ 25,000.00
Infill Arterials	72090	TS: Tracy & Linne Road	\$ 84,000.00
Industrial SP, South	72095	TS: CHR & Valpico	\$ 300,000.00
Ellis Area Traffic	72104	Intersection Improvements - Corral Hollow & Linne	\$ 415,300.00
Tracy Gateway Area	73084	IC Impvts:I205 & Lammers	\$ 143,000.00
Arterials Plan "C"	73103	AWid: CHR, 11th to Schulte	\$ 740,829.00
TIMP Traffic	73109	IC: I205 & Paradise	\$ 380,214.00
Infill Arterials	73126	AW-MacA Dr, Schulte to Valp	\$ 1,545,873.00
South MacArthur PA	73126	AW-MacA Dr, Schulte to Valp	\$ 1,156,791.00
Industrial SP, South	73126	AW-MacA Dr, Schulte to Valp	\$ 245,890.00
TIMP Traffic	73144	AW: Cor Hol Rd, Linne to Old Schult	\$ 2,871,587.00
TIMP Traffic	73146	OC Upg-I205 & MH Pkwy	\$ 1,000,000.00
TIMP Traffic	73147	OC Upgrade-I205 & Mt House Pkwy	\$ 1,000,000.00
TIMP Traffic	73148	BW: DMC & Mt House Pkwy	\$ 101,205.00
TIMP Traffic	73149	BW: DMC & Old Schulte Rd	\$ 101,716.00
TIMP Traffic	73150	BW-DM Canal & Old Schulte	\$ 121,547.00
TIMP Traffic	73161	Widening - Corral Hollow I580/Linne	\$ 500,000.00
TIMP Traffic	73173	Transportation Master Plan	\$ 450,000.00
Program Management	73173	Transportation Master Plan	\$ 250,000.00
NE Industrial Area #2	74083	Second Outfall Pipeline - WW Treatment Plant	\$ 5,000,000.00
Industrial SP, South	74084	WW Lines Upgrade, East Side	\$ 756,000.00
TIMP Wastewater	74107	WWTP Expan Phase II	\$ 795,014.00
Ellis Area Wastewater	74118	New WW Lines - Corral Hollow Rd	\$ 652,400.00
TIMP Wastewater	74118	New WW Lines - Corral Hollow Rd	\$ 6,861,518.00
TIMP Wastewater	74159	Wastewater Master Plan	\$ 781,200.00
TIMP Water	75159	Water Master Plan	\$ 659,767.00
TIMP Water	75160	Water Lines Lammers Rd	\$ 2,400,000.00
Plan C Drainage	76059	Dng Imp: SoMacAr, Ph 2	\$ 54,000.00
South MacArthur PA	76059	Dng Imp: SoMacAr, Ph 2	\$ 500,007.00
Infill Drainage	76066	Detention Basin 2B-Blue Zone	\$ 279,893.00
Plan C Drainage	76066	Detention Basin 2B-Blue Zone	\$ 344,598.00
Industrial SP, South	76066	Detention Basin 2B-Blue Zone	\$ 1,205,402.00
TIMP Drainage	76086	Storm Drain Master Plan	\$ 348,503.00
Program Management	76086	Storm Drain Master Plan	\$ 316,047.00
Redev Agency	77582	Airport RDA Improvements	\$ 991,000.00
Gen Fac Plan "C"	78054	Aquatics Center	\$ 1,645,946.00
Industrial SP, South	78054	Aquatics Center	\$ 231,500.00
Presidio Area	78054	Aquatics Center	\$ 114,700.00
TIMP Public Facilities	78155	Upgrade/Expansion Senior Center	\$ 824,100.00
Infill Parks	78164	Legacy Field Site Phase 1D	\$ 1,000,000.00
Plan C Parks	78164	Legacy Field Site Phase 1D	\$ 2,000,000.00
TIMP Parks	78170	Gretchen Tally Park Phase III	\$ 656,270.00
TIMP Parks	78179	Parks Master Plan	\$ 300,000.00
Program Management	78179	Parks Master Plan	\$ 76,000.00

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

INFILL AREA, PARK FEE - FUND 311

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	78PP-066	Infill 2.66 acres of community park	\$ 1,376,550.00
Infill	78PP-123	Infill 7.99 acres of neighborhood park	\$ 3,995,000.00
TOTAL:			\$ 5,371,550.00

INFILL AREA, STORM DRAINAGE FEE - FUND 312

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	76PP-073	Detention Basin 12	\$ 408,750.00
Infill	76PP-074	Lowell Detention Basin	\$ 800,500.00
Infill	76PP-075	Storm Drain Improvement - 18" & 24" (Tracy Blvd and 12th St)	\$ 1,196,250.00
Infill	76PP-XXX	Larch Road Pump Station Upgrade	\$ 145,000.00
TOTAL:			\$ 2,550,500.00

INFILL AREA, ARTERIALS FEE - FUND 313

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	72094	Tracy Boulevard / Gandy Dancer Traffic Signal	\$ 250,000.00
Infill	73126	MacArthur Drive: Schulte Road to Valpico Road Phase II	\$ 70,292.12
Infill	72PP-056	Chrisman Road / Valpico Road Traffic Signal	\$ 250,000.00
Infill	72PP-064	Grant Line Road / Lincoln Boulevard re-stripe	\$ 6,857.00
Infill	72PP-094	Eleventh Street / Lincoln Boulevard	\$ 791,329.00
Infill	73PP-042	Grant Line Road upgrade: Lincoln d to Tracy Boulevard	\$ 503,567.00
Infill	73PP-071	MacArthur Drive: Larch to I-205 WB Ramps	\$ 1,552,964.00
TOTAL:			\$ 3,425,009.12

INFILL AREA, PUBLIC BUILDINGS AND EQUIPMENT FEE - FUND 314

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	78088	Fair share of the library facilities expansion	\$ 584,971.00
Infill	71PP-052	Public Safety Facilities	\$ 1,311,189.00
Infill	71PP-072	City Hall & Public Works Facility Expansion, Phase 2	\$ 1,585,652.00
TOTAL:			\$ 3,481,812.00

INFILL AREA, PROGRAM MANAGEMENT FEE - FUND 315

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	79PP-XXX	Infill - Program Management	\$ 250,000.00
TOTAL:			\$ 250,000.00

INFILL AREA, WATER FEE - FUND 513

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	75085	Water Transmission Line 20 in (Lammers Rd between Jackson Ave. and Redbridge Rd.)	\$ 79,750.00
Infill	75PP-095	Emergency Storage - Back-Up Generators	\$ 555,350.00
Infill	75PP-099	Groundwater Conjunctive Use Study	\$ 66,000.00
Infill	75PP-XXX	Linne Road Reservoir and Booster Pump Station	\$ 1,099,100.00
TOTAL:			\$ 1,800,200.00

INFILL AREA, WASTEWATER FEE - FUND 523

Funding Source	Project Number	Project Title	Project Remaining Cost
Infill	74084	East Side Sewer Upgrades	\$ 2,320,012.00
Infill	74PP-114	Corral Hollow Sewer Upgrades	\$ 363,357.00
Infill	74PP-XXX	Contribution to NEI Improvements	\$ 860,713.00
Infill	74PP-XXX	City Core Sewer Upgrades	\$ 625,212.00
TOTAL:			\$ 4,169,294.00

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

PLAN C, PARKS FEE - FUND 321

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	78069	Community Park-Phase 2, Youth Sports Facility	\$ 3,109,950.42
TOTAL:			\$ 3,109,950.42

PLAN C, STORM DRAINAGE FEE - FUND 322

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	76066	Detention Basin 2B (Zone 1)	\$ 163,095.03
Plan C	76PP-027	48" Storm Drain	\$ 178,500.00
Plan C	76PP-028	Storm Drainage for San Marco / Gabriel Estates Development	\$ 187,900.00
Plan C	76PP-029	42" Storm Drain	\$ 212,900.00
Plan C	76PP-030	36" Storm Drain	\$ 142,500.00
Plan C	76PP-031	60" Storm Drain Outfall	\$ 79,100.00
Plan C	76PP-032	54" Storm Drain Outfall	\$ 114,700.00
Plan C	76PP-033	48" Storm Drain Outfall	\$ 115,100.00
Plan C	76PP-034	24" Storm Drain Outfall	\$ 67,800.00
Plan C	76PP-035	Storm Drainage for Eastlake Development	\$ 1,131,200.00
Plan C	REIMB	Reimbursement to RSP	\$ 4,662,200.00
Plan C	REIMB	Reimbursement to CFD 89-1	\$ 35,600.00
TOTAL:			\$ 7,090,595.03

PLAN C, ARTERIALS FEE - FUND 323

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	72014	Update existing traffic improvements at MacArthur Dr. & Pescadero. Add RT and TL on NB and SB lane. Accommodate changes in MacArthur Dr due to widening of I-205 to 6 lanes.	\$ 594,100.00
Plan C	73103	Widen Corral Hollow Road: 11th Street to Schulte Road	\$ 1,643,204.45
Plan C	REIMB	Reimbursement to CFD 89-1	\$ 247,400.00
Plan C	REIMB	Reimbursement to RSP	\$ 5,894,713.92
TOTAL:			\$ 8,379,418.37

PLAN C, GENERAL FACILITIES FEE - FUND 324

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	71020	Fire Station #97 - Valpico Rd & Tracy Blvd	\$ 1,211,693.49
Plan C	71035	City Hall Vehicles	\$ 29,811.61
Plan C	78054	Fair share of the new Ellis Aquatic Center	\$ 1,751,409.56
Plan C	78088	Fair share of the library facilities expansion	\$ 1,306,900.00
TOTAL:			\$ 4,299,814.66

PLAN C, UTILITIES FEE - FUND 325

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	74049	WWTP Expansion - Phase 1B	\$ 1,478,708.09
Plan C	REIMB	Reimbursement to AD 84-1	\$ 1,468,300.00
Plan C	REIMB	Upgrade to Hansen Sewer- Reimbursement to Hansen Sewer - CFD 98-1	\$ 512,000.00
Plan C	REIMB	Upgrade to Hansen Sewer - Reimbursement to Hansen Sewer - Dev. Agreement	\$ 397,500.00
TOTAL:			\$ 3,856,508.09

NORTH EAST INDUSTRIAL AREA, PHASE 1 FEE - FUND 351

Funding Source	Project Number	Project Title	Project Remaining Cost
NEI Phase 1	74049	WWTP Expansion - Phase 1B	\$ 7,504,451.57
NEI Phase 1	71PP-060	Police Facility Expansion for Additional Officers	\$ 64,246.00
NEI Phase 1	REIMB	Reimbursement to CFD 89-1 (7420)	\$ 384,970.00
NEI Phase 1	REIMB	Reimbursement to CFD 89-1 (799A)	\$ 104,786.00
NEI Phase 1	REIMB	Reimbursement to RSP (799A)	\$ 406,496.00
TOTAL:			\$ 8,464,949.57

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

SOUTH MACARTHUR PLAN AREA FEE - FUND 352

Funding Source	Project Number	Project Title	Project Remaining Cost
SMPA	71020	Fire Station #97 - Valpico Rd & Tracy Blvd	\$ 284,000.00
SMPA	71035	City Hall Vehicles	\$ 7,000.00
SMPA	72062	MacArthur Drive / I-205 Interchange	\$ 1,081,000.00
SMPA	73158	Aqueduct Crossing for Corral Hollow Road	\$ 260,594.50
SMPA	74049	WWTP Expansion - Phase 1B	\$ 112,644.92
SMPA	78054	Fair share of the new Ellis Aquatic Center	\$ 144,000.00
SMPA	78088	Fair share of the library facilities expansion	\$ 146,000.00
SMPA	71PP-035	Police Radio Repeater & Tower	\$ 19,000.00
SMPA	72PP-030	Corral Hollow Road / I-580 EB and WB	\$ 278,000.00
SMPA	73PP-040	Corral Hollow Road: I-205 to Larch-Clover	\$ 60,000.00
SMPA	73PP-041	Widen MacArthur Drive: 11th Street to Schulte Road	\$ 130,000.00
SMPA	73PP-042	Widen Grant Line Road: Corral Hollow Road to Tracy Boulevard	\$ 161,000.00
SMPA	73PP-043	Widen Grant Line Road: Byron Road to Street "A"	\$ 86,000.00
SMPA	73PP-044	Widen 11th Street: MacArthur Drive to Chrisman Road	\$ 232,000.00
SMPA	73PP-047	Lammers Road: 11th Street to Linne Road	\$ 441,000.00
SMPA	73PP-048	Widen Schulte Road: New Alignment west of Lammers	\$ 112,000.00
SMPA	73PP-049	Schulte Road: Construct from Lammers to Presidio N/S arterial	\$ 168,000.00
SMPA	73PP-050	Widen Schulte Road: Presidio N/S arterial to Sycamore Parkway	\$ 205,000.00
SMPA	73PP-051	Widen Valpico Road: Lammers Road to Corral Hollow	\$ 323,000.00
SMPA	73PP-095	Construct Presidio N/S Arterial - Greystone Drive to Schulte Road, Phase 2	\$ 157,727.00
SMPA	REIMB	Reimbursement to CFD 89-1 (73PP-XXX)	\$ 88,800.00
SMPA	REIMB	Reimbursement to RSP	\$ 288,700.00
SMPA	REIMB	Reimbursement to AD 84-1	\$ 326,343.00
SMPA	75PP-099	Groundwater Conjunctive Use Study	\$ 54,300.00
SMPA	76PP-039	Drainage Improvements (South MacArthur)	\$ 6,500,000.00
SMPA	REIMB	Reimbursement to CFD 89-1 (76PP-XXX)	\$ 89,850.00
TOTAL:			\$ 11,755,959.42

INDUSTRIAL SPECIFIC PLAN SOUTH AREA FEE - FUND 354

Funding Source	Project Number	Project Title	Project Remaining Cost
ISP South	71020	Fire Station #97 - Valpico Rd & Tracy Blvd	\$ 1,348,500.00
ISP South	71035	City Hall Vehicles	\$ 17,000.00
ISP South	72038	Traffic Signal at Tracy Blvd./Valpico Road	\$ 727,229.52
ISP South	72082	Valpico Road / Sycamore Parkway	\$ 298,453.14
ISP South	72095	Corral Hollow Road / Valpico Road	\$ 560,000.00
ISP South	73061	Valpico Road Extension: Pebblebrook to MacArthur Drive	\$ 2,175,350.65
ISP South	73095	Valpico Road: Tracy Boulevard to 500' East of Pebblebrook Drive	\$ 8,666,700.00
ISP South	73126	MacArthur Drive: Schulte Road to Valpico Road Phase II	\$ 2,670,170.00
ISP South	74049	WWTP Expansion - Phase 1B	\$ 2,352,200.00
ISP South	74084	East Side Sewer Upgrades	\$ 2,095,635.07
ISP South	76066	Detention Basin 2B (Zone 1)	\$ 628,335.00
ISP South	78054	Fair share of the new Ellis Aquatic Center	\$ 240,032.03
ISP South	78088	Fair share of the library facilities expansion	\$ 255,618.53
ISP South	71PP-060	Police Facility Expansion for Additional Officers	\$ 376,300.00
ISP South	REIMB	Cheng Diversion Reimbursement	\$ 341,200.00
ISP South	75PP-099	Groundwater Conjunctive Use Study	\$ 20,000.00
ISP South	75PP-XXX	Linne Road Reservoir and Booster Pump Station	\$ 800,800.00
ISP South	75PP-XXX	Supply Transfer with Storage in Semi Tropic Water Bank	\$ 287,000.00
ISP South	75PP-XXX	John Jones Water Treatment Plant Expansion	\$ 1,068,200.00
ISP South	76PP-024	Pump Station & Force Main Det 2B (Zone 1) (was 76PP-047)	\$ 489,355.00
ISP South	76PP-048	Drainage Improvements (Zone 1), 24", 30", 36", 42", and bore and jack.	\$ 796,505.00
ISP South	78PP-XXX	ISP South 4.61 acre neighborhood park	\$ 2,570,920.80
TOTAL:			\$ 28,785,504.74

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

PRESIDIO AREA FEE - FUND 355

Funding Source	Project Number	Project Title	Project Remaining Cost
Presidio	71035	City Hall Vehicles	\$ 5,840.00
Presidio	72062	MacArthur Drive / I-205 Interchange	\$ 867,073.00
Presidio	74049	WWTP Expansion - Phase 1B	\$ 55,050.00
Presidio	78054	Fair share of the new Ellis Aquatic Center	\$ 118,998.00
Presidio	78088	Fair share of the library facilities expansion	\$ 115,693.00
Presidio	72PP-030	Corral Hollow Road / I-580 EB and WB	\$ 222,770.00
Presidio	72PP-XXX	Regional Impact Fee	\$ 825,000.00
Presidio	73PP-040	Corral Hollow Road: I-205 to Larch-Clover	\$ 47,659.00
Presidio	73PP-041	MacArthur Drive: 11th Street to Schulte Road	\$ 103,846.00
Presidio	73PP-042	Grant Line Road: Corral Hollow Road to Tracy Boulevard	\$ 128,470.00
Presidio	73PP-043	Grant Line Road: Byron Road to Street "A"	\$ 69,096.00
Presidio	73PP-044	Widen 11th Street: MacArthur Drive to Chrisman Road	\$ 185,569.00
Presidio	73PP-046	Corral Hollow Road: Old Schulte to I-580	\$ 522,969.00
Presidio	73PP-047	Lammers Road: 11th Street to Linne Road	\$ 352,506.00
Presidio	73PP-048	Schulte Road: New Alignment west of Lammers	\$ 89,711.00
Presidio	73PP-049	Schulte Road: Construct from Lammers to Presidio N/S arterial	\$ 134,004.00
Presidio	73PP-050	Schulte Road: Presidio N/S arterial to Sycamore Parkway	\$ 164,155.00
Presidio	73PP-051	Valpico Road: Lammers Road to Corral Hollow	\$ 257,919.00
Presidio	73PP-054	Aqueduct Crossing for Corral Hollow Road	\$ 211,287.00
Presidio	REIMB	Reimbursement to Byron Road Sewer	\$ 43,890.00
Presidio	REIMB	Reimbursement to Hansen Sewer	\$ 607,750.00
Presidio	76PP-XXX	Presidio's share of Purple Zone Drainage Improvements	\$ 160,812.00
Presidio	76PP-XXX	Presidio's share of Yellow Zone Drainage Improvements	\$ 48,681.00
Presidio	REIMB	Reimbursement to Westside Outfall	\$ 529,650.00
TOTAL:			\$ 5,868,398.00

TRACY GATEWAY AREA, WATER FEE - FUND 356

Funding Source	Project Number	Project Title	Project Remaining Cost
Tracy Gateway	75085	Prv Valve Lammers Road Between Zones 1 & 2	\$ 277,200.00
Tracy Gateway	75085	In tract Program Water Transmission Lines	\$ 701,429.00
Tracy Gateway	75085	Water Transmission Line- Zone 1 (Lammers & 11th)	\$ 3,528,000.00
Tracy Gateway	75085	Water Transmission Line- Zone 2 (Lammers Road)	\$ 1,029,000.00
TOTAL:			\$ 5,535,629.00

NORTH EAST INDUSTRIAL AREA FEE - FUND 357

Funding Source	Project Number	Project Title	Project Remaining Cost
NEI Phase 2	72062	MacArthur Drive / I-205 Interchange	\$ 14,439,587.72
NEI Phase 2	73090	Acquire ROW for Chrisman Road Extension: I-205 to Grant Line Road	\$ 3,938,792.90
NEI Phase 2	73PP-055	Acquire ROW for MacArthur Drive: I-205 to Pescadero Ave	\$ 312,212.00
NEI Phase 2	73PP-055	MacArthur Drive: I-205 to Pescadero Ave	\$ 846,065.86
NEI Phase 2	73PP-093	Pescadero Avenue Widening: MacArthur Road to Paradise Road	\$ 2,196,910.00
NEI Phase 2	74PP-032	WWTP Expansion - Phase 2	\$ 521,179.43
NEI Phase 2	74PP-XXX	Acquire Easement	\$ 222,176.00
NEI Phase 2	REIMB	Reimbursement to RSP	\$ 117,660.00
NEI Phase 2	REIMB	Reimbursement to CFD 89-1	\$ 356,300.00
TOTAL:			\$ 22,950,883.91

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

I-205 CORRIDOR AREA FEE - FUND 353

Funding Source	Project Number	Project Title	Project Remaining Cost
I-205	72014	MacArthur Drive & Pescadero / MacArthur Dr & I-205	\$ 261,219.00
I-205	73035	Grant Line Road: I-205 to Lammers	\$ 2,768,885.28
I-205	73057	Street "C" east/west: Naglee Road to Corral Hollow Road	\$ 2,050,198.04
I-205	73102	Corral Hollow Road (Phase II): Byron Road to Grant Line Road	\$ 813,984.13
I-205	74049	WWTP Expansion - Phase 1B	\$ 1,265,639.00
I-205	72PP-028	Grant Line Road / Power Road (Street "A")	\$ 356,548.00
I-205	72PP-081	Grant Line Road / Lammers Road	\$ 35,155.98
I-205	72PP-082	Grant Line Road / Naglee Road / I-205 WB ramps	\$ 20,802.37
I-205	72PP-084	I-205 EB Ramps / Grant Line Road	\$ 382,644.98
I-205	72PP-087	Corral Hollow Road / Eleventh Street	\$ 12,660.07
I-205	72PP-089	Auto Plaza Drive / Corral Hollow Road	\$ 95,960.13
I-205	75PP-861	Reimbursement to King & Lyon & Safeway	\$ 650,800.00
I-205	76PP-010	Reimbursement to RSP Drainage	\$ 1,590,600.00
I-205	78PP-128	Swainson Hawk (I-205 program area)	\$ 669,573.00
I-205	REIMB	Reimbursement to Sewer Fund 420 (#7420)	\$ 496,000.00
I-205	REIMB	Reimbursement to AD 84-1 (#7420)	\$ 837,300.00
I-205	REIMB	Reimbursement to RSP (AD87-3) (#75PP-036)	\$ 670,700.00
I-205	79PP-020	Agricultural Conversion Fee	\$ 83,870.00
I-205	92PP-863/72PP-029	Naglee Road / Auto Plaza Drive	\$ 316,507.19
I-205	9600-365	NBID Irrigation Relocation/Improvements	\$ 1,245,272.00
TOTAL:			\$ 14,624,319.17

ELLIS PROGRAM AREA, PARKS AND RECREATION FEE - FUND 333

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	78PP-XXX	Neighborhood Park	\$ 12,163,874.00
Ellis	78PP-XXX	Community Park	\$ 3,496,900.00
TOTAL:			\$ 15,660,774.00

ELLIS PROGRAM AREA, STORM DRAINAGE FEE - FUND 332

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	76PP-XXX	Detention Basin 3A (36 AF plus 36 AF add'l excavation)	\$ 1,786,707.00
Ellis	76PP-XXX	Detention Basin SL (17 AF plus 8 AF add'l excavation)	\$ 683,083.00
Ellis	76PP-XXX	6,100 LF of 12" SD including 100 LF of Jack and Bore under RR from DET SL	\$ 422,026.00
Ellis	76PP-XXX	4,200 LF of 18" SD including 100 LF Jack and Bore under RR from DET 3A North	\$ 455,587.00
Ellis	76PP-XXX	200 LF of 48" SD to DET 3A	\$ 58,211.00
Ellis	76PP-XXX	Dewatering	\$ 166,316.00
Ellis	76PP-XXX	UPTC/WPRR Crossing Agreements	\$ 8,316.00
Ellis	76PP-XXX	WSID Crossing Agreement	\$ 4,158.00
TOTAL:			\$ 3,584,404.00

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

ELLIS PROGRAM AREA, TRAFFIC FEE - FUND 331

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	72038	Tracy Blvd/Valpico Rd - Widen EB approach to add 1 thru lane, widen WB approach to provide 1 LT, 2 thru and 1 RT lane, Widen NB approach to provide 1 LT, 2 Thru, and 1 RT lane, Widen SB approach to provide 2 LT, 1 thru, and 1 RT lane. Modify Signal.	\$ 59,513.00
Ellis	72068	Lammers Rd./Schulte Rd. - Signalize. Widen EB approach to provide 1 LT and 1 TR lane, add WB approach to 1 LT and 1 TR lane, widen NB approach to add 1 thru lane and 1 TR lane, widen SB approach to add 1 LT and 1 Thru lane.	\$ 700,036.00
Ellis	72024 & 72056	Lammers Road/Eleventh St - Total Intersections:	\$ 8,214.00
Ellis	72073	MacArthur Drive/Valpico Rd - Widen EB approach to add 1 Thru Lane, Widen SB approach to add 1 Thru Lane, Convert WB and NB LT from protected to permitted. Modify Signal.	\$ 45,041.00
Ellis	72095	Corral Hollow/Valpico Rd - Signalize & widen SB approach to provide 1 TL and 1 TR Lane	\$ 419,462.00
Ellis	72104	Corral Hollow/ Linne Rd - Signalize. Convert intersection to T with no EB Approach, widen WB approach to add 1 LT and 1 TR lane, widen NB approach to provide 2 Thru lanes and 1 RT lane, Widen SB approach to provide 1 LT and 2 Thru lanes.	\$ 430,686.00
Ellis	73093	11th Street - Widen to 6 lanes	\$ 458,425.00
Ellis	73095	Valpico Road - Rural to 4 lane Arterial	\$ 153,468.00
Ellis	73144	Corral Hollow Road - 2 lanes to 4 lane arterial	\$ 448,022.00
Ellis	73144	Corral Hollow Road - Rural to 4 lane arterial	\$ 692,144.00
Ellis	73161	Corral Hollow Road - Rural to 4 lane Arterial	\$ 851,677.00
Ellis	73170	MacArthur Drive - 2 lanes to 4 lane arterial	\$ 74,927.00
Ellis	72PP-021	and 1 RT lane, Widen NB approach to provide 2 LT, 3 Thru, and RT lane, Widen SB approach to provide 2 LT, 3 Thru, and 1 RT lane. Convert EB RT from permitted to free,	\$ 174,603.00
Ellis	72PP-030	Widen NB approach to provide 1 thru lane and 1 RT lane, Widen SB approach to provide 1 LT lane and 2 Thru lanes.	\$ 54,556.00
Ellis	72PP-030	Widen NB approach to add 1 Thru lane, widen SB approach to provide 2 thru lanes and 1	\$ 60,618.00
Ellis	72PP-054	Tracy Blvd/Linne Rd - Signalize. Widen EB approach to provide 2 LT and 3 Thru Lanes, Widen WB approach to provide 1 TL and 1 TR lane, Widen SB approach to provide 1 LT, 2 Thru, and 1 RT lane.	\$ 183,647.00
Ellis	72PP-056	Chrisman/Valpico - Re-stripe to modify NB approach to provide 1 LT and 1 thru lane. Re-stripe to modify SB approach to provide 1 Thur and 1 RT.	\$ 1,186.00
Ellis	72PP-XXX	Widen NB approach to add 1 thru Lane, Widen SB approach to add 1 thru lane, Convert EB and WB RT lanes from permitted to free. Modify Signal.	\$ 125,168.00
Ellis	72PP-XXX	Signalize. Widen EB approach to provide 1 LT, 1 Thru and 1 TR lanes, widen WB approach to provide 1 TL and 1 TR lane.	\$ 255,615.00
Ellis	72PP-XXX	Modify NB approach to add 1 Thru lane.	\$ 384,536.00
Ellis	72PP-XXX	Lammers Rd./Valpico - Signalize, Widen WB approach to provide 1 LT and 1 RT lane, Widen NB approach to add 2 thru lanes, widen SB approach to provide 1 SB LT and 3 thru lanes.	\$ 325,649.00
Ellis	72PP-XXX	Chrisman/Linne - Widen EB approach to provide 1 TL and 1 TR lane, widen SB approach to provide 1 TL and 1 TR lane.	\$ 46,370.00
Ellis	72PP-XXX	Chrisman/11th - Convert SB RT from permitted + overlap phasing to permitted.	\$ 525.00
Ellis	72PP-XXX	Lammers/I-580 EB - Intersection Improvements ¹	\$ 197,979.00
Ellis	72PP-XXX	Lammers/I-580 WB - Intersection Improvements ¹	\$ 344,921.00
Ellis	72PP-XXX	Patterson Pass/I-580 EB - Signalize. Widen EB approach to provide 1 LT and 1 TR lane, Widen NB approach to provide 1 Thru and 1 RT lane, Widen SB approach to provide 2 LT and 1 Thru lane	\$ 24,247.00
Ellis	72PP-XXX	Patterson Pass/I-580 WB - Signalize. Widen WB approach to provide 1 TL and 1 RT lane. Widen SB approach to provide 1 thru lane and 1 RT lane.	\$ 59,279.00
Ellis	73PP-047	Lammers Road - 2 lane rural to 4 lane parkway	\$ 1,350,278.00
Ellis	73PP-XXX	Valpico Road - Rural to 4 lane Arterial	\$ 462,281.00
Ellis	73PP-XXX	Schulte Road - New 6 lane roadway	\$ 1,691,533.00
Ellis	73PP-XXX	Grant Line Road - Widen to 6 lanes	\$ 428,553.00
Ellis	73PP-XXX	Lammers Road - New 6 lanes expressway	\$ 466,011.00
Ellis	73PP-XXX	Lammers Road - 2 lane rural to 4 lane parkway	\$ 890,562.00
Ellis	73PP-XXX	Lammers Road - 2 lane rural to 4 lane parkway	\$ 908,003.00
Ellis	73PP-XXX	Corral Hollow - Rural to 4 lane arterial	\$ 421,523.00
TOTAL:			\$ 13,199,258.00

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

ELLIS PROGRAM AREA, PUBLIC BUILDINGS FEE - FUND 334

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	71PP-XXX	City Hall & Public Work Facilities	\$ 2,557,783.80
Ellis	71PP-XXX	Community Center	\$ 1,251,508.72
Ellis	71PP-XXX	Library	\$ 1,159,826.36
Ellis	71PP-XXX	Public Safety Facilities	\$ 1,818,154.22
TOTAL:			\$ 6,787,273.10

ELLIS PROGRAM AREA, WATER SUPPLY, TREATMENT AND CONVEYANCE FEE - FUND 335

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	75118	Clearwell at JJWTP 2.0 MG	\$ 2,863,000.00
Ellis	75PP-109	John Jones Water Treatment Plant Expansion 15.0 mgd	\$ 6,769,000.00
Ellis	75PP-XXX	City - Side Booster Pump Station Pressure Zone 3 - 6.48 MGD (JJWTP)	\$ 960,400.00
Ellis	75PP-XXX	Long-term Emergency Groundwater Storage 2,500 gpm	\$ 926,800.00
Ellis	75PP-XXX	Land Acquisition	\$ 46,000.00
Ellis	75PP-XXX	Water Transmission Line 12" (ESP backbone Phase 1)	\$ 947,800.00
Ellis	75PP-XXX	Water Transmission Line 12" (ESP backbone Buildout)	\$ 476,000.00
Ellis	75PP-XXX	Water Transmission Line 12"(ESP Backbone - Phase 1 to Valpico Rd)	\$ 284,200.00
Ellis	75PP-XXX	Water Transmission Line 24"(JJTP Clearwell to PBS3)	\$ 6,800.00
Ellis	75PP-XXX	Water Transmission Line 20"(ESP-JJWTP BPS3 to Corral Hollow Rd and Linne Rd. Phase 1)	\$ 1,542,800.00
Ellis	75PP-XXX	Water Transmission Line 20"(Corral Hollow Rd and Linne Rd to Middlefield Rd. - buildout)	\$ 1,318,800.00
Ellis	75PP-XXX	Water Transmission Line 18"(ESP Corral Hollow Rd and Linne Rd to Middlefield Rd - buildout)	\$ 109,200.00
Ellis	75PP-XXX	Water Transmission Line 18"(ESP-Linne Rd. to Corral hollow Rd. Phase 1 - PZ2 Bypass)	\$ 18,200.00
Ellis	75PP-XXX	Water Transmission Line 16"(from existing Clearwell No. 2 to English Oaks)	\$ 918,400.00
Ellis	75PP-XXX	Water Transmission 20" Jack and Bore under Delta Mendota Canal	\$ 238,000.00
Ellis	75PP-XXX	Water Transmission 20" Jack and Bore (CH and Linne under Railroad)	\$ 130,200.00
Ellis	75PP-XXX	Water Transmission Line 12" (Whirlaway Ln. to Linne Rd.)	\$ 61,600.00
Ellis	75PP-XXX	12" Jack and Bore (SW Portion of Plan C under RR to Linne Rd.)	\$ 53,000.00
Ellis	75PP-XXX	Water Valve - 18" Check Valve Connection at Middlefield Dr.	\$ 43,400.00
Ellis	75PP-XXX	Connection at Middlefield Drive 12" Diameter bypass PZ2 on Corral Hollow, Jack and Bore (SW portion of the Plan C under Corral Hollow	\$ 21,400.00
Ellis	75PP-XXX	Pressure Reducing Valve ESP - Phase 1 to Valpico Rd (12-inch Diameter)	\$ 53,200.00
TOTAL:			\$ 17,788,200.00

ELLIS PROGRAM AREA, WASTEWATER TREATMENT AND CONVEYANCE FEE - FUND 337

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	74PP-XXX	Corral Hollow Sewer System Improvement	\$ 3,304,123.00
Ellis	74PP-XXX	Tracy WWTP Expansion Fee	\$ 12,385,752.00
TOTAL:			\$ 15,689,875.00

ELLIS PROGRAM AREA, RECYCLED WATER FEE - FUND 336

Funding Source	Project Number	Project Title	Project Remaining Cost
Ellis	75PP-XXX	Citywide Recycled Water Contribution	\$ 5,825,339.00
TOTAL:			\$ 5,825,339.00

EXHIBIT C
Summary of Expenses for Active and Future Projects
for Fiscal Year Ended June 30, 2019

(Government Code §66006(b)(1)(C) and (D).)

NORTHEAST INDUSTRIAL SHED & EAST SIDE INDUSTRIAL SHED, STORM DRAINAGE FEE - FUND 350

Funding Source	Project Number	Project Title	Project Remaining Cost
NEI - Storm Drainage	76PP-XXX	DET NEI (128 AF, plus 22 AF add'l excavation)	\$ 3,360,000.00
NEI - Storm Drainage	76PP-XXX	DET 16 (38 AF, plus 10 AF add'l excavation)	\$ 1,075,200.00
NEI - Storm Drainage	76PP-XXX	DET E55 (49 AF, plus 15 AF add'l excavation)	\$ 1,433,600.00
NEI - Storm Drainage	76PP-XXX	DET NEI Pump Station (16.0 cfs capacity)	\$ 2,100,000.00
NEI - Storm Drainage	76PP-XXX	DET 16 Pump Station (1.0 cfs capacity)	\$ 490,000.00
NEI - Storm Drainage	76PP-XXX	10" SDFM (Outfall DET 16 to DET NEI)	\$ 350,000.00
NEI - Storm Drainage	76PP-XXX	24" SDFM (Outfall DET NEI to Eastside Channel)	\$ 861,000.00
NEI - Storm Drainage	76PP-XXX	18" SD (DET 55 to Grant Line Road)	\$ 378,000.00
NEI - Storm Drainage	76PP-XXX	18" SD (Bore & Jack, Crossing of UPRR North of DET E55)	\$ 168,000.00
NEI - Storm Drainage	76PP-XXX	30" SD (South Side of Home Depot, deep trenching required)	\$ 277,200.00
NEI - Storm Drainage	76PP-XXX	36" SD (South Side of Home Depot, deep trenching required)	\$ 462,000.00
NEI - Storm Drainage	76PP-XXX	36" SD (South Side of I-205, Paradise Road to DET 16)	\$ 714,000.00
NEI - Storm Drainage	76PP-XXX	36" SD (Chrisman Road, South of UPRR)	\$ 1,176,000.00
NEI - Storm Drainage	76PP-XXX	48" SD (South Side of UPRR, Chrisman to DET E55)	\$ 1,176,000.00
NEI - Storm Drainage	76PP-XXX	54" SD (Pescadero Ave., East Side Home Depot to DET NEI)	\$ 945,000.00
NEI - Storm Drainage	76PP-XXX	60" SD (Chrisman Road, Paradise Road to Grant Line Road)	\$ 1,001,000.00
NEI - Storm Drainage	76PP-XXX	Dewatering	\$ 2,100,000.00
NEI - Storm Drainage	76PP-XXX	Access Roadways (30"/36" SDs South Side Home Depot)	\$ 203,280.00
NEI - Storm Drainage	76PP-XXX	UPTC Crossing Agreement	\$ 7,000.00
NEI - Storm Drainage	76PP-XXX	Land Acquisition - DET NEI 33 AC	\$ 4,950,000.00
NEI - Storm Drainage	76PP-XXX	Land Acquisition - DET NEI (possible future expansion) 7 AC	\$ 1,050,000.00
NEI - Storm Drainage	76PP-XXX	Land Acquisition - DET 16 12 AC	\$ 1,800,000.00
NEI - Storm Drainage	76PP-XXX	Land Acquisition - DET E55 12 AC	\$ 1,800,000.00
NEI - Storm Drainage	76PP-XXX	10" SDFM/36" SD Easement (Paradise Rd to DET 16) 0.7 SC	\$ 35,000.00
NEI - Storm Drainage	76PP-XXX	18" SD Easement (DET E55 to Grant Line Rd) 1.2 AC	\$ 60,000.00
NEI - Storm Drainage	76PP-XXX	30" SD Easement (South Side Home Depot) 0.3 AC	\$ 15,000.00
NEI - Storm Drainage	76PP-XXX	36" SD Easement (South Side Home Dept) 0.3 AC	\$ 15,000.00
New East Side Industrial	76PP-XXX	DET 13 Expansion (4 add'l AF, plus AF add'l excavation)	\$ 112,000.00
New East Side Industrial	76PP-XXX	DET 14 (16 AF, plus 6 AF add'l excavation)	\$ 492,800.00
New East Side Industrial	76PP-XXX	DET 15 (13 AF, plus 5 AF add'l excavation)	\$ 403,200.00
New East Side Industrial	76PP-XXX	DET 14 Pump Station (1.0 cfs capacity)	\$ 490,000.00
New East Side Industrial	76PP-XXX	DET 15 Pump Station (1.0 cfs capacity)	\$ 490,000.00
New East Side Industrial	76PP-XXX	10" SDFM (Arbor Ave., DET 15 to Existing Stub at DET 13)	\$ 980,000.00
New East Side Industrial	76PP-XXX	Dewatering	\$ 1,400,000.00
New East Side Industrial	76PP-XXX	Land Acquisition - DET 13 Expansion 2.2 AC	\$ 330,000.00
New East Side Industrial	76PP-XXX	Land Acquisition - DET 14 7 AC	\$ 1,050,000.00
New East Side Industrial	76PP-XXX	Land Acquisition - DET 15 6 AC	\$ 900,000.00
TOTAL:			\$ 34,650,280.00

PROGRAM MANAGEMENT FEE - FUND 391

Funding Source	Project Number	Project Title	Project Remaining Cost
Plan C	79PP-XXX	Plan C - Program Management	\$ 250,000.00
NEI Phase 1	79PP-XXX	NEI Phase 1 - Program Management	\$ 250,000.00
NEI Phase 2	79PP-XXX	NEI Phase 2 - Program Management	\$ 250,000.00
ISP South	79PP-XXX	ISP South - Program Management	\$ 250,000.00
I-205	79PP-XXX	I-205 - Program Management	\$ 100,000.00
Ellis	79PP-XXX	Ellis - Program Management	\$ 250,000.00
SMPA	79PP-XXX	SMPA - Program Management	\$ 100,000.00
Presidio	79PP-XXX	Presidio - Program Management	\$ 100,000.00
TOTAL:			\$ 1,550,000.00

CITYWIDE PUBLIC SAFETY, TOWER FEES ¹

Funding Source	Project Number	Project Title	Project Remaining Cost
Multiple Fee Program ¹	71PP-XXX	Public Safety - Radio communications tower and equipment	\$ 3,905,000.00
TOTAL:			\$ 3,905,000.00

¹ The Citywide Safety Master Plan, Tower Fees was adopted by Resolution 2014-158 on September 2014 and will be funded by North East Industrial Area Phase 1, North East Industrial Area Phase 2, Plan C Development Area, Gateway Phase 1, Infill, Ellis, I-205, ISP South, and South MacArthur Planning Area development areas.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2018
(Government Code §66001(d).)

INFILL AREA, PARK FEE- FUND 311

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 311.

INFILL AREA, STORM DRAINAGE FEE - FUND 312

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 312.

INFILL AREA, ARTERIALS FEE - FUND 313

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 313.

INFILL AREA, PUBLIC BUILDINGS AND EQUIPMENT FEE - FUND 314

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158 and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 314.

INFILL AREA, DOWNTOWN IMPROVEMENTS PARKING FEE - FUND 316

In conjunction with the adoption of Tracy Municipal Code chapter 6.20 regarding the Downtown Incentive Program, and TMC section 10.08.3470(d)(3), regarding off-street parking requirements within the Downtown Incentive Area, development impact fees were established to offset a portion of the City's costs in upgrading parking and streetscape improvements in the Downtown Incentive Area. To spur revitalization of the Downtown, the Downtown Improvements Parking Fee has been updated to \$0 and adopted on October 6, 2015 and ending October 6, 2020 with a check-in point with City Council at 3 years, by Resolution 2015-168.

INFILL AREA, WATER FEE - FUND 513

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 513.

INFILL AREA, WASTEWATER FEE - FUND 523

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 523.

INFILL AREA, PROGRAM MANAGEMENT FEE - FUND 315

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Infill April 2012 Update Finance and Implementation Plan and dated April 3, 2012, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 315.

EXHIBIT D
Report of Findings for Development Fee Funds
Collected for the Fiscal Year Ended June 30, 2018
(Government Code §66001(d).)

PLAN C AREA, PARKS FEE - FUND 321

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 321.

PLAN C AREA, STORM DRAINAGE FEE - FUND 322

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 322.

PLAN C AREA, ARTERIALS FEE - FUND 323

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the latest Roadway Development Impact Fee Update adopted on May 6, 2014 and adopted by Resolution 2014-070, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 323.

PLAN C AREA, GENERAL FACILITIES FEE - FUND 324

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 324.

PLAN C AREA, UTILITIES FEE - FUND 325

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 325.

PLAN C AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Plan C June 2007 Update Finance and Implementation Plan and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

RESIDENTIAL SPECIFIC PLAN AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Residential Specific Plan (RSP) 2003 Update Finance and Implementation Plan and dated July 15, 2003, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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NORTHEAST INDUSTRIAL AREA, PHASE 1, ARTERIALS FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April, 15 2008, (2) the latest Roadway Development Impact Fee Update adopted on May 1, 2012 by Resolution 2012-077, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 351.

NORTHEAST INDUSTRIAL AREA, PHASE 1, STORM DRAINAGE FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, (2) the latest Storm Drainage Development Impact Fee Update adopted on October 2, 2018 by Resolution 2018-204, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 351.

NORTHEAST INDUSTRIAL AREA, PHASE 1, WATER FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 351.

NORTHEAST INDUSTRIAL AREA, PHASE 1, WASTEWATER FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 351.

NORTHEAST INDUSTRIAL AREA, PHASE 1, PUBLIC BUILDINGS FEE - FUND 351

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 351.

NORTHEAST INDUSTRIAL AREA, PHASE 1, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 1 Update Finance and Implementation Plan and dated April 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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SOUTH MACARTHUR PLAN AREA, ARTERIALS FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the latest Roadway Development Impact Fee update adopted on December 6, 2011 by Resolution 2011-227, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, STORM DRAINAGE FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, PARKS FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, WATER FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, WASTEWATER FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, PUBLIC BUILDINGS AND SERVICES FEE - FUND 352

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 352.

SOUTH MACARTHUR PLAN AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called South MacArthur Plan Area Finance and Implementation Plan 2005 Update and dated September 20, 2005, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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INDUSTRIAL SPECIFIC PLAN SOUTH AREA, ARTERIALS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, STORM DRAINAGE FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PARKS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PUBLIC BUILDINGS FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, WATER FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, WASTEWATER FEE - FUND 354

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 354.

INDUSTRIAL SPECIFIC PLAN SOUTH AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Updated ISP South Finance and Implementation Plan and dated March 17, 2009, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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PRESIDIO AREA, ARTERIALS FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) the latest Roadway Development Impact Fee Update adopted on October 2, 2001 by Resolution 2001-351, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, ARTERIALS - REGIONAL FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, STORM DRAINAGE FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, PUBLIC BUILDINGS FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, WATER FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) the latest Water Fee Update adopted on October 2, 2001 by Resolution 2001-351, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, WASTEWATER FEE - FUND 355

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 355.

PRESIDIO AREA, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Presidio Planning Area Finance and Implementation Plan and dated June 30, 2000, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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TRACY GATEWAY AREA, ARTERIALS FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the latest Roadway Development Impact Fee Update adopted on December 6, 2011 by Resolution 2011-227, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

TRACY GATEWAY AREA, STORM DRAINAGE FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

TRACY GATEWAY AREA, PUBLIC BUILDINGS FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

TRACY GATEWAY AREA, WATER FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

TRACY GATEWAY AREA, WASTEWATER FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

TRACY GATEWAY AREA, PROGRAM MANAGEMENT FEE - FUND 356

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Tracy Gateway Project Infrastructure Cost Obligations and Phase 1 Finance and Implementation Plan Update and dated July 17, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 356.

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NORTHEAST INDUSTRIAL AREA, PHASE 2, ARTERIALS FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, (2) in the arterial fees adopted on May 1, 2012, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 357.

NORTHEAST INDUSTRIAL AREA, PHASE 2, STORM DRAINAGE FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the latest Storm Drainage Development Impact Fee Update adopted on October 2, 2018 by Resolution 2018-204, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 357.

NORTHEAST INDUSTRIAL AREA, PHASE 2, WATER FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 357.

NORTHEAST INDUSTRIAL AREA, PHASE 2, WASTEWATER FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 357.

NORTHEAST INDUSTRIAL AREA, PHASE 2, PUBLIC BUILDINGS FEE - FUND 357

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 357.

NORTHEAST INDUSTRIAL AREA, PHASE 2, PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Northeast Industrial Area - Phase 2 Finance and Implementation Plan and dated January 15, 2008, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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I-205 CORRIDOR AREA, ARTERIALS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, STORM DRAINAGE FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, PARKS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, PUBLIC BUILDINGS FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, (2) in the latest Public Safety Development Impact Fee Update adopted on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, WATER FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, SEWER TREATMENT FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

I-205 CORRIDOR AREA, PROGRAM MANAGEMENT FEE - FUND 353

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest Cost Allocation Distribution Spreadsheet, called I-205 Corridor Specific Plan Spreadsheet #47 and dated June 19, 2007, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 353.

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HABITAT MITIGATION FEES - FUND 391

The purpose of the fee is to mitigate the cumulative impacts to threatened, endangered, rare, and unlisted SJMSCP covered species and other wildlife and other impacts to recreation, agriculture, scenic values, and other beneficial open space uses of new development on undeveloped lands. The relationship between the fee and the purpose for which the fee is imposed is set forth in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan prepared by San Joaquin Council of Governments (SJCOG) on July 25, 2001 and updated in 2011 and 2016. The fees are updated annually. The fees collected are remitted to SJCOG pursuant to the Plan.

AGRICULTURAL MITIGATION FEES - FUND 207

The purpose of the fee is to mitigate the loss of productive agricultural lands converted for urban uses within the City by permanently protecting agricultural lands planned for agricultural use and by working with farmers who voluntarily wish to sell or restrict their land in exchange for fair compensation. The relationship between the fee and the purpose is set forth in Tracy Municipal Code Chapter 13.28 and in the South San Joaquin County Farmland Conversion Fee Nexus Study, dated July 18, 2005 and prepared by ESA, including any amendments to it. The fees are updated annually. Pursuant to Tracy Municipal Code section 13.28.080(b) and an agreement entered into, the monies in the fund are forwarded to the Central Valley Farmland Trust, Inc., a California non-profit public benefit corporation, a qualified entry under Chapter 13.28.

COUNTY FACILITIES FEE - FUND 391

The purpose of the fee is to finance the construction of region-serving capital facilities located throughout San Joaquin County to reduce the impacts caused by future development in San Joaquin County. The funds derived from County Facilities Fees will be used to finance the facilities identified in the San Joaquin Countywide Capital Facilities Fees Nexus Report dated October 12, 2017 and prepared by Economic & Planning Systems, Inc. Pursuant to Tracy Municipal Code Chapter 13.24.020(b) and an agreement entered into, the monies in the fund are remitted to the County of San Joaquin, who is responsible for administering the fee funds and constructing the capital facilities.

REGIONAL TRANSPORTATION IMPACT FEE - FUND 808

The purpose of the fee is to finance the construction of transportation and transit improvements that help mitigate impacts to the San Joaquin County regional transportation network. Pursuant to Tracy Municipal Code Chapter 13.32.020(b)(2), the fees collected shall be used to finance Regional Transportation Impact Fee capital projects identified in the San Joaquin County Regional Transportation Impact Fee Technical Report dated October 2015 and adopted in April 2015, prepared by the San Joaquin Council of Governments (SJCOG). The fees are updated annually. The monies in the fund are remitted to SJCOG, who has the responsibility as the region's designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network, as per the Regional Transportation Impact Fee Operating Agreement, dated October 27, 2005.

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ELLIS PROGRAM AREA PARKS AND RECREATION FEE - FUND 333

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 333.

ELLIS PROGRAM AREA STORM DRAINAGE FEE - FUND 332

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 332.

ELLIS PROGRAM AREA TRAFFIC FEE - FUND 331

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 331.

ELLIS PROGRAM AREA PUBLIC BUILDINGS FEE - FUND 334

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the latest Public Safety Development Fee Update on September 16, 2014 by Resolution 2014-158, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 334.

ELLIS PROGRAM AREA WATER SUPPLY, TREATMENT, STORAGE AND DISTRIBUTION FEE - FUND 335

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 335.

ELLIS PROGRAM AREA WASTEWATER TREATMENT AND CONVEYANCE FEE - FUND 337

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 337.

ELLIS PROGRAM AREA RECYCLED WATER FEE - FUND 336

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 336.

ELLIS PROGRAM AREA PROGRAM MANAGEMENT FEE - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the latest financing and implementation plan (FIP), called Ellis Program Area Finance and Implementation Plan and dated August 20, 2013, and (2) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

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CITYWIDE MASTER PLAN PARKS FEE - FUND 361

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Parks AB1600 Development Impact Fee Technical Memo dated May 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Parks Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 361.

CITYWIDE MASTER PLAN STORM DRAINAGE FEE - FUND 362

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Storm Drainage Master Plan Impact Fee Analysis dated November 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Storm Drainage Fee update on July 1, 2018, and (3) in the latest Storm Drainage Northeast Industrial Area (NEI) Fee and Eastside Industrial Fee Update adopted on October 2, 2018 by Resolution 2018-204, and (4) in the City's Capital Improvement Plan and Exhibit C, Fund 362.

CITYWIDE MASTER PLAN TRANSPORTATION FEE - FUND 363

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Roadway and Transportation Master Plan Traffic Impact Fee Analysis dated November 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Transportation Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 363.

CITYWIDE MASTER PLAN PUBLIC SAFETY FACILITIES FEE - FUND 367

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Public Safety AB1600 Development impact Fee Technical Memo dated May 2013 and adopted on January 7, 2014, and (2) in the latest Public Safety Development Fee Update on September 16, 2014 by Resolution 2014-158, and (3) in the latest Citywide Master Plan Public Safety Facilities Fee update on July 1, 2018, and (4) in the City's Capital Improvement Plan and Exhibit C, Fund 367.

CITYWIDE MASTER PLAN PUBLIC FACILITIES FEE - FUND 366

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Public Facilities AB1600 Development impact Fee Technical Memo dated May 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Public Facilities Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 366.

CITYWIDE MASTER PLAN WATER SUPPLY, TREATMENT, STORAGE AND DISTRIBUTION - FUND 365

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Water System Master Plan - Tier 1 Development Impact Fee Analysis For the Backbone Buildout Potable and Recycled Water System dated August 28, 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Water Supply, Treatment, Storage, and Distribution Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 365.

CITYWIDE MASTER PLAN WASTEWATER TREATMENT AND CONVEYANCE - FUND 364

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Tracy Wastewater Conveyance and Treatment Development Impact Fee Study dated January 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Wastewater Treatment and Conveyance Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 364.

CITYWIDE MASTER PLAN RECYCLED WATER - FUND 368

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the Citywide Water System Master Plan - Tier 1 Development Impact Fee Analysis For the Backbone Buildout Potable and Recycled Water System dated August 28, 2013 and adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Recycled Water Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 368.

CITYWIDE MASTER PLAN PROGRAM MANAGEMENT - FUND 391

The purpose of the fee, relationship between the fee and the purpose, the sources of anticipated funding and the approximate dates on which funding is expected are set forth (1) in the various AB1600 fee studies adopted on January 7, 2014, and (2) in the latest Citywide Master Plan Program Management Fee update on July 1, 2018, and (3) in the City's Capital Improvement Plan and Exhibit C, Fund 391.

RESOLUTION 2019 _____

APPROVING THE ANNUAL REPORT ON DEVELOPMENT IMPACT FEE
REVENUES, EXPENDITURES AND FINDINGS REGARDING UNEXPENDED
FUNDS FOR FISCAL YEAR 2018-2019 IN ACCORDANCE WITH AB 1600.

WHEREAS, The Mitigation Fee Act, enacted by Assembly Bill 1600 (AB 1600) in 1987 and codified as Government Code sections 66000-66006 imposes requirements for the collection and expenditure of development impact fees, and

WHEREAS, Pursuant to Government Code section 66006(b), the City of Tracy must issue an annual report relating to the development impact fees it imposes, and

WHEREAS, Pursuant to Government Code section 66001(d), the City must make certain findings, at least every five years with respect to that portion of each development fee account remaining unexpended, and

WHEREAS, Pursuant to Government Code section 66006(b)(2), notice of the City Council meeting at which this report was considered was mailed at least 15 days before the meeting to interested parties who requested notice;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby resolves, declares, determines, and orders as follows:

1. Annual Report of Development Impact Fees. The City Council approves the attached annual report of development impact fee revenues and expenditures for the fiscal year ending June 30, 2019, as set forth in Exhibits A, B and C.
2. Findings. The City Council hereby adopts the findings contained in the attached report of findings for the fiscal year ending June 30, 2019, as set forth in Exhibit D.

* * * * *

The foregoing Resolution 2019 _____ was adopted by the Tracy City Council on the 17th day of December, 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 INSTALLATION OF A NO LEFT-TURN (R3-2) SIGN, WITH SUPPLEMENTAL 'SCHOOL DAYS 7:30-8:30 AM 1:30-3:30 PM' SIGN, IN FRONT OF CENTRAL ELEMENTARY SCHOOL

EXECUTIVE SUMMARY

Staff is requesting that the City Council approve the installation of a No Left-Turn (R3-2) sign with a supplemental 'School Days 7:30 – 8:30 AM 1:30- 3:30 PM' sign, in front of Central Elementary School to help ease the traffic congestion in the area.

DISCUSSION

West Eaton Avenue, between Parker Avenue and Holly Drive, experiences severe traffic congestion during school pick-up and drop-off times. There are two schools along this section: Central Elementary School and St. Bernard's Elementary School.

Central Elementary School previously had their pick-up and drop-off location along Parker Avenue. The recent renovation of the school added a new building along W. Eaton Avenue, and the pick-up and drop-off location was relocated to this building with the entrance along W. Eaton Avenue. Vehicles enter this school driveway from both east side and the west side along Eaton Avenue for picking up and dropping off students.

Staff conducted a field visit and observed that during pick-up times, the parent pick-up line in front of Central Elementary school extends from the school entrance to Parker Avenue in the west and Holly Drive to the east, completely blocking this segment of Eaton Avenue in both directions. This line starts forming at least thirty minutes before the scheduled pick-up time, creating a gridlock on this segment of Eaton Avenue. This condition is a hindrance for the fast and efficient movement of emergency response services along this segment of roadway.

Staff met with the Tracy Unified School District (TUSD) and confirmed that the school cannot relocate their new pick-up and drop-off location due to site limitations brought on by the recent renovations.

Staff recommends restricting the entry into the school driveway from westbound direction along Eaton Avenue to remove the traffic gridlock and provide enough gap in the roadway for emergency vehicles to pass through. This restriction will be only during school pick-up and drop-off times. Vehicles will be required to enter the main driveway right from eastbound Eaton Avenue and exit through the driveway further east during this time. Both TUSD and Saint Bernard's Church staff believe that this recommendation will greatly improve traffic circulation in the area during school pick-up and drop-off.

By restricting the entry time, staff recommends the installation of a No Left-Turn (R3-2) Sign with a supplemental 'School Days 7:30 – 8:30 AM 1:30- 3:30 PM' sign, in front of the Central Elementary School main driveway, on the north side of Eaton Avenue, as shown on the attached map. This installation of an official traffic control device to regulate traffic at the intersection of a highway and driveway, meets the requirements in the California Vehicle Code 21360.

STRATEGIC PLAN

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

FISCAL IMPACT

The cost to install appropriate signage and striping is a budgeted item within the street operating budget of the Public Works Department.

RECOMMENDATION

That the Tracy City Council authorizes the installation of a No Left-Turn (R3-2) sign, with a supplemental 'School Days 7:30- 8:30 AM 1:30- 3:30 PM' sign, in front of Central Elementary School.

Prepared by: Anju Pillai, PE, Associate Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Location Map



LOCATION MAP



RESOLUTION 2019-_____

APPROVING THE INSTALLATION OF A NO LEFT-TURN (R3-2) SIGN WITH A
SUPPLEMENTAL SIGN 'SCHOOL DAYS 7:30-8:30 AM 1:30-3:30 PM' IN FRONT OF
CENTRAL ELEMENTARY SCHOOL

WHEREAS, West Eaton Avenue, between Parker Avenue and Holly Drive experiences severe traffic congestion during school pick-up and drop-off times, and

WHEREAS, Central Elementary School previously had their pick-up and drop-off location along Parker Avenue, and

WHEREAS, The recent renovation of the school added a new building along W. Eaton Avenue, and the pick-up and drop-off location was relocated to this building with the entrance along W. Eaton Avenue, and

WHEREAS, Staff conducted a field visit and observed that during pick-up times, the parent pick-up line in front of Central Elementary school extends from the school entrance to Parker Avenue in the west and Holly Drive to the east, completely blocking this segment of Eaton Avenue in both directions, and

WHEREAS, This line starts forming at least half hour before the scheduled pick-up time creating a gridlock on this segment of Eaton Avenue, and

WHEREAS, This condition is a hindrance for the fast and efficient movement of emergency response services along this segment of roadway, and

WHEREAS, Staff met with the Tracy Unified School District (TUSD) staff and they confirmed that the school cannot relocate their new pick-up and drop-off location due to site limitations brought out by the recent renovations, and

WHEREAS, Staff recommends restricting the entry left into the school driveway from westbound direction along Eaton Avenue to remove the traffic gridlock and provide enough gap in the roadway for emergency vehicles to pass through, and

WHEREAS, This restriction will be only during school pick-up and drop-off times;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes the installation of a No Left-Turn (R3-2) sign with a supplemental sign 'School Days 7:30- 8:30 AM 1:30- 3:30 PM' in front of Central Elementary School.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the City Council on the 17th day of December 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 AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICE AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING PROGRAM SERVICES TOTALING \$39,019

EXECUTIVE SUMMARY

Under Resolution No. 2018-229, City Council authorized staff to submit an application for Fiscal Year 2018 Economic Development Administration Disaster Supplemental Grant (Grant) funding for the bridge replacement and expansion over the Delta Mendota Canal at Old Schulte Road and International Parkway Project. Consultant services are needed to research, prepare and submit an application for this grant funding.

The City of Tracy and Pennino Management Group (Consultant) entered into a Professional Services Agreement for Grant, Research & Funding Program Services (Agreement) on November 11, 2017 for an amount not-to-exceed \$35,100 for work performed, and \$6,200 for reimbursable costs as approved by City.

Under Resolution No. 2018-246, staff requested City Council to approve Amendment No. 1 (Amendment) to the Agreement in order for Consultant to complete the research, organization and production of the Final Phase II application under the FY 2018 EDA Disaster Supplement Grant Funding Program. These additional services increased compensation under the Agreement by \$32,984.

Staff requests City Council approval of Amendment No. 2 to the Agreement for Consultant due to project scope expansion and extensive time and effort to complete. The additional services will increase compensation under the Agreement by \$39,019.

DISCUSSION

Consultant completed the original scope of services as outlined in the Agreement and finalized an application for submission under an Economic Development Administration (EDA) Grant under Public Works & Economic Adjustment Assistance Program for a bridge replacement and expansion Project over the Delta Mendota Canal at Old Schulte Road.

An EDA Notice of Funding Opportunity (NOFO) FY 2018 Disaster Supplemental Grant Funding program was declared by the Federal Government on April 1, 2017 (DR-4308). DR-4308 offered opportunity to increase the amount of funding and expand the project scope to include a bridge replacement and widening of Old Schulte Road and International Parkway. The Consultant and staff were encouraged by the EDA Regional Representative to apply for grant funding under DR-4308 and withdraw the application previously submitted under the EDA Public Works & Economic Adjustment Assistance grant.

Council authorized staff, under Resolution No. 2018-229, to submit an application for the Fiscal Year 2018 Economic Development Administration Disaster Supplemental grant

funding for Bridge Replacement and Expansion over the Delta Mendota Canal at Old Schulte Road and International Parkway. Consultant services are needed to complete the grant application for DR-4308 program funding.

FISCAL IMPACT

The Amendment No. 2 will be funded by Prologis, L.P. and will be paid through the Cost Recovery Agreement.

STRATEGIC PLAN

This agenda item is consistent with the Council adopted Economic Development Strategy to ensure the availability of infrastructure necessary for development in Tracy.

RECOMMENDATION

That City Council, by resolution, approve Amendment No. 2 to the Professional Services Agreement with Pennino Management Group for additional grant, research, and funding program services totaling \$39,019.

Prepared by: Robert Armijo, City Engineer / Assistant Development Services Director

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Professional Services Agreement for Grant, Research, & Funding Program Services, dated October 3, 2016

Attachment B – Amendment No. 1 to Professional Service Agreement

Attachment C – Amendment No. 2 to Professional Service Agreement

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
Grant, Research & Funding Program Services

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Pennino Management Group, a California Corporation (Consultant).

Recitals

- A.** The City is in need of professional consulting services to assist with research, identification and application for Federal, State, Regional and Local funding opportunities for development of economic development strategies and public Capital Improvement Projects.
- B.** The Consultant has the appropriate qualifications and experience to provide grant, research, and funding program services.
- C.** The purpose of this Agreement is to outline the terms for performance and payment associated with said grant, research, and funding program services.

Now therefore, the parties mutually agree as follows:

- 1. Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Michael Locke. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
- 2. Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
- 3. Compensation.**
 - 3.1 General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$25,000. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
 - 3.2 Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

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

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

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

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

5. Insurance.

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

5.2 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Miscellaneous.

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

To City:

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attn: Andrew Malik
Development Services Director

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Pennino Management Group
1420 Mills Street, Suite E
Lodi, CA 95242
Attn: Michael Locke
Vice President

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 after the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

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

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

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

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

9.6 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.

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

9.10 Entire Agreement; Severability. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

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

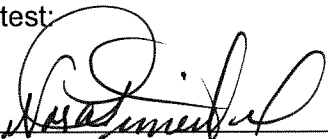
10. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City. This Agreement shall

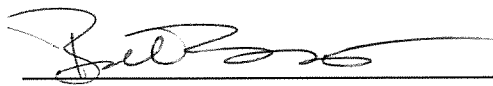
inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

City of Tracy

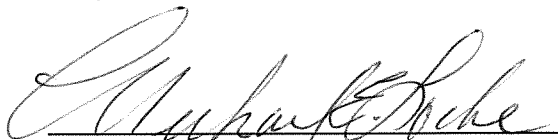

By: Troy Brown
Title: City Manager
Date: 10/3/16

Attest:

Nora Pimentel, City Clerk

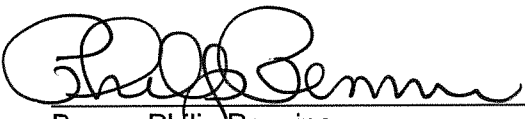
Approved as to form:

Bill Sartor, City Attorney

Consultant

Pennino Management Group, a California Corporation


By: Michael Locke
Title: Vice President
Date: September 12, 2016

Federal Employer Tax ID No.
45-5606098


By: Philip Pennino
Title: Secretary/Treasurer
Date: September 12, 2016

Exhibits:

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

City of Tracy
Professional Services Agreement
Pennino Management Group

EXHIBIT A

Scope of Services

Task I. Project Development – Funding Opportunities

- A. PMG will undertake research and investigation of viable options for funding resources related to economic development strategies and funding for public Capital Improvement projects. These efforts include research related to Federal, State, Regional and Local funding opportunities.
- B. PMG will consult with the City of Tracy and Prologis to identify;
 - 1. Project funding requirements and status of funding potential from all defined sources.
 - 2. Define project priority based on implementation schedule, Agency funding availability and matching funds required for grant programs.
 - 3. Identify individual Agency funding eligibility criteria to establish specific project components and conditions for funding application.
 - 4. Develop and submit Application through the City of Tracy as agreed upon by all participating parties.

Task II. Communication and Coordination

- A. The City of Tracy, Prologis and Pennino Management Group will meet quarterly at the Tracy City Administration Offices to review prior months Activity and succeeding month's planned activities.
- B. PMG will provide an electronic monthly update report specific to Tasks 1 and 3 of the Scope of Work.
- C. PMG will provide Hoover's research on targeted companies as requested by the City of Tracy and Prologis.

City of Tracy
Professional Services Agreement
Pennino Management Group

Task III. Newmark Grubb Knight Frank (NGKF), a part of BGC Partners, a global Brokerage firm primarily serving the wholesale Financial and Real Estate markets

- Under direction of the City of Tracy, Pennino Management Group will collaborate in the development of an Economic Development Study through NGKF. This effort will be based on the response from NGKF related to communication outlining scope and focus for the study.

The tasks will include consultation of the NGKF response, providing any related resources that PMG has currently or is requested to produce.

This component is in the formative stage and is open to question to proceed based on potential Scope and Costs.

City of Tracy
Professional Services Agreement
Pennino Management Group

EXHIBIT B
Scope of Services
Cost Allocation/Compensation

The following estimated costs will be utilized by Pennino Management Group to complete all tasks on the Program Principal Components outlined on Page 3 of the Letter of Engagement and are based on the following estimates. The time allocations by task are at the discretion and direction of the City of Tracy.

Task I Project Development – Funding Opportunities 87% \$20,000
Research and Identify third party funding opportunities for Project Capital Infrastructure.

Task II Communication and Coordination 4% \$ 1,000
Establish enhanced communication and coordination meeting monthly, PMG will provide an enhanced electronic information base on an iCloud account.

Task III Newmark Grubb Knight Frank 9% \$ 2,000
The potential for focused Labor Study and Identifying target industries would be directed by the City of Tracy and supported as requested by PMG.

PENNINO MANAGEMENT STAFF COST

Principal	\$185	Per Hour
Project Support	\$95	Per Hour
Clerical	\$56	Per Hour

Estimated Total FY 2016-2017 Costs \$23,000

City of Tracy
Professional Services Agreement
Pennino Management Group

Other Cost

Contract Services	\$ 500
electronic media, printing, reproduction	

Direct Expense Reimbursement	\$ 1,500
Meeting, travel, mailings, etc.	

TOTAL PROJECT COST	\$25,000

Travel, Auto	\$0.56 Per Mile

Mailing, Meals, Association memberships, registration, etc.	<i>Billed at cost plus 10% and includes such items as travel expenses, freight, equipment rental, fees, subcontractors, postage, printing or reproduction fees, supplies, etc.</i>



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/1/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Truex Insurance Agency 4609 Quail Lakes Drive, Ste. 1 Stockton CA 95207	CONTACT NAME: Veronica Campos PHONE (A/C No. Ext): (209) 477-1111 FAX (A/C No.): (209) 478-0217 E-MAIL ADDRESS: vcampos@truexins.com														
INSURED PENNINO MANAGEMENT GROUP PO BOX 1566 LODI CA 95241-1566	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: AMCO Insurance Company</td><td>19100</td></tr><tr><td>INSURER B: Hartford Acc. & Indemnity Co.</td><td>22357</td></tr><tr><td>INSURER C: State Fund</td><td>35076</td></tr><tr><td>INSURER D: ACE American Insurance Company</td><td>22667</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: AMCO Insurance Company	19100	INSURER B: Hartford Acc. & Indemnity Co.	22357	INSURER C: State Fund	35076	INSURER D: ACE American Insurance Company	22667	INSURER E:		INSURER F:	
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COVERAGES**CERTIFICATE NUMBER:** 16-17 GL/BA/E&O**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VVVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X		ACP7845656139	5/15/2016	5/15/2017	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 2,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 300,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 5,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 2,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 4,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 4,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 2,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000	MED EXP (Any one person)	\$ 5,000	PERSONAL & ADV INJURY	\$ 2,000,000	GENERAL AGGREGATE	\$ 4,000,000	PRODUCTS - COMP/OP AGG	\$ 4,000,000		\$
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	\$																				
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS	X		57UECAM7312	1/1/2016	1/1/2017	<table border="1"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$ 1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
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	☐ UMBRELLA LIAB ☐ EXCESS LIAB DED ☐ RETENTION \$						<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$</td></tr><tr><td>AGGREGATE</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$	AGGREGATE	\$		\$								
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AGGREGATE	\$																				
	\$																				
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A	9032787-15	11/1/2015	11/1/2016	<table border="1"><tr><td>☒ PER STATUTE ☐ OTH-ER</td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 1,000,000</td></tr></table>	☒ PER STATUTE ☐ OTH-ER		E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000						
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D	Professional Liability			G27461037003	6/1/2016	6/1/2017	<table border="1"><tr><td>EACH CLAIM</td><td>\$2,000,000</td></tr><tr><td>EACH AGGREGATE</td><td>\$2,000,000</td></tr></table>	EACH CLAIM	\$2,000,000	EACH AGGREGATE	\$2,000,000										
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Tracy, including its elected officials, officers, employees, agents, and volunteers shall be named as an additional insured as respects to General & Auto Liability when required under written contract per the attached endorsements. This insurance is primary with respect to the City per the attached endorsements. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it. **Regarding any non-payment of premium, 10 days notice will be given.

CERTIFICATE HOLDER

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Stephen Nelson/VERONI

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – SERVICES PERFORMED ON PREMISES OF ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS LIABILITY COVERAGE FORM

A. The following is added to Section II. WHO IS AN INSURED:

The person or organization designated in the Schedule of this endorsement is also an insured, but only with respect to their liability for "bodily injury" or "property damage" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in connection with acts or services normal and usual to your business described in the Declarations, performed by you or on your behalf for the person or organization designated

in the Schedule of this endorsement on premises owned, leased, maintained or used by such person or organization.

B. ADDITIONAL EXCLUSION

This insurance, including our duty to defend "suits", does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of any active negligence of the person or organization designated in the Schedule of this endorsement.

All terms and conditions of this policy apply unless modified by this endorsement.

SCHEDULE

Name of Person or Organization:

AS PER WRITTEN CONTRACT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured Pennino Management Group			Endorsement Number
Policy Symbol EON	Policy Number G27461037003	Policy Period 06/01/2016 to 06/01/2017	Effective Date of Endorsement 06-01-2016
Issued By (Name of Insurance Company) ACE American Insurance Company			

Additional Insured (Automatic Pursuant to Contract)

It is agreed that:

1. Section II, Definitions, subsection I, the definition of **Insured**, is amended by adding the following:

Insured also means any client or customer of the **Named Insured**, but only if a written contract entered into by the **Named Insured** specifically requires that such client or customer be added as an additional **Insured** for professional liability or errors and omissions insurance, and only for **Claims** (i) first made on or after the effective date of this endorsement and (ii) for vicarious or imputed liability of such client or customer which results from **Wrongful Acts** committed solely by the **Named Insured**.

The **Policy** will not provide coverage for any **Wrongful Act** committed by such client or customer referenced above which is added to this **Policy** as an additional **Insured**.

2. Section III, Exclusions, is amended by deleting exclusion E, but solely with respect to **Claims** asserted by such client or customer referenced above for **Wrongful Acts** actually or allegedly committed by an **Insured** in the performance of or failure to perform **Professional Services**.

All other terms and conditions of this **Policy** remain unchanged.

Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT TO OTHER INSURANCE CLAUSE FOR
ADDITIONAL INSURED – PRIMARY AND NON-
CONTRIBUTORY WHEN REQUIRED IN A WRITTEN
AGREEMENT OR CONTRACT WITH YOU**

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS COMMON POLICY CONDITIONS

Only with respect to any additional insured, in the COMMON POLICY CONDITIONS, form PB 00 09, under condition H. **OTHER INSURANCE**, paragraph 2.a. is replaced by the following:

H. OTHER INSURANCE

2. Under any liability coverage provided by this policy,
 - a. If for injury or loss we cover, there is other valid and collectible insurance available to any additional insured under another policy, our obligations are limited as follows:
 - (1) Issued by another insurer, or if there is self insurance or similar risk retention that applies to a loss covered by this policy, then this insurance provided by us shall be excess over such other insurance, unless you have agreed in a written contract or written agreement signed prior to the loss that this insurance shall be primary:
 - (a) Then this insurance is primary. If other insurance is also primary, we will share with all that other insurance as described in d. below; and
 - (b) The coverage afforded by this insurance is non-contributory with the additional insured's own insurance.
 - Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured to any other person or organization's policy.; or
 - (2) Issued by us or any of our affiliate companies, that applies to a loss covered by this policy, then only the highest applicable Limit of Insurance shall apply to such loss. This condition does not apply to any policy issued by us that is designed to provide Excess or Umbrella liability insurance.

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS COMMON POLICY CONDITIONS

SCHEDULE

Name Of Person Or Organization:

AS PER WRITTEN CONTRACT

In condition K. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, under paragraph 2. Applicable to Businessowners Liability Coverage, the following paragraph is added:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

All terms and conditions of this policy apply unless modified by this endorsement.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- (2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is a partnership or joint venture,
 - (b) That is an "insured" under any other policy,
 - (c) That has exhausted its Limit of Insurance under any other policy, or
 - (d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (1) The agreement requires you to provide direct primary insurance for the lessor and
 - (2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

- (1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;
- (2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

- e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

- c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

PREMIER BUSINESSOWNERS COMMON POLICY CONDITIONS

Various provisions in this policy restrict coverage. Please read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insureds shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

All coverages of this policy are subject to the following conditions.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. Five (5) days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy;
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.
 - (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
 - (a) Have not started, and
 - (b) Have not been contracted for, within 30 days of initial payment of loss.
 - (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
 - (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
 - (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
 - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. CHANGES

1. This policy contains all the agreements between you and us concerning the insurance afforded.
2. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent.
3. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. CONCEALMENT, MISREPRESENTATION OR FRAUD

1. This policy is void in its entirety in any case of fraud, at any time, by you or your representative as it relates to this policy.
2. This policy is also void if you, your authorized representative or any other insured, at any time, conceal or misrepresent any material fact, or violate any material warranty, concerning:
 - a. This policy, including your application for this policy;
 - b. The Covered Property;
 - c. Your interest in the Covered Property; or
 - d. A claim under this policy.
3. We also have the right to rescind this policy based upon any other grounds provided by law.

D. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy or to any claim arising under this policy at any time during the policy period and up to three years afterward.

E. INSPECTIONS AND SURVEYS

1. We have the right to:
 - a. Make inspections and surveys at any time;
 - b. Give you reports on the conditions we find; and
 - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

F. INSURANCE UNDER TWO OR MORE COVERAGES OF THIS POLICY

If two or more of this policy's coverages apply to the same injury, loss or damage, we will not pay more than the actual amount of the injury, loss or damage, up to the highest applicable Limit of Insurance under any one coverage.

G. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this policy without additional premium within 60 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. OTHER INSURANCE

1. Under any property coverage provided by this policy, if there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.
2. Under any liability coverage provided by this policy,
 - a. If, for injury or loss we cover, there is other valid and collectible insurance available to any insured under another policy:
 - (1) Issued by another insurer, or if there is self insurance or similar risk retention that applies to a loss covered by this policy, then this insurance provided by us shall be excess over such other insurance; or
 - (2) Issued by us or any of our affiliate companies, that applies to a loss covered by this policy, then only the highest applicable Limit of Insurance shall apply to such loss. This condition does not apply to any policy issued by us that is designed to provide Excess or Umbrella liability insurance.

- b. This insurance, if applicable, is also excess, whether that other insurance is primary, excess, contingent or provided on any other basis:

- (1) Over any applicable property insurance or other insurance that insures for direct physical loss or damage;
- (2) Over any valid and collectible insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. under Section I. COVERAGES, COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY of the Liability Coverage Form.

- c. When this insurance is excess, we will have no duty under the liability coverage provided by this policy to defend any insured against any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to any insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

d. **Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

I. **PREMIUMS**

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and
 - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal of this policy, we will compute the premium in accordance with our rates and rules then in effect.
3. Undeclared exposures or changes in your business operation and acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules in effect at the inception of such policy.

J. **PREMIUM AUDIT**

1. We have the right but are not obligated to audit this policy. The first Named Insured must keep records of the information we need for premium computation, and send us copies of those records at such times as we may request.
2. If we do audit your policy, at the close of that audit period, we will compute the earned premium for that period and the final premium due based upon your actual exposures.
3. We will send notice to the first Named Insured after the audit has been completed. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

K. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone insured by this insurance;
 - (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
 - (3) Your tenant, but only with our written consent.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Payments Coverage.

HOWEVER, in the event of any payment under this policy, we waive our right of recovery or subrogation against any person or organization with respect to which you have waived your right of recovery or subrogation in writing and prior to a loss.

L. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

- 1. Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.
- 2. If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

All terms and conditions of this policy apply unless modified by this endorsement.

City of Tracy
AMENDMENT NO. 1 TO PROFESSIONAL SERVICE AGREEMENT
Grant, Research & Funding Program Services

This Amendment No. 1 (Amendment) to the Grant, Research & Funding Program Services professional services agreement is entered into between the City of Tracy, a municipal corporation (City), and Pennino Management Group, a California corporation (Consultant).

Recitals

- A. The City and Consultant entered into a Professional Services Agreement for Grant, Research & Funding Program Services at (Agreement) on November 11, 2017 for an amount not to exceed \$35,100 for work performed and \$6,200 for reimbursable costs including printing, document reproduction, meetings, and travel as approved by City.
- B. Consultant completed the original services outlined in the Agreement and completed an Economic Development Administration (EDA) Grant under Public Works & Economic Adjustment Assistance Program and submitted completed application.
- C. Consultant identified an additional funding opportunity under the EDA Notice of Funding Opportunity (NOFO) FY 2018 Disaster Supplemental Grant Funding program.
- D. In order to qualify for additional funding under the Disaster Supplemental Grant NOFO, staff was required to withdraw the Public Works & Economic Adjustment Assistance Program grant and prepare a new application.
- E. Authorization to submit an application for Fiscal Year 2018 Economic Development Administration Disaster Supplemental Grant Funding for the bridge replacement and expansion project over the Delta Mendota Canal at Old Schulte Road and International Parkway was approved by the City Council on November 7, 2018, under Resolution No. 2018-229.
- F. An additional appropriation in the amount of \$32,983.69 is needed for Consultant to complete the research, organization and production of the Final Phase II application under the FY 2018 EDA Disaster Supplemental Grant Funding program.

Now therefore, the parties mutually agree as follows:

1. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.

2. Terms of Amendment. Section 3.1 is amended in its entirety to read as follows:

"3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not-to-Exceed \$68,083.69 for work performed. Consultant shall be entitled to payment of service related reimbursable costs including printing, document reproduction, meetings, and travel not to exceed \$6,200 as approved by City. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement except for reimbursable costs identified in Exhibit "B". No work

shall be performed by Consultant in excess of the Not-to-Exceed amount without the City's prior written approval."

3. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

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

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

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

City of Tracy



By: Robert Rickman
Title: Mayor

Date: 1-2-19

Attest:


By: Adrianne Richardson, City Clerk

Approved as to form


By: Thomas T. Watson, City Attorney

Consultant

Pennino Management Group, a California Corporation



By: Michael Locke
Title: Vice President

Date: Nov. 27, 2018

Federal Employer Tax ID No. 45-5606098



By: Phillip Pennino
Title: Secretary/Treasurer

Date: 11/28/2018

City Business License # 06009114

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
Grant, Research & Funding Program Services

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Pennino Management Group, a California corporation (Consultant).

Recitals

- A.** The City is in need of professional consulting services to assist with research, coordination, and submittal of an infrastructure funding grant to the Department of Commerce's Office of Economic Development Administration (EDA) under the "Public Works and Economic Adjustment Assistance Programs", 11.300 CFDA for the City of Tracy Schulte Road Bridge and Road Connection Project.
- B.** The Consultant has the appropriate qualifications and experience to provide grant, research and funding program services.
- C.** The purpose of this Agreement is to outline the terms for performance and payment associated with said grant, research and funding program services.

Now therefore, the parties mutually agree as follows:

- 1. Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Michael Locke, Vice President. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
- 2. Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
- 3. Compensation.**
 - 3.1 General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$35,100 for work performed. Consultant shall be entitled to payment of service related reimbursable costs including printing, document reproduction, meetings, and travel not to exceed \$6,200 as approved by City. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement except for reimbursable costs identified in Exhibit "B". No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

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

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

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

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

5. Insurance.

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

5.2 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Miscellaneous.

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

To City:
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attn: Andrew Malik
Development Services Director

To Consultant:
Pennino Management Group
1420 Mills Street, Suite E
Lodi, CA 95242
Attn: Michael Locke
Vice President

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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 after the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

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

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

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

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

9.6 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.

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

9.10 Entire Agreement; Severability. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

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

EXHIBIT A Scope of Services

I. Purpose

The purpose of Task I of this Professional Services Agreement (PSA) is to complete the Phase I Grant Application for a "Public Works and Economic Adjustment Assistance Programs" 11.300 CFDA.

Task II is the preparation of a full grant proposal, "if invited" by the Economic Development Administration based on the Phase I application as accepted.

The Scope of Services will be performed and managed by Task with services provided within the defined scope of services for each Task, as authorized by the City of Tracy. Proceeding to subsequent Tasks will be at the direction of the Director of Development Services.

II. Tasks

Task I. Completion and submission of a Phase I grant proposal for the Schulte Road bridge and road connections.

- A. Complete Phase I application for a grant under the Economic Development Administration (EDA) under the "Public Works and Economic Adjustment Assistance Programs", 11.300 CFDA.
- B. Scheduling meeting with EDA Western Region Area Representative, Mr. Will Marshall, for site tour once Phase I application has been filed.
- C. Scheduling on site briefing with Congressional Legislators Jeff Denham, District 10, and Jerry McNerney, District 9.
- D. Maintain communication with Area Representative during 30-day review period.

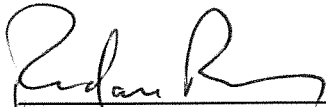
Task II. Preparation of Full Grant Application for submission as invited by EDA

- A. Prepare complete grant proposal and provide all supporting documentation. This will include three (3) scheduled meetings in the City of Tracy to coordinate with the City and/or Prologis consultants.
- B. Define specific information required in the full application and facilitate the process with City of Tracy staff, consultant, etc. to achieve required information.
- C. Identify Project Budget including sources of committed funds to support the project. Assist in the preparation of project construction documents and cost estimates. Prepare budget consistent with Program Guidelines.
- D. Prepare full application consistent with EDA program requirements for electronic submission upon approval by the City of Tracy.
- E. Maintain communication with the Area Representative and Seattle Regional Office.

10. 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 Consultant and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

City of Tracy



By: Randall Bradley
Title: Interim City Manager

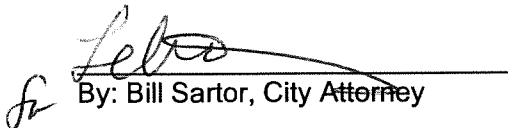
Date: 11/01/17

Attest:



By: Nora Pimentel, City Clerk (Interim)

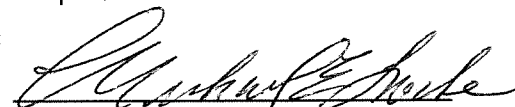
Approved as to form:



By: Bill Sartor, City Attorney

Consultant

Pennino Management Group, a California Corporation



By: Michael Locke
Title: Vice President

Date: 10-26-2017

Federal Employer Tax ID No.

45-5606098



By: Phillip Pennino
Title: Secretary/Treasurer

Date: 10/26/2017

Exhibits:

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

EXHIBIT B COMPENSATION

The following cost estimates will be utilized by Pennino Management Group to complete all tasks as outlined in Exhibit A of the Professional Services Agreement.

The authorization to proceed by Task is at the discretion of the City of Tracy.

I. Tasks

Task I.	Completion of the Phase I grant application for a Federal EDA grant under 11.300 CFDA	\$10,800
Task II.	Preparation and submission of a complete application at the Invitation of EDA.	\$24,300
Estimated Fee (Tasks I and II)		\$35,100

Hourly Fee -Pennino Management

Principal	\$185.00/hour
Project Support	\$ 97.50/hour
Project Engineer	\$118.00/hour
Clerical	\$ 56.00/hour

II. Reimbursable Costs

Contract Services - Electronic media, printing, reproduction	\$ 1,200
Direct Expense – Meetings, travel, mailing, etc.	\$ 5,000

Reimbursable Costs **\$ 6,200**

Travel, Auto \$0.565/mile or applicable approved Federal Billing Rate

Mailing, meals, subcontractor billed at a cost plus 10% and includes such items as travel expense, freight, equipment rental, fees, subcontractors, postage, printing and reproduction fees, supplies.

Not to Exceed **\$ 41,300**

III. Time of Performance

The scope of the tasks will be performed over a period of 24 to 36 months. A project grant award has a performance requirement of completion in 36 months from time of award. The Economic Development Agency (EDA) encourages a shorter performance timeline.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/23/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Truex Insurance Agency 4609 Quail Lakes Drive, Ste. 1 Stockton CA 95207		CONTACT NAME: Veronica Campos PHONE (A/C, No. Ext): (209) 477-1111 E-MAIL ADDRESS: vcamos@truexins.com FAX (A/C, No): (209) 478-0217																						
INSURED PENNINO MANAGEMENT GROUP PO BOX 1566 LODI CA 95241-1566		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A:</td><td>AMCO Insurance Company</td><td>19100</td></tr><tr><td>INSURER B:</td><td>West American Insurance Co.</td><td>44393</td></tr><tr><td>INSURER C:</td><td>State Fund</td><td>35076</td></tr><tr><td>INSURER D:</td><td>ACE American Insurance Company</td><td>22667</td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	AMCO Insurance Company	19100	INSURER B:	West American Insurance Co.	44393	INSURER C:	State Fund	35076	INSURER D:	ACE American Insurance Company	22667	INSURER E:			INSURER F:		
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COVERAGES**CERTIFICATE NUMBER:** 17-18 BA/GL 16 WC**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	☒ COMMERCIAL GENERAL LIABILITY	X	Y	ACP7855656139	5/15/2017	5/15/2018	EACH OCCURRENCE	\$ 2,000,000	
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000	
							MED EXP (Any one person)	\$ 5,000	
							PERSONAL & ADV INJURY	\$ 2,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 4,000,000	
	☒ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	\$ 4,000,000	
	OTHER:							\$	
B	AUTOMOBILE LIABILITY	X	Y	BAW57700951	1/1/2017	1/1/2018	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	
	☒ ANY AUTO							BODILY INJURY (Per person)	\$
	☐ ALL OWNED AUTOS						☐ SCHEDULED AUTOS	BODILY INJURY (Per accident)	\$
	☒ HIRED AUTOS						☒ NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident)	\$
								\$	
	UMBRELLA LIAB						EACH OCCURRENCE	\$	
	EXCESS LIAB						AGGREGATE	\$	
	DED ☐ RETENTION \$ ☐							\$	
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A	Y	9032787-16	11/1/2016	11/1/2017	☒ PER STATUTE ☐ OTH-ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)								
	If yes, describe under DESCRIPTION OF OPERATIONS below								
D	Professional Liability			G27461037004	6/1/2017	6/1/2018	EACH CLAIM	\$2,000,000	
							EACH AGGREGATE	\$2,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Schulte Road bridge and road connections

The City (including its elected officials, officers, employees, agents, and volunteers)

are included as Additional Insured as respects to E&O, General Liability & Auto Liability per the attached PB6004, PF19806, and CA8810. General Liability waiver of subrogation and primary wording applies per form PB6072 and PB0497. Workers Compensation waiver of subrogation applies per form 10217, all endorsements apply when required under written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Tracy Attn: Andrew Malik Development Services Director 333 Civic Center Plaza Tracy, CA 95376	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Stephen Nelson/VERONI

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – SERVICES PERFORMED ON
PREMISES OF ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS LIABILITY COVERAGE FORM

A. The following is added to Section II. WHO IS AN INSURED:

The person or organization designated in the Schedule of this endorsement is also an insured, but only with respect to their liability for "bodily injury" or "property damage" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in connection with acts or services normal and usual to your business described in the Declarations, performed by you or on your behalf for the person or organization designated

in the Schedule of this endorsement on premises owned, leased, maintained or used by such person or organization.

B. ADDITIONAL EXCLUSION

This insurance, including our duty to defend "suits", does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of any active negligence of the person or organization designated in the Schedule of this endorsement.

All terms and conditions of this policy apply unless modified by this endorsement.

SCHEDULE

Name of Person or Organization:

AS PER WRITTEN CONTRACT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Insured Pennino Management Group			Endorsement Number
Policy Symbol EON	Policy Number G27461037 004	Policy Period 06/01/2017 to 06/01/2018	Effective Date of Endorsement 06/01/2017
Issued By (Name of Insurance Company) Westchester Surplus Lines Insurance Company			

Additional Insured (Automatic Pursuant to Contract)

It is agreed that:

1. Section II, Definitions, subsection I, the definition of **Insured**, is amended by adding the following:

Insured also means any client or customer of the **Named Insured**, but only if a written contract entered into by the **Named Insured** specifically requires that such client or customer be added as an additional **Insured** for professional liability or errors and omissions insurance, and only for **Claims** (i) first made on or after the effective date of this endorsement and (ii) for vicarious or imputed liability of such client or customer which results from **Wrongful Acts** committed solely by the **Named Insured**.

The **Policy** will not provide coverage for any **Wrongful Act** committed by such client or customer referenced above which is added to this **Policy** as an additional **Insured**.

2. Section III, Exclusions, is amended by deleting exclusion E, but solely with respect to **Claims** asserted by such client or customer referenced above for **Wrongful Acts** actually or allegedly committed by an **Insured** in the performance of or failure to perform **Professional Services**.

All other terms and conditions of this **Policy** remain unchanged.

Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT TO OTHER INSURANCE CLAUSE FOR
ADDITIONAL INSURED – PRIMARY AND NON-
CONTRIBUTORY WHEN REQUIRED IN A WRITTEN
AGREEMENT OR CONTRACT WITH YOU**

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS COMMON POLICY CONDITIONS

Only with respect to any additional insured, in the COMMON POLICY CONDITIONS, form PB 00 09, under condition H. **OTHER INSURANCE**, paragraph 2.a. is replaced by the following:

H. OTHER INSURANCE

2. Under any liability coverage provided by this policy,
 - a. If for injury or loss we cover, there is other valid and collectible insurance available to any additional insured under another policy, our obligations are limited as follows:
 - (1) Issued by another insurer, or if there is self insurance or similar risk retention that applies to a loss covered by this policy, then this insurance provided by us shall be excess over such other insurance, unless you have agreed in a written contract or written agreement signed prior to the loss that this insurance shall be primary:
 - (a) Then this insurance is primary. If other insurance is also primary, we will share with all that other insurance as described in d. below; and
 - (b) The coverage afforded by this insurance is non-contributory with the additional insured's own insurance.
 - Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured to any other person or organization's policy.; or
 - (2) Issued by us or any of our affiliate companies, that applies to a loss covered by this policy, then only the highest applicable Limit of Insurance shall apply to such loss. This condition does not apply to any policy issued by us that is designed to provide Excess or Umbrella liability insurance.

All terms and conditions of this policy apply unless modified by this endorsement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

PREMIER BUSINESSOWNERS COMMON POLICY CONDITIONS

SCHEDULE

Name Of Person Or Organization:

AS PER WRITTEN CONTRACT

In condition K. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, under paragraph 2. Applicable to Businessowners Liability Coverage, the following paragraph is added:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

All terms and conditions of this policy apply unless modified by this endorsement.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

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SECTION II - LIABILITY COVERAGE is amended as follows:

1. BROAD FORM INSURED

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- d. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, "insured" does not include any organization that:

- (1) Is a partnership or joint venture; or
- (2) Is an insured under any other automobile policy; or
- (3) Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph d. (2) of this provision does not apply to a policy written to apply specifically in excess of this policy.

- e. Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1) If there is similar insurance or a self-insured retention plan available to that organization;

- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSURED

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II - LIABILITY COVERAGE, paragraph A.1. - WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

4. SUPPLEMENTARY PAYMENTS

SECTION II - LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II - LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III - PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
 - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$1,000 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
 - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V - DEFINITIONS is amended by adding the following:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III - PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 - 20,000 pounds.

However, the labor must be performed at the place of disablement.

8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III - PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500

9. RENTAL REIMBURSEMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

A. SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V - DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III - PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS** is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III - PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS**, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:



Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
 - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
 - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
 - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
 - d. Transfer or rollover balances from previous loans or leases,
 - e. Final payment due under a "Balloon Loan",
 - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
 - g. Security deposits not refunded by a lessor,
 - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
 - i. Any amount representing taxes,
 - j. Loan or lease termination fees; or

2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

- B. ADDITIONAL CONDITIONS

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. SECTION V - DEFINITIONS is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

15. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)

Paragraph **D. Deductible** of SECTION III - PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to "loss" caused by collision to such covered "auto" of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the "auto" is designed to carry while it is:

- a. In the charge of an "insured";
- b. Legally parked; and
- c. Unoccupied.

The "loss" must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered "auto" must exceed the deductible shown in the Declarations.

This provision does not apply to any "loss" if the covered "auto" is in the charge of any person or organization engaged in the automobile business.

17. TWO OR MORE DEDUCTIBLES

Under SECTION III PHYSICAL DAMAGE COVERAGE, if two or more company policies or coverage forms apply to the same accident, the following applies to paragraph D. Deductible:

- a. If the applicable Business Auto deductible is the smaller (or smallest) deductible it will be waived; or
- b. If the applicable Business Auto deductible is not the smaller (or smallest) deductible it will be reduced by the amount of the smaller (or smallest) deductible; or
- c. If the loss involves two or more Business Auto coverage forms or policies the smaller (or smallest) deductible will be waived.

For the purpose of this endorsement company means any company that is part of the Liberty Mutual Group.

SECTION IV - BUSINESS AUTO CONDITIONS is amended as follows:

18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV-BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when it is known to:
 - 1. You, if you are an individual;
 - 2. A partner, if you are a partnership;
 - 3. Member, if you are a limited liability company;
 - 4. An executive officer or the "employee" designated by the Named Insured to give such notice, if you are a corporation.



To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

20. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph A.5., Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

21. HIRED AUTO COVERAGE TERRITORY

SECTION IV - BUSINESS AUTO CONDITIONS, paragraph B.7., Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

SECTION V - DEFINITIONS is amended as follows:

22. BODILY INJURY REDEFINED

Under SECTION V - DEFINITIONS, definition C. is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

COMMON POLICY CONDITIONS

23. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS, paragraph A. - CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.

ENDORSEMENT AGREEMENT



WAIVER OF SUBROGATION
BLANKET BASIS

9032787-16
RENEWAL
NF
5-82-63-11
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE NOVEMBER 1, 2016 AT 12.01 A.M.
AND EXPIRING NOVEMBER 1, 2017 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

PENNINO MANAGEMENT GROUP
1420 S. MILLS ST.
LODI, CA 95242

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE
LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL
NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR
ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU
PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU
TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE
2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

<u>PERSON OR ORGANIZATION</u>	<u>JOB DESCRIPTION</u>
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE
OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS
POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:

OCTOBER 13, 2016

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

ATTACHMENT C

City of Tracy
AMENDMENT NO. 2 TO
Grant, Research & Funding Program Services – Professional Service Agreement

This Amendment No. 2 (Amendment) to the Grant, Research & Funding Program Services professional services agreement is entered into between the City of Tracy, a municipal corporation (City), and Pennino Management Group, a California corporation (Consultant).

Recitals

- A.** The City and Consultant entered into a Grant, Research & Funding Program Services agreement (Agreement) on November 11, 2017 for an amount not to exceed \$35,100 for work performed and shall be entitled to payment of service related reimbursable costs including printing, document reproduction, meetings, and travel not to exceed \$6,200 as approved by City.
- B.** Consultant fulfilled original services outlined in Agreement and completed an Economic Development Administration (EDA) Grant under Public Works & Economic Adjustment Assistance Program and submitted the completed application to the EDA.
- C.** An additional appropriation in the amount of \$32,983.69 was granted for Consultant to complete the research, organization and production of the Final Phase II application under the FY 2018 EDA Disaster Supplemental Grant program by Resolution No. 2018-246 on December 18, 2018.
- D.** Due to the expansion of the project and extensive time and effort in completing the grant process, an additional appropriation in the amount of \$39,019.20 is requested by Consultant. With the additional funds Consultant will conclude the application process and provide payment for outstanding invoices under the Grant, Research & Funding Program Services agreement. Prologis, L.P. will provide the funds requested through billing of the Cost Recovery Agreement.

Now therefore, the parties mutually agree as follows:

1. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.

2. Terms of Amendment.

A. Section 3.1 is amended to read as follows:

"3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not-to-Exceed \$107,102.89 for work performed. Consultant shall be entitled to payment of service related reimbursable costs including printing, document reproduction, meetings, and travel not to exceed \$14,019.20 as approved by City. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement except for reimbursable costs identified in Exhibit "B". No work shall be performed by Consultant in excess of the Not-to-Exceed amount without the City's prior written approval."

B. Exhibit A-1 "Scope of Services," attached hereto shall supplement Exhibit "A" of the Agreement. Consultant is responsible for completing all tasks identified in Exhibits "A" and "A-1."

3. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

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

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

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

City of Tracy

By: Robert Rickman
Title: Mayor

Date: _____

Attest:

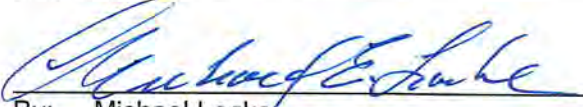
By: _____
Adrianne Richardson, City Clerk

Approved as to form

By: Leticia Ramirez, City Attorney

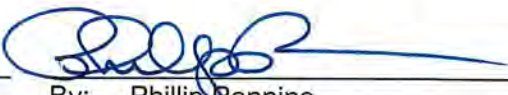
Consultant

Pennino Management Group, a California Corporation

By: 
Title: Vice President

Date: 12/3/2019

Federal Employer Tax ID No. 45-5606098

By: 
Title: Secretary/Treasurer

Date: 12/2/2019

City Business License # _____

PENNINO

MANAGEMENT GROUP

Bryan Pennino

President

Michael Locke

Vice President

Phillip Pennino

Secretary/Treasurer

July 25, 2019

Mr. Andrew Malik
Assistant City Manager
City Manager's Office
333 Civic Center Plaza
Tracy, CA 95376

RE: Change Order Request No. 2, Professional Services Agreement, Pennino Management Group

Dear Mr. Malik,

I am requesting Amendment No. 2 to our Professional Services Agreement in the amount of twenty eight thousand five hundred ninety nine dollars and ten cents (\$28,599.10) to provide for payment due of our current agreement and continuing funding (\$20,000) to complete the research, organization and producing the final Phase II application under the FY 2018 EDA Disaster Supplemental Notice of Funding Opportunity (NOFO). This request is based on the projected total of 140 hours to complete the required work for the application and its submission to the Economic Development Administration.

The current Professional Services Agreement dated 11/07/2017 was approved for the preparation of a grant request under the EDA "Public Works and Economic Adjustment Assistance Programs." That grant proposal was completed by Pennino Management Group in May 2018 and submitted to the EDA. The project subject of the grant proposal was expansion of the Old Schulte Road Bridge and Connecting Roads, estimated at six million dollars (\$6,000,000) with a request for a fifty percent (50%) grant from EDA.

The basis for Amendment No. 1 was;

Following submission Mr. Wilfred Marshall, EDA Area Representative, recommended that the prior request be rescinded, and the City of Tracy pursue a larger grant from the "FY 2018 EDA Disaster Supplemental Notice of Funding Opportunity (NOFO)" as published April 10, 2018. The grant could provide greater funding if the City meets the requirements. The City was encouraged to pursue the Disaster Recovery Investment Grant.

At the time of approval for Amendment No. 1 it was anticipated that the additional funding of \$32,983.69 was needed to cover over expenditures from the base Agreement and an additional \$18,000 to complete the application.

The basis for the Amendment No. 2 is;

1. The defined project has been expanded to include the expansion/replacement of two bridges on the Delta Mendota Canal at the crossings of Old Schulte Road and International Parkway, both critical choke points.
2. The City of Tracy and PMG continue to discuss qualifying the required Nexus Narrative to establish and maintain eligibility.
3. The Disaster Relief Grant Application NOFO required extensive time to review and identify task responsibility for City, Prologis and design consultants. Change in staff responsibilities of both the City of Tracy and Prologis expanded the PMG participation.
4. Organization and Facilitation of the application components has continued to demand more time and effort in the process on the part of PMG than was budgeted for in the Base Agreement and Amendment No. 1.
5. PMG had to assume the responsibility for research and composition of the required Environmental Narrative which required approximately 60 hours of Principal time plus support staff (20 hr.) to organize and input the document. This resulted in a 22-page document in addition to Exhibits.

There remains a significant amount of work to be concluded prior to compiling the EDA Application. This effort includes, in part;

1. Conclude Design and Review/Approval of Project Construction Budget.
2. Final private sector economic investment commitment and economic impact analysis.
3. Complete overall Project Budget and required Project Budget Narrative.
4. Provide letters of support from area Congressional representatives.
5. Complete funding basis for (50%) of Project Costs to be certified by the grant recipient, City of Tracy.
6. Review and execute all required assurances, City of Tracy.

As the information is satisfactorily completed, PMG will assume responsibility to input and final the composite of the Application and the required attachments.

I have estimated a total 140 hours for both the principal and support staff required to complete the Phase II application.

The objective remains to have the application to the City Council within ninety (90) days for formal approval, i.e. funding commitment, and submission to EDA on behalf of the City of Tracy. The application request is for a fifty percent (50%) matching funding of the fifteen million seven hundred eighty-four thousand dollar (\$15,784,000) two bridge project.

Mr. Andrew Malik
Page 3
July 25, 2019

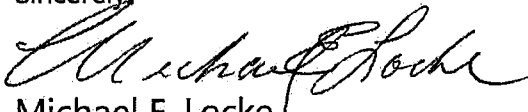
The City of Tracy commitment for the matching share is seven million eight hundred ninety-two thousand dollars (\$7,892,000).

It is the current understanding that two million dollars (\$2,000,000) will come from Measure K and the balance from Prologis utilizing Transportation Fee Credits.

PMG is requesting authority to proceed on a continuing basis while the Amendment No. 2 is in consideration for approval.

I am available to discuss this request at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Locke". The signature is fluid and cursive, with the first name "Michael" being more prominent.

Michael E. Locke

Vice President

Cc: Robert Armijo, City Engineer
Alicia Sargiotto, City of Tracy
Zabih Zaca, Senior Engineer
Jeff Major, Prologis
Ryan George, Prologis

Attachment: Pennino Management Group Contract Balance

RESOLUTION 2019-_____

APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICE AGREEMENT WITH
PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING
PROGRAM SERVICES TOTALING \$39,019

WHEREAS, City Council authorized staff, under Resolution No. 2018-229, to submit an application for Fiscal Year 2018 Economic Development Administration Disaster Supplemental Grant funding for the bridge replacement and expansion over the Delta Mendota Canal at Old Schulte Road and International Parkway Project, and

WHEREAS, The City of Tracy and Pennino Management Group (Consultant) entered into a Professional Service Agreement (Agreement) for Grant, Research and Funding Program Services on November 11, 2017, and

WHEREAS, Consultant was granted additional funding in the amount of \$32,984 by Resolution No. 2018-246, and

WHEREAS, Consultant requested additional funding on July 25, 2019 due to the project scope expansion requiring extensive time and effort to complete, and

WHEREAS, Consultant services are needed to complete the grant application as directed by Council under Resolution No. 2018-229, which requires that the Agreement be amended to include these additional services and increase compensation for these services, and

WHEREAS, Prologis, L.P. has agreed to pay the additional funds through the Cost Recovery Agreement;

NOW, THEREFORE, BE IT RESOLVED, The City Council of the City of Tracy hereby approves the Amendment No. 2 to the Professional Service Agreement with Pennino Management Group for additional grant, research, and funding program services totaling \$39,019.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 17th day of December 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

WAIVE SECOND READING AND ADOPT ORDINANCE 1280, AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 11.12 OF THE TRACY MUNICIPAL CODE RELATING TO UNIFORM BILLING, COLLECTION AND DELINQUENCY PROCEDURES OF CITY SERVICES

EXECUTIVE SUMMARY

Ordinance 1280 was introduced at the regular Council meeting held on December 3, 2019. Ordinance 1280 is before Council for adoption.

DISCUSSION

On September 28, 2018, Governor Brown signed into law Senate Bill ("SB") 998, known as the "Water Shutoff Protection Act," codified as Health and Safety Code section 116900, et seq. SB 998 establishes the requirements and procedures that urban and community water systems such as the City of Tracy ("City") must follow concerning the discontinuation of residential water service for nonpayment beginning February 1, 2020.

To implement the requirements of SB 998, staff has amended provisions of Chapter 11.12 of the Tracy Municipal Code ("TMC") regarding uniform billing, collection and delinquency procedures for City services. On December 3, 2019, City Council adopted Resolution 2019-238 establishing a policy on Discontinuation of Residential Water Service for Nonpayment, and introduced proposed Ordinance 1280 amending Chapter 11.12 of the TMC.

Ordinance 1280 is now before City Council for adoption.

STRATEGIC PLAN

This agenda Item is not related to the City Council's Strategic Plans

FISCAL IMPACT

No direct fiscal impact is anticipated; however, there may be a delay in received revenue from the customers who fall under the conditions for SB 998.

RECOMMENDATION

That City Council adopt Ordinance 1280.

Prepared by: Adrienne Richardson, City Clerk
Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ORDINANCE 1280

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 11.12 OF THE TRACY MUNICIPAL CODE RELATING TO UNIFORM BILLING, COLLECTION AND DELINQUENCY PROCEDURES OF CITY SERVICES

WHEREAS, Chapter 11.12 of the Tracy Municipal Code provides rules and procedures relating to uniform billing, collection and delinquency for City utility services, and

WHEREAS, On September 28, 2018, Governor Brown signed into law SB 998, known as the "Water Shutoff Protection Act," adding to the Health and Safety Code (Section 116900, et seq.), and

WHEREAS, SB 998 establishes the requirements and procedures that urban and community water systems such as the City of Tracy ("City") must follow concerning the discontinuation of residential water service for nonpayment beginning February 1, 2020, and

WHEREAS, The proposed amendments to Chapter 11.12 relating to rules and procedures regarding utility services are in accordance with the mandates of SB 998 and include additional modifications to certain administrative provisions;

NOW THEREFORE, The City Council of the City of Tracy hereby ordains as follows:

SECTION 1. Amended Sections. Sections 11.12.010, 11.12.040, 11.12.050, and 11.12.080 of Chapter 11.12, Uniform Billing, Collection and Delinquency Procedures for City Services, of Title 11, Public Utilities, of the Tracy Municipal Code are amended to read as follows:

"11.12.010 - Purpose.

It is the purpose of this chapter to establish uniform procedures for the submission of billings, the collection of moneys, and the administration of delinquent accounts for those consumers of garden refuse collection, garbage collection, and water and sewage services. The City Manager, or designee, may modify the requirements imposed by the provisions of this chapter, using reasonable judgment, in individual cases where he or she considers sufficient mitigating circumstances exist.

11.12.040 - Payment of bills.

- (a) Payments may be made to the City as specified on the bill.
- (b) Bills shall be paid in full, including any penalties. Payments from which the customer has made unauthorized deductions may not be accepted.

11.12.050 - Delinquent accounts.

- (a) Whenever payment for a bill which was properly rendered has not been received by the Finance Department at the close of business on the current billing due date as specified on

the bill, the total amount of the bill shall become a delinquent account. If the due date is a nonbusiness day, the account shall become delinquent at the close of business on the first business day thereafter.

- (b) Delinquent amounts not paid by the time the next bill is prepared shall be separately stated on the next bill rendered to the customer, and such amount shall be subject to a late charge, and such statement shall constitute notice of the delinquency to the customer. The amount of the late charge shall be ten (10%) percent of the delinquent amount.
- (c) If the bill is not paid within fifteen (15) days after the notice specified in subsection (b) of this section, a final notice shall be mailed to the customer advising that service will be discontinued if payment of the entire amount then due is not made within five (5) days after the date such notice was mailed.
- (d) If the bill has not been paid by the close of business on the date specified in subsection (c) of this section, water, garbage, and garden disposal services may be discontinued.
- (e) Notwithstanding subsections (c) and (d) of this section, discontinuation of service for delinquent accounts for residential service will be permitted only as set forth in the City of Tracy Policy on Discontinuation of Residential Water Service for Nonpayment ("Policy"). For the purposes of this Chapter, "residential service" shall have the same meaning as set forth in California Health and Safety Code Section 116902.

11.12.080 - Advance deposits.

Any tenant, either residential or commercial, that has requested City utility services, shall make a deposit of One hundred seventy-five and no/100ths (\$175.00) dollars. The deposit is required for any, or all, services of water, sewer, garbage and garden to be provided by the City.

The deposit shall remain on the account until satisfactory status has been reached. For purposes of this Chapter, "Satisfactory status" is defined as an account having no delinquent amounts or fees added in a consecutive twelve-month period.

For each utility service location, either residential or commercial, a new account will be opened and a new deposit will be required to start services."

SECTION 2. Except as herein added or changed, the remaining sections of the Tracy Municipal Code not set forth above, shall remain in full force.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. This Ordinance takes effect 30 days after its final passage and adoption.

SECTION 5. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance 1280 was introduced at a regular meeting of the Tracy City Council on the 3rd day of December, 2019, and finally adopted on the 17th day of December 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Mayor

City Clerk

AGENDA ITEM 1.J

REQUEST

ADOPT A RESOLUTION FORMALLY ESTABLISHING THE TRACY HOMELESSNESS STRATEGIC PLAN DEVELOPMENT AD HOC COMMITTEE THROUGH JUNE 30, 2020

EXECUTIVE SUMMARY

On April 16, 2019, Council established a Council ad hoc committee to draft a strategic plan to address homelessness in Tracy. On June 18, 2019 the ad hoc committee provided an update to Council, and Council provided direction to staff to pursue Technical Assistance grant opportunities to develop the plan.

On September 3, 2019 Council formally established the term of the ad hoc committee through December 31, 2019. This agenda item requests that the Council adopt a resolution establishing the "Tracy Homelessness Strategic Plan Development Ad Hoc Committee", through June 30, 2020 to allow for the finalization of the Plan.

DISCUSSION

Earlier this year, City Council established an ad hoc committee whose purpose is to develop a strategic plan to address homelessness in Tracy. Council members Rhodesia Ransom and Dan Arriola were selected to represent Council on the ad hoc committee.

In September of this year, staff secured technical assistance through the Technical Assistance Collaborative (TAC), a firm retained by the California Department of Housing and Community Development, to work with cities on capacity building. The committee members have met periodically to provide staff with guidance. Staff and TAC have had several planning meetings and have conducted three community and stakeholder meetings and are working to finalize a plan for presentation at Council. A final community meeting will be held on January 14, 2020 to further tailor the draft plan. Staff anticipates presentation of the draft strategic plan to the full Council in early spring.

FISCAL IMPACT

None

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends Council adopt a resolution to formally establish the Tracy Homelessness Strategic Plan Development Ad Hoc Committee through June 30, 2020.

Prepared by: Midori Lichtwardt, Assistant City Manager

Reviewed and Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

ESTABLISHING THE TRACY HOMELESSNESS STRATEGIC PLAN DEVELOPMENT AD
HOC COMMITTEE THROUGH JUNE 30, 2020

WHEREAS, On April 16, 2019, Council established an ad hoc committee to develop a strategic plan to address homelessness in Tracy, and Council members Rhodesia Ransom and Dan Arriola were selected to represent Council on this committee, and

WHEREAS, On June 18, 2019, Council provided direction to staff to pursue Technical Assistance grant opportunities to develop a plan, and staff secured technical assistance through the Technical Assistance Collaborative (TAC) and they have had several planning meetings and have conducted three community and stakeholder meetings to finalize a plan for presentation to Council, and

WHEREAS, On September 3, 2019, Council formally established the term of the ad hoc committee through December 31, 2019, and

WHEREAS, A final community meeting will be held on January 14, 2020 to further tailor the draft plan and staff anticipates presentation of the draft strategic plan to the Council in early spring 2020;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby establishes the Tracy Homelessness Strategic Plan Development Ad Hoc Committee through June 30, 2020.

The Tracy City Council adopted the foregoing Resolution 2019-_____ on the 17th day of December, 2019, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.K

REQUEST

APPROVE THE FINAL SUBDIVISION MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3856 SANTOSHA (BERG ROAD PROPERTIES), AND AUTHORIZE THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

Approval of the Final Subdivision Map (FSM) will facilitate the recordation of the Final Subdivision Map, to construct residential houses in the Berg Road Properties subdivision, which is located on Byron Road. This subdivision consists of seventy-one (71) lots. Civic Tracy, LLC a California limited liability company [owned by De Nova Homes] (Subdivider) has signed the Subdivision Improvement Agreement (SIA) for the construction of the subdivision's improvements.

DISCUSSION

On May 17, 2016, City Council approved the Vesting Tentative Subdivision Map, for a residential development known as "Berg Road Properties Subdivision," located on Byron Road, via Resolution No. 2016-095. Berg Road Properties Subdivision will be composed of seventy-one (71) residential single-family dwelling units and is designated in the General Plan as LDR, for low-density residential development.

Subdivider submitted a FSM to the City and this agenda item is to approve the filing of the FSM for Tract 3856, and authorize the City to execute the SIA for the same tract. The SIA along with the bonds will guarantee that the Subdivider will construct the street and utilities improvements required to serve the subdivision.

The FSM of Tract 3856 Santosha was reviewed and has been found to be in substantial compliance with the approved Vesting Tentative Subdivision Map.

The Engineering Division has reviewed the Improvement Plans. The SIA, FSM, and Improvement Plans are on file with the City Engineer and are available for review upon request.

Upon completion of all improvements, the City will accept the improvements for maintenance and will accept all offers of dedication of public right-of-way at that time.

FISCAL IMPACT

The Subdivider has paid the applicable engineering review fees, which include the cost of processing the FSM and SIA.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, approve the Final Subdivision Map and Subdivision Improvement Agreement for Tract 3882 Santosha, and authorize the City Clerk to file the Agreement with the San Joaquin County Recorder.

Prepared by: Al Gali, Associate Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Location Map
Attachment B – Final Subdivision Map
Attachment C – Subdivision Improvement Agreement

ATTACHMENT A

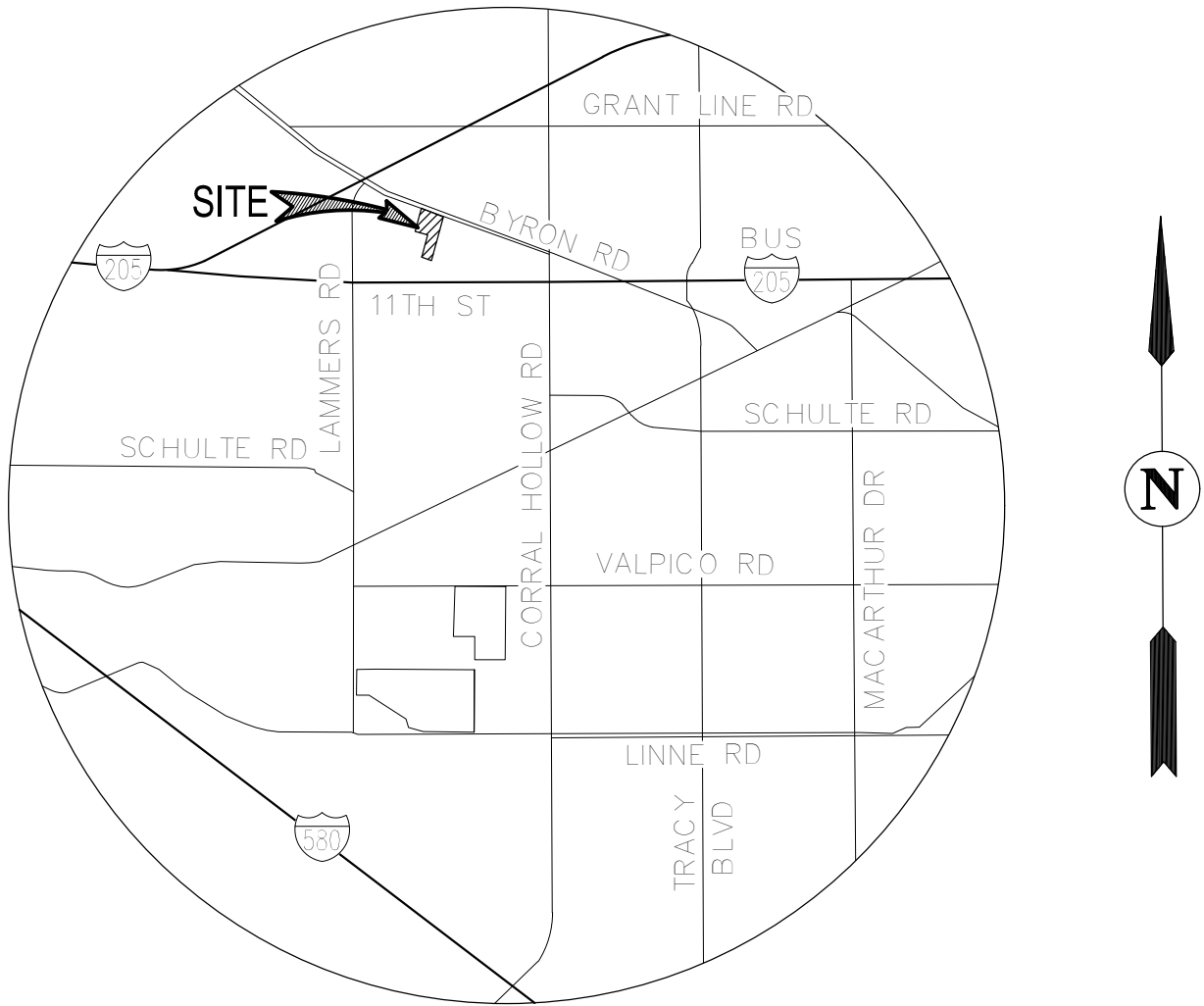
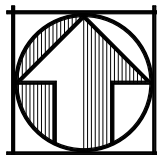


FIGURE 1
VICINITY MAP
BERG ROAD PROPERTIES

CITY OF TRACY SAN JOAQUIN COUNTY CALIFORNIA



SCALE: N.T.S.

DATE: JULY 2, 2019



CIVIL ENGINEERS SURVEYORS PLANNERS

SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDG.COM

TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

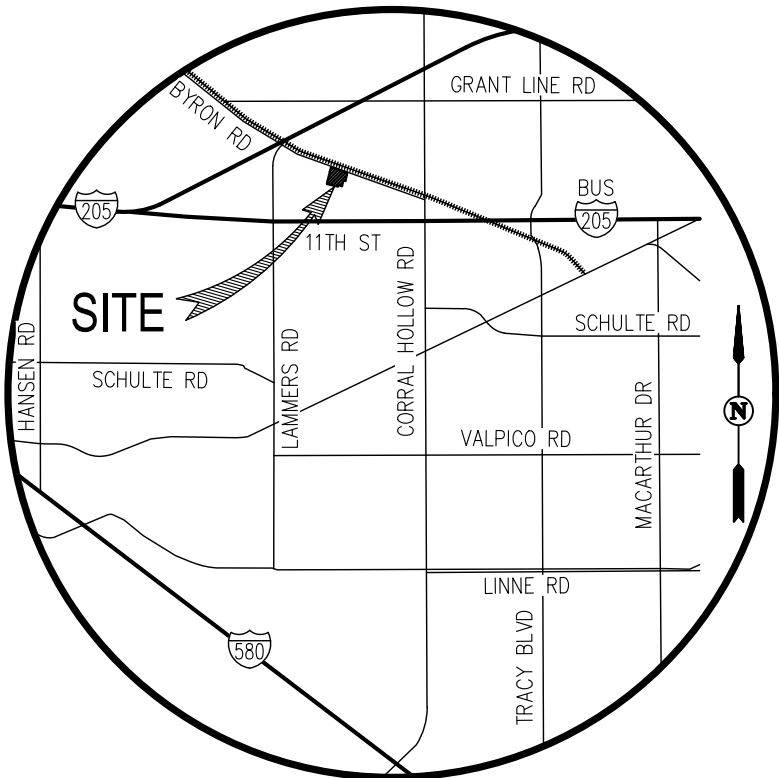
CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN VOL. 4 OF PARCEL MAPS, AT PAGE 14 AND THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED APRIL 21, 2000 AS D.N. 2000-043719 OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, LYING WITHIN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



CIVIL ENGINEERS SURVEYORS PLANNERS

SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDG.COM
NOVEMBER 2019



VICINITY MAP
NOT TO SCALE

OWNER'S STATEMENT

WE, THE UNDERSIGNED, HEREBY STATE THAT WE ARE ALL THE PARTIES HAVING RECORD TITLE INTEREST IN THE LANDS SUBDIVIDED AND SHOWN ON THIS FINAL MAP OF "TRACT NO. 3856, SUBDIVISIONS OF SAN JOAQUIN COUNTY, SANTOSHA, CITY OF TRACY, CALIFORNIA", AND WE HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, CALIFORNIA.

THE FOLLOWING DESCRIBED PROPERTY IS HEREBY DEDICATED IN FEE FOR PUBLIC PURPOSES:

- 1. BYRON ROAD (STREET DEDICATION), BERNARD PHELAN AVENUE, STEELE STREET, CLIFTON AVENUE, RIDDLE PLACE, PAIGE STREET AND DOOSTON AVENUE, FOR ROADWAY AND UTILITY PURPOSES.

THE FOLLOWING DESCRIBED PROPERTY IS HEREBY DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES:

- 1. ALL PUBLIC UTILITY EASEMENTS (PUE) AS SHOWN ON THIS FINAL MAP.
- 2. ALL EMERGENCY VEHICLE ACCESS EASEMENTS (EVAE) AS SHOWN ON THIS FINAL MAP.
- 3. AL PUBLIC ACCESS EASEMENTS (PAE) AS SHOWN ON THIS FINAL MAP.

WE ALSO RESERVE TO THE CITY OF TRACT, THE RIGHT TO CONTROL ACCESS OVER AND ACROSS THE ONE-FOOT ACCESS RESERVE STRIPS, ALL AS SHOWN ON THIS FINAL MAP.

WE ALSO RELINQUISH TO THE CITY OF TRACY ALL RIGHTS OF VEHICULAR ACCESS OF LOTS 1, 12, 13, 14, 15, 16, AND 71 TO AND FROM BYRON ROAD; OF LOT 15 TO AND FROM CLIFTON AVENUE; OF LOTS 35 AND 36 TO AND FROM RIDDLE PLACE; OF LOTS 31, 40 AND 41 TO AND FROM STEELE STREET; AND LOTS 55 AND 56 TO AND FROM PAIGE STREET IN THOSE AREAS SHOWN THUSLY //////// ON THIS FINAL MAP.

THE REAL PROPERTY DESIGNATED AS PARCEL A AND PARCEL B SHALL BE TRANSFERRED TO THE HOMEOWNERS ASSOCIATION IN FEE BY SEPARATE INSTRUMENT SUBSEQUENT TO THE FILING OF THIS MAP.

AS CIVIC TRACY, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY:

BY: _____ NAME: _____
BY: _____ NAME: _____
TITLE: _____ TITLE: _____
DATE: _____ DATE: _____

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____ } SS.
COUNTY OF _____ }

ON _____, BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____, 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: _____
NAME (PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____ } SS.
COUNTY OF _____ }

ON _____, BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____, 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.

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WITNESS MY HAND AND OFFICIAL SEAL:

SIGNATURE: _____
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MY COMMISSION EXPIRES: _____

SUBDIVISION SUMMARY

71 LOTS =	6.33 AC±
2 PARCELS =	0.17 AC±
STREET RIGHT OF WAY =	3.41 AC±
TOTAL =	9.91 AC±

TRUSTEE'S STATEMENT

THE UNDERSIGNED, AS TRUSTEE UNDER THE DEED OF TRUST RECORDED _____, AS

DOCUMENT NO. _____, SAN JOAQUIN COUNTY RECORDS DOES HEREBY JOIN IN AND CONSENT TO THE RECORDATION OF THIS FINAL MAP.

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY FOR U.S. BANK NATIONAL ASSOCIATION, D/B/A HOUSING CAPITAL COMPANY

BY: _____
PRINT NAME: _____
TITLE: _____

TRUSTEE'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____ } SS.
COUNTY OF _____ }

ON _____, BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____, 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: _____
NAME (PRINT): _____
PRINCIPAL COUNTY OF BUSINESS: _____
MY COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 20_____, AT _____
_____.M. IN BOOK _____ OF MAPS AND PLATS, AT PAGE _____, AT THE REQUEST OF _____

FEE: \$ _____

STEVE J. BESTOLARIDES BY: _____
ASSESSOR-RECORDER-COUNTY CLERK ASSISTANT/DEPUTY RECORDER

TRACT 3856
SUBDIVISIONS OF SAN JOAQUIN COUNTY
SANTOSHA

CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN
PARCEL MAP, FILED FOR RECORD IN VOL. 4 OF PARCEL MAPS, AT PAGE 14
AND THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED
RECORDED APRIL 21, 2000 AS D.N. 2000-043719 OFFICIAL RECORDS OF SAN
JOAQUIN COUNTY, LYING WITHIN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 5
EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDG.COM

CIVIL ENGINEERS SURVEYORS PLANNERS
NOVEMBER 2019

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF DOOSTON PROPERTIES , IN MARCH 2019. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE OCTOBER 31, 2020; AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND THAT THIS TRACT MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

DATE



MARK H. WEHBER, P.L.S.
L.S. NO. 7960

STATEMENT OF THE SURVEYOR FOR THE CITY

I, DAVID W. ENKE, HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT 3856, SUBDIVISIONS OF SAN JOAQUIN COUNTY, SANTOSHA", AND THAT THE SUBDIVISION SHOWN HEREON COMPLIES WITH ALL THE PROVISIONS OF CHAPTER 2 OF THE CALIFORNIA SUBDIVISION MAP ACT, AS AMENDED, AND THAT THIS FINAL MAP IS TECHNICALLY CORRECT.

DAVID W. ENKE, L.S. 4071
SURVEYOR FOR THE CITY

DATE

CITY ENGINEER'S STATEMENT

I ROBERT ARMJO, HEREBY STATE THAT I AM THE CITY ENGINEER OF THE CITY OF TRACY, CALIFORNIA AND THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT 3856, SUBDIVISIONS OF SAN JOAQUIN COUNTY, SANTOSHA", AND THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF CHAPTER 2 OF THE SUBDIVISION MAP ACT AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

ROBERT ARMJO, R.C.E. 63173
CITY ENGINEER

DATE:

CITY CLERK'S STATEMENT

THIS IS TO STATE THAT AT ITS REGULARLY HELD MEETING ON THE _____ DAY OF _____, 20_____, THE CITY COUNCIL OF THE CITY OF TRACY, CALIFORNIA PER COUNCIL RESOLUTION NO. _____ APPROVED THIS FINAL MAP OF "TRACT NO. 3856, SUBDIVISIONS OF SAN JOAQUIN COUNTY, SANTOSHA, CITY OF TRACY, CALIFORNIA, ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE:

1. THE OFFER OF DEDICATION IN FEE OF ALL STREET RIGHTS OF WAY, SUBJECT TO SATISFACTORY COMPLETION OF IMPROVEMENTS THEREON.
2. THE OFFER OF DEDICATION OF ALL PUBLIC UTILITY EASEMENTS (PUE), EMERGENCY VEHICULAR ACCESS EASEMENTS (EVAE) AND PUBLIC ACCESS EASEMENT (PAE).
3. RELINQUISH TO THE CITY OF TRACY ALL RIGHTS OF VEHICULAR ACCESS OF LOTS 1, 12, 13, 14, 15, 16, AND 71 TO AND FROM BYRON ROAD; OF LOT 15 TO AND FROM CLIFTON AVENUE; OF LOTS 35 AND 36 TO AND FROM RIDDLE PLACE; OF LOTS 31, 40 AND 41 TO AND FROM STEELE STREET; AND LOTS 55 AND 56 TO AND FROM PAIGE STREET AS SHOWN ON THIS FINAL MAP.
4. RESERVE TO THE CITY OF TRACY, THE RIGHT TO CONTROL ACCESS OVER AND ACROSS THE ONE-FOOT ACCESS RESERVE STRIPS AS SHOWN ON THIS FINAL MAP.

ALL IN ACCORDANCE WITH TITLES 10 AND 12 OF THE TRACY MUNICIPAL CODE, AND ANY AMENDMENTS THERETO, APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP;

ADRIANNE RICHARDSON

CITY CLERK AND CLERK OF THE COUNCIL

DATE

SIGNATURE OMISSION

PURSUANT TO SECTION 66436 OF THE CALIFORNIA SUBDIVISION MAP ACT THE SIGNATURES OF THE FOLLOWING PARTIES HAVE BEEN OMITTED: .

1. AN EASEMENT FOR RIGHT OF WAY FOR UNDERGROUND MAIN OR PIPE LINE WITH THE RIGHT OF INGRESS AND EGRESS AND INCIDENTAL PURPOSES RECORDED MARCH 13, 1953 AS VOLUME 1503 PAGE 305 OF OFFICIAL RECORDS IN FAVOR OF PACIFIC GAS AND ELECTRIC COMPANY.
2. AN EASEMENT FOR PIPELINE(S) FOR TRANSPORT OF OIL, PETROLEUM, GAS OR WATER AND ACCESS THERETO AND INCIDENTAL PURPOSES, IN FAVOR OF STANDARD OIL COMPANY, A CALIFORNIA CORPORATION, RECORDED MAY 19, 1911 IN BOOK "A" OF DEEDS, VOLUME 201, PAGE 392.

CERTIFICATE OF DEDICATION

THE FOLLOWING REAL PROPERTY IS DEDICATED BY CIVIC TRACY, LLC FOR THE PURPOSE OF PUBLIC STREETS:

BYRON ROAD (STREET DEDICATION), BERNARD PHELAN AVENUE, STEELE STREET, CLIFTON AVENUE, RIDDLE PLACE, PAIGE STREET AND DOOSTON AVENUE, FOR ROADWAY AND UTILITY PURPOSES.

THE CITY OF TRACY SHALL RECONVEY THE PROPERTY TO THE SUBDIVIDER IF THE CITY OF TRACY MAKES A DETERMINATION PURSUANT TO GOVERNMENT CODE SECTION 66477.5 THAT THE SAME PUBLIC PURPOSES FOR WHICH THE PROPERTY WAS DEDICATED DOES NOT EXIST, OR ANY PORTION THEREOF IS NOT NEEDED FOR PUBLIC UTILITIES.

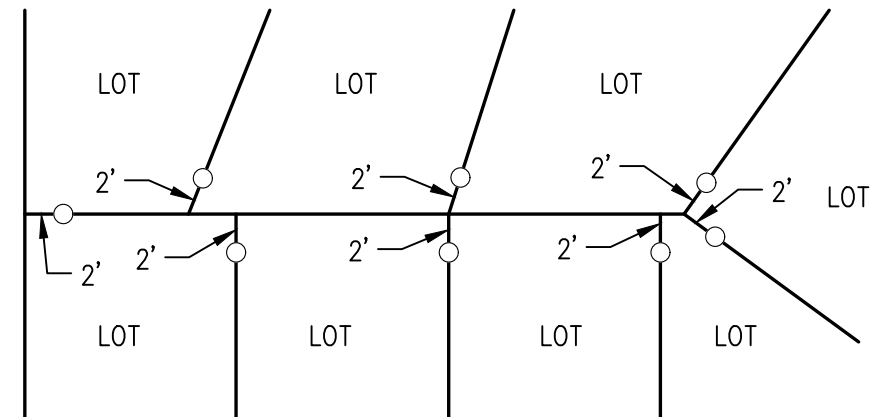
OWNER'S NAME: CIVIC TRACY, LLC., A CALIFORNIA LIMITED PARTNERSHIP
ADDRESS: 1500 WILLOW PASS COURT
CITY/STATE: CONCORD, CA 94520

SOILS REPORT

A SOILS REPORT WAS PREPARED BY STEVENS, FERRONE & BAILEY, DATED AUGUST 28, 2019, PROJECT NO. 155-68, SIGNED BY KENNETH C. FERRONE, P.E., G.E. AND HAS BEEN FILED AT THE OFFICE OF THE CITY ENGINEER.

NOTES:

1. APPROVAL OF THIS FINAL MAP IS SUBJECT TO THE APPLICABLE REQUIREMENTS OF THE TENTATIVE SUBDIVISION MAP FOR, TRACT NO. 3856 CONDITIONS OF APPROVAL THAT WAS APPROVED ON APRIL 13 2016, PURSUANT TO RESOLUTION 2016-095.
2. ALL DISTANCES ARE GRID DISTANCES AND MEASURED UNLESS OTHER OTHERWISE NOTED.
3. ALL FRONT LOT CORNERS ARE TO BE REFERENCED WITH A NAIL AND TAG SET ON THE TOP OF CURB ON THE LOT LINE PROJECTIONS.
4. ALL REAR CORNERS ARE TO BE SET WITH A REBAR AND CAP OR NAIL AND TAG LS 7960 ON THE REAR LOT CORNERS UNLESS OBSTRUCTED BY PHYSICAL STRUCTURES INCLUDING WALLS AND FENCES. IF APPLICABLE THE CORNERS WILL BE REFERENCED PER THE REAR CORNER DETAIL SHOWN ON THIS MAP.



TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

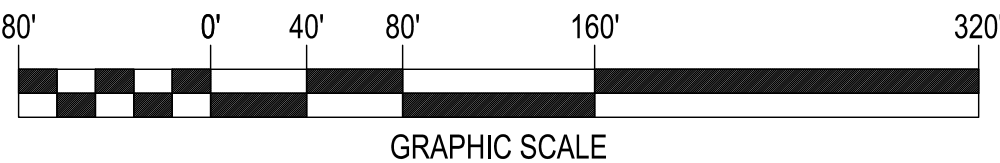
CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN VOL. 4 OF PARCEL MAPS, AT PAGE 14 AND THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED APRIL 21, 2000 AS D.N. 2000-043719 OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, LYING WITHIN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



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WWW.CBANDG.COM

CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 80' NOVEMBER 2019



BASIS OF BEARINGS:

THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND MONUMENTS (STATION NUMBER 2020 AND STATION NUMBER 2029) OF THE CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD 83 (EPOCH 2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, IS THE BASIS OF BEARING FOR THIS SURVEY.

LEGEND

	SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	CENTERLINE
	RESTRICTED ACCESS
	TIE LINE
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
●	FOUND STANDARD STREET MONUMENT
●	FOUND REBAR AND CAP, AS NOTED
⊙	SET STANDARD STREET MONUMENT, LS 7960
○	SET REBAR AND CAP OR NAIL AND TAG, LS 7960
⊗	SEARCHED FOR NOT FOUND (SNF)
DN	DOCUMENT NUMBER
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
PAE	PUBLIC ACCESS EASEMENT
M&P	MAPS AND PLATS
(NR)	NOT OF RECORD
OR	OFFICIAL RECORDS
PUE	PUBLIC UTILITY EASEMENT

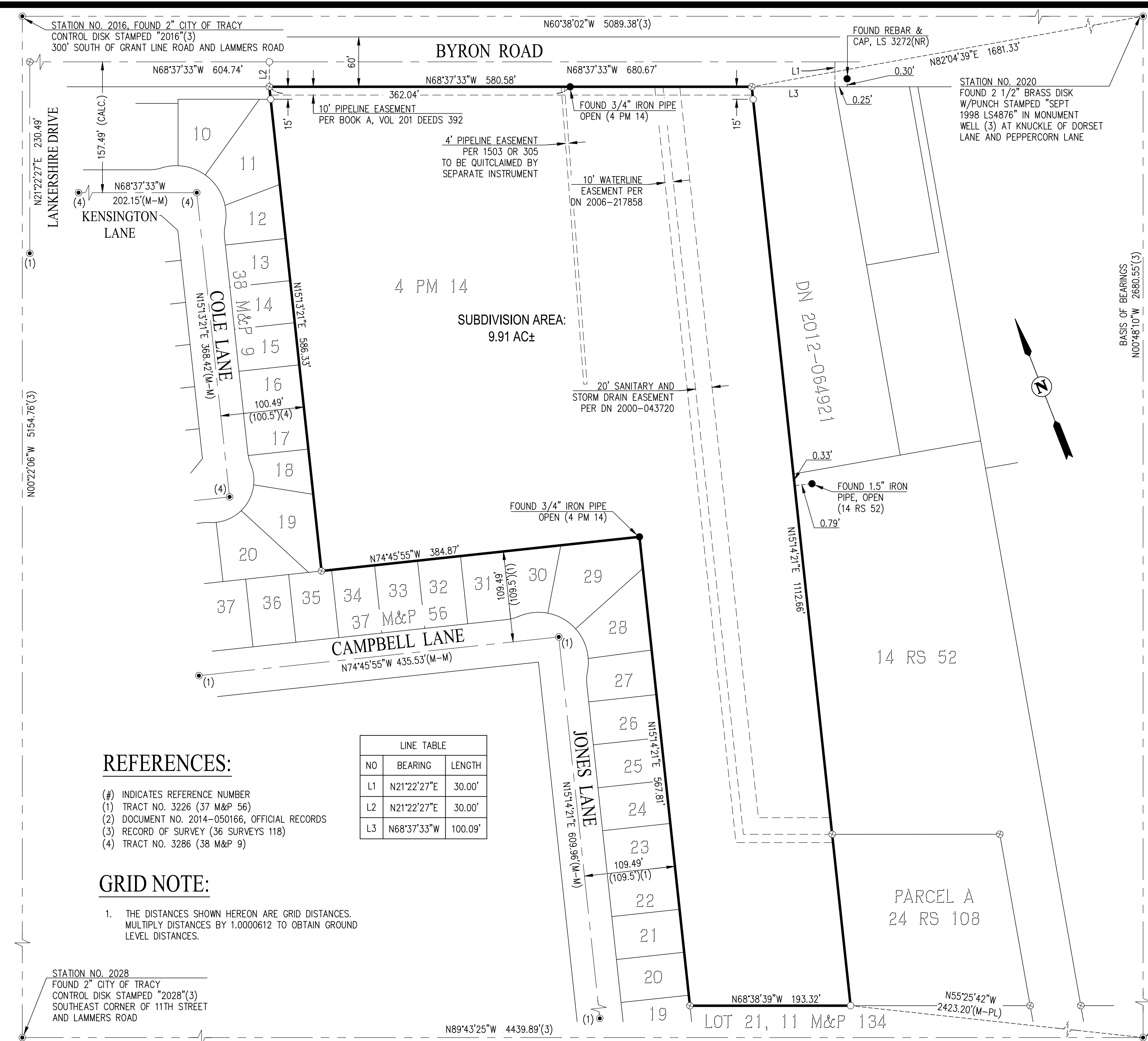
REFERENCES:

- (#) INDICATES REFERENCE NUMBER
(1) TRACT NO. 3226 (37 M&P 56)
(2) DOCUMENT NO. 2014-050166, OFFICIAL RECORDS
(3) RECORD OF SURVEY (36 SURVEYS 118)
(4) TRACT NO. 3286 (38 M&P 9)

GRID NOTE:

1. THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

LINE TABLE		
NO	BEARING	LENGTH
L1	N21°22'27"E	30.00'
L2	N21°22'27"E	30.00'
L3	N68°37'33"W	100.09'



TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

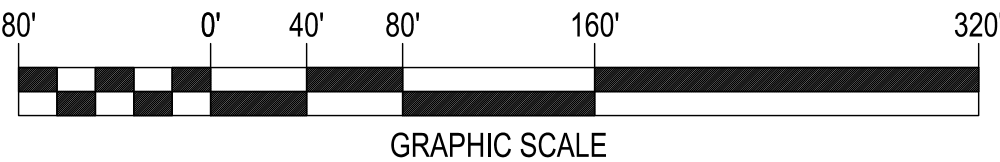
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CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 80' NOVEMBER 2019



BASIS OF BEARINGS:

THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND
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CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE
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LEGEND

	SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	CENTERLINE
	RESTRICTED ACCESS
	TIE LINE
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
⊙	FOUND STANDARD STREET MONUMENT
●	FOUND REBAR AND CAP, AS NOTED
⊗	SET STANDARD STREET MONUMENT, LS 7960
○	SET REBAR AND CAP OR NAIL AND TAG, LS 7960
⊗	SEARCHED FOR NOT FOUND (SNF)
DN	DOCUMENT NUMBER
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
PAE	PUBLIC ACCESS EASEMENT
M&P	MAPS AND PLATS
(NR)	NOT OF RECORD
OR	OFFICIAL RECORDS
PUE	PUBLIC UTILITY EASEMENT
	SHEET LIMIT
⑨	SHEET NUMBER

PARCEL A

BYRON ROAD

COLE LANE

CAMPBELL LANE

JONES LANE

⑥

⑦

⑤

⑧

⑨

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
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(2) DOCUMENT NO. 2014-050166, OFFICIAL RECORDS
(3) RECORD OF SURVEY (36 SURVEYS 118)
(4) TRACT NO. 3286 (38 M&P 9)

GRID NOTE:

1. THE DISTANCES SHOWN HEREON ARE GRID DISTANCES.
MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND
LEVEL DISTANCES.

TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN
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CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 30' NOVEMBER 2019



GRAPHIC SCALE

BASIS OF BEARINGS:

THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND
MONUMENTS (STATION NUMBER 2020 AND STATION NUMBER 2029) OF THE
CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE
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UNION PACIFIC RAILROAD

BYRON ROAD

BYRON ROAD
(STREET DEDICATION)

BERNARD PHELAN AVENUE

BYRON ROAD
(STREET DEDICATION)

DOOSTON AVENUE

DN 2012-064921

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.00'	83°51'54"	36.59'
C2	25.00'	96°08'06"	41.95'
C3	80.00'	1°37'08"	2.26'
C4	80.00'	32°22'20"	45.20'
C5	80.00'	32°20'11"	45.15'

GRID NOTE:

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TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

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CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 30' NOVEMBER 2019



GRAPHIC SCALE

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THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND MONUMENTS (STATION NUMBER 2020 AND STATION NUMBER 2029) OF THE CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD 83 (EPOCH 2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, IS THE BASIS OF BEARING FOR THIS SURVEY.

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(3) RECORD OF SURVEY (36 SURVEYS 118)
(4) TRACT NO. 3286 (38 M&P 9)

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.00'	90°00'00"	39.27'
C2	25.00'	90°00'00"	39.27'
C3	25.00'	90°00'00"	39.27'
C4	80.00'	23°40'21"	33.05'

LINE TABLE		
NO	BEARING	LENGTH
L1	N15°14'21"E	9.55'
L2	N68°37'33"W	55.32'
L3	N15°14'21"E	3.64'
L4	N74°45'39"W	55.00'

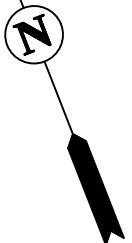
UNION PACIFIC RAILROAD

BYRON ROAD

PARCEL A
(EVAE, PAE, PUE)
363 SF±

BYRON ROAD
(STREET DEDICATION)
N68°37'33"W 580.58'(T)

10' PIPELINE EASEMENT IN
FAVOR OF STANDARD OIL
COMPANY PER BOOK A,
VOL 201 DEEDS 392



LANKERSHIRE DRIVE

KENSINGTON
LANE

N68°37'33"W
202.15'(M-M)

COLE LANE

N15°13'21"E 368.42'(M-M)

RIDDLE PLACE

DOOSTON AVENUE

CLIFTON AVENUE

SEE SHEET 7

SEE SHEET 5

DRAFT 2019-11-20

TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

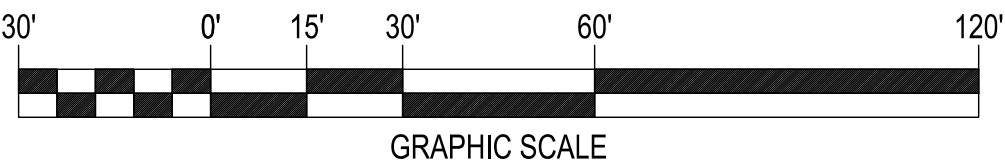
CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN
PARCEL MAP, FILED FOR RECORD IN VOL. 4 OF PARCEL MAPS, AT PAGE 14
AND THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED
RECORDED APRIL 21, 2000 AS D.N. 2000-043719 OFFICIAL RECORDS OF SAN
JOAQUIN COUNTY, LYING WITHIN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 5
EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDG.COM

CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 30' NOVEMBER 2019



BASIS OF BEARINGS:

THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND
MONUMENTS (STATION NUMBER 2020 AND STATION NUMBER 2029) OF THE
CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE
CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD 83 (EPOCH
2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN
BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN
COUNTY, IS THE BASIS OF BEARING FOR THIS SURVEY.

LEGEND

	SUBDIVISION BOUNDARY LINE
	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	CENTERLINE
	RESTRICTED ACCESS
	TIE LINE
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
(M-PL)	MONUMENT TO PROPERTY LINE
●	FOUND STANDARD STREET MONUMENT
●	FOUND REBAR AND CAP, AS NOTED
⊙	SET STANDARD STREET MONUMENT, LS 7960
○	SET REBAR AND CAP OR NAIL AND TAG, LS 7960
⊗	SEARCHED FOR NOT FOUND (SNF)
DN	DOCUMENT NUMBER
EVAE	EMERGENCY VEHICLE ACCESS EASEMENT
PAE	PUBLIC ACCESS EASEMENT
M&P	MAPS AND PLATS
(NR)	NOT OF RECORD
OR	OFFICIAL RECORDS
PUE	PUBLIC UTILITY EASEMENT

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
(1) TRACT NO. 3226 (37 M&P 56)
(2) DOCUMENT NO. 2014-050166, OFFICIAL RECORDS
(3) RECORD OF SURVEY (36 SURVEYS 118)
(4) TRACT NO. 3286 (38 M&P 9)

GRID NOTE:

1. THE DISTANCES SHOWN HEREON ARE GRID DISTANCES.
MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND
LEVEL DISTANCES.

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.00'	90°00'00"	39.27'
C2	25.00'	90°00'00"	39.27'
C3	80.00'	15°22'17"	21.46'
C4	80.00'	9°52'04"	13.78'
C5	80.00'	32°28'23"	45.34'
C6	80.00'	32°17'16"	45.08'



TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

CONSISTING OF 9 SHEETS

BEING A SUBDIVISION OF PARCELS B AND C, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN VOL. 4 OF PARCEL MAPS, AT PAGE 14 AND THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED APRIL 21, 2000 AS D.N. 2000-043719 OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, LYING WITHIN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



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CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 30' NOVEMBER 2019



GRAPHIC SCALE

BASIS OF BEARINGS:

THE LINE BEARING N00°48'10"W (CALCULATED) BETWEEN TWO FOUND MONUMENTS (STATION NUMBER 2020 AND STATION NUMBER 2029) OF THE CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD 83 (EPOCH 2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, IS THE BASIS OF BEARING FOR THIS SURVEY.

LEGEND

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	RIGHT OF WAY LINE
	LOT LINE
	EASEMENT LINE
	MONUMENT LINE
	CENTERLINE
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(T)	TOTAL
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DN 2012-064921

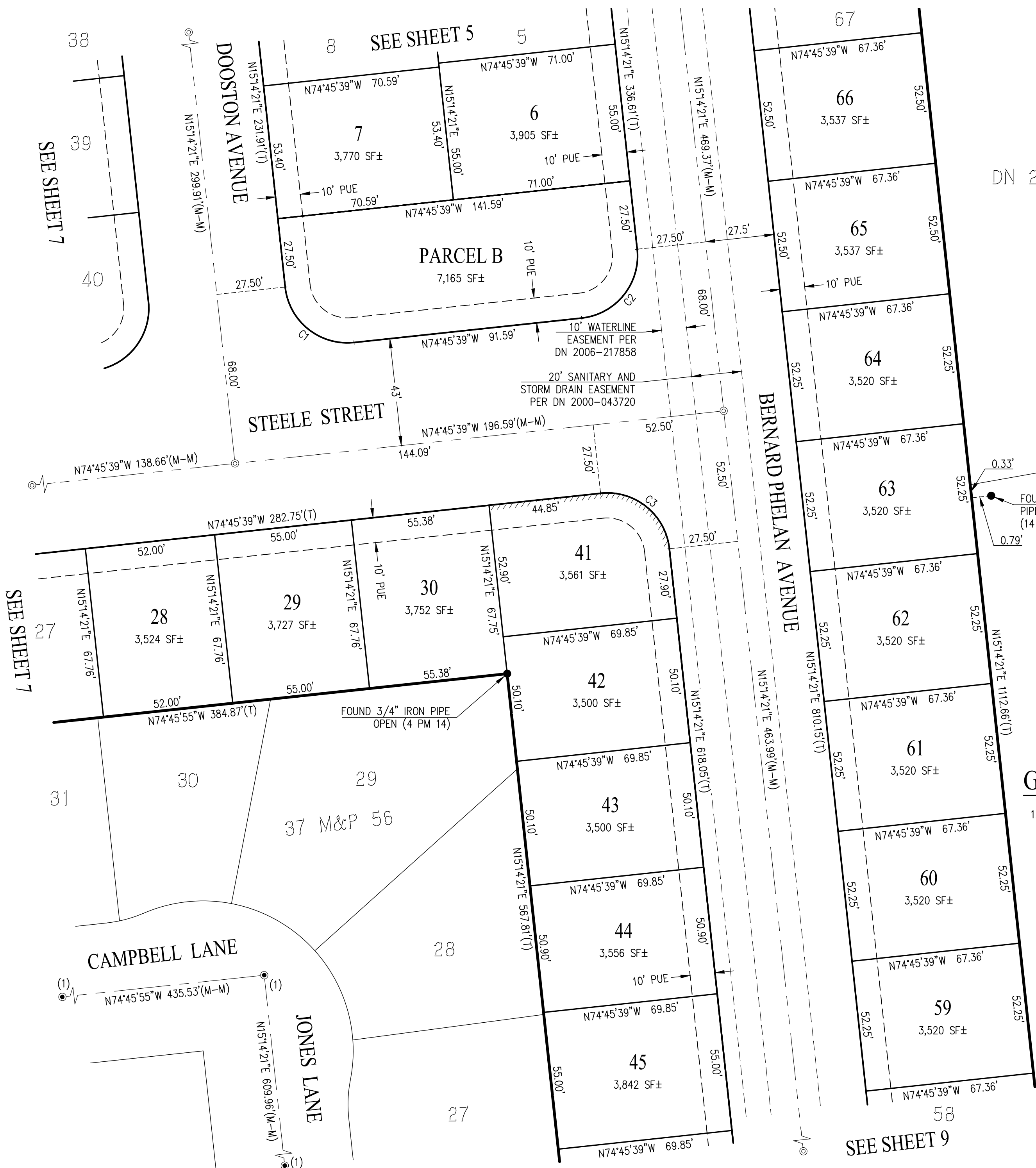
14 RS 52

GRID NOTE:

1. THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.00'	90°00'00"	39.27'
C2	25.00'	90°00'00"	39.27'
C3	25.00'	90°00'00"	39.27'

SEE SHEET 9



TRACT 3856

SUBDIVISIONS OF SAN JOAQUIN COUNTY

SANTOSHA

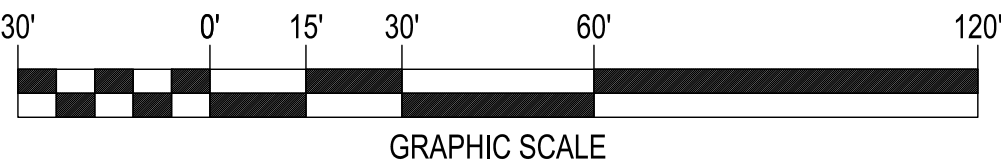
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CIVIL ENGINEERS SURVEYORS PLANNERS
SCALE: 1" = 30' NOVEMBER 2019



BASIS OF BEARINGS:

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LEGEND

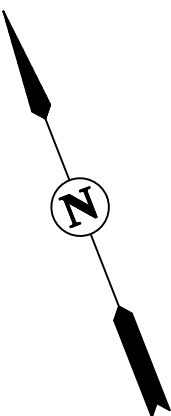
	SUBDIVISION BOUNDARY LINE
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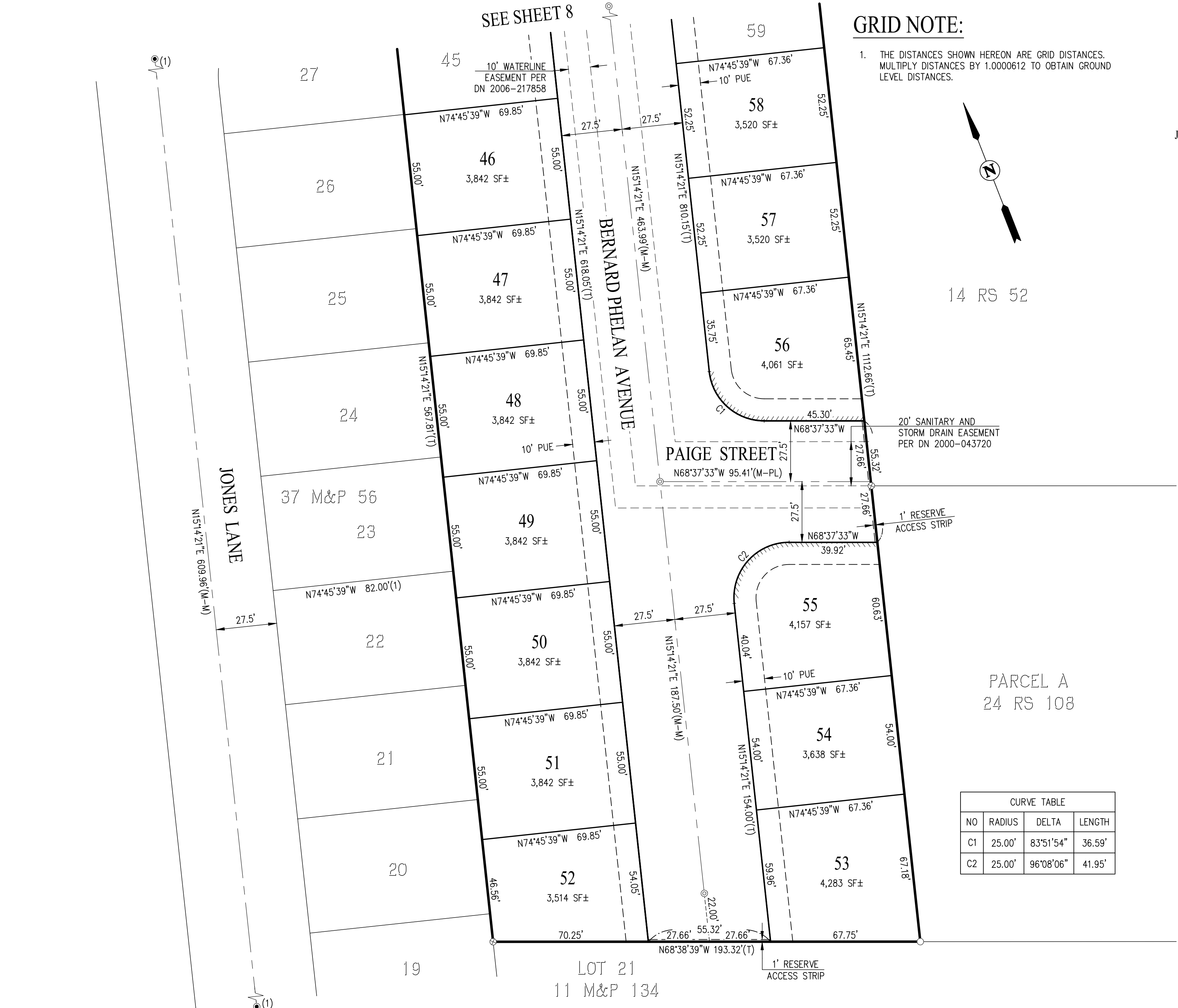
1. THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.



14 RS 52

PARCEL A
24 RS 108

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	25.00'	83°51'54"	36.59'
C2	25.00'	96°08'06"	41.95'



Recorded at the request of
and after recording, return to:
City Clerk, City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
(No recording fee, under Government Code §27383)

City of Tracy
SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 3856, SANTOSHA (BERG ROAD PROPERTIES)

This Subdivision Improvement Agreement (Agreement or SIA) is entered into between the City of Tracy, a municipal corporation (City), and Civic Tracy, LLC a California Limited Liability Company [De Nova Homes], (Subdivider).

Recitals

- A.** In accordance with the Subdivision Map Act (California Government Code sections 66410, *et seq.*) and the Subdivision Ordinance (Tracy Municipal Code, Title 12), the Subdivider has submitted to the City a Final Map (Final Map) for the Project known as Tract 3856, Santosha (Berg Road Properties) (the "Project"). The Final Map, was approved by the City Council on _____, by Resolution No. 2019-_____, is on file with the City Clerk, and is incorporated here by reference.
- B.** The Project is geographically located within the boundaries of the Vesting Tentative Map known as Tract 3856, Berg Road Properties (Vesting Tentative Map). The Tentative Map was approved by the City Council on May 17, 2016, by Resolution No. 2016-095, is on file with the City Clerk, and is incorporated here by reference.
- C.** The Tentative Map approval was subject to certain conditions of approval (Conditions). The Conditions are attached here as Exhibit "A" and incorporated by reference.
- D.** Among other things, the Conditions describe improvements that are required for approval of the Final Map under the Subdivision Map Act, the Subdivision Ordinance, and applicable City Standards.
- E.** Improvement Plans and Specifications (which incorporate portions of the City's Standard Specifications) have been prepared on behalf of the Subdivider, and approved by the City Engineer. They describe in more detail the improvements that are required for approval of the Final Map. The Plans and Specifications, as approved by the City Engineer, are on file with the City Engineer, and are incorporated here by reference. The term "Plans and Specifications" includes: 1) Tract 3856, Berg Road Properties Improvement Plans.
- F.** Because the required improvements have not been completed, the Subdivider has requested to execute this Agreement as authorized by Government Code section 66462.

Now therefore, the parties agree as follows:

- 1. Scope of Work; Location.** The Subdivider shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (Work), to the satisfaction of

the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Subdivider'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 Subdivider may submit a written request to the City Engineer for a change in the Scope of Work, as authorized by Tracy Municipal Code section 12.36.060(f).

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

2. Time of Performance. Time is of the essence in the performance of the Work, and the timing requirements set forth here shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Subdivider shall submit all requests for extensions of time to the City, in writing, no later than ten days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.

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

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

2.3 Completion of Work. The Subdivider shall complete all Work by no later than 365 days after the City's execution of this Agreement.

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

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

3.1 Faithful Performance security in the amount of \$3,276,500 to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) under Government Code sections 66499.1, 66499.4, and 66499.9.

3.2 Labor and Material security in the amount of \$3,276,500 to secure payment by the Subdivider to laborers and materialmen under Government Code sections 66499.2, 66499.3, and 66499.4.

3.3 Warranty security in the amount of \$327,650 to secure faithful performance of this Agreement for one year from the date on which the City Council accepts the Work as complete, under Government Code sections 66499.1, 66499.4, and 66499.9.

3.4 Monumentation security in the amount of \$6,750 to secure faithful performance of setting monuments pursuant to Government Code section 66496.

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

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

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

5. Insurance. Concurrently with the execution of this Agreement by the Subdivider, and before beginning any Work, the Subdivider shall furnish evidence to the City that all of the following insurance requirements have been satisfied.

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

5.2 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01) coverage shall be maintained in an amount not less than \$12,000,000 general aggregate and \$4,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage. The Subdivider shall also provide proof of "products/completed operations" coverage by renewing its General Commercial Liability coverage for at least three years after completion of the project.

5.3 Automobile Liability (with coverage at least as broad as ISO form CA 00 01, for "any auto") coverage shall be maintained in an amount not less than \$2,000,000 per accident for bodily injury and property damage.

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

5.5 Endorsements. Subdivider shall obtain endorsements to the commercial general liability with the following provisions:

5.5.1 The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an Additional Insured.

5.5.2 For any claims related to this Agreement, Subdivider'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.

5.5.3 The Subdivider shall require its subcontractors to name it and the City as Additional Insureds.

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

5.7 Authorized Insurers. All insurance companies providing coverage to Subdivider shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, with an AM Best rating of at least A-:VII.

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

5.9 Substitute Certificates. No later than 30 days before the policy expiration date of any insurance policy required by this Agreement, Subdivider shall provide a substitute certificate of insurance.

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

6. Independent Contractor Status. Subdivider is an independent contractor and is solely responsible for the acts of its employees, agents, and subcontractors, including any negligent acts or omissions. Subdivider is not City's employee and Subdivider shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Subdivider.

7. Default.

7.1 Notice. If Subdivider is in default of this Agreement, as defined in Section 10.2, the City Engineer shall provide written notice to the Subdivider and the Subdivider's surety (if any) describing the default.

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

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

7.2.2 The Subdivider abandons the Project site.

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

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

7.2.5 The Subdivider violates any legal requirement related to the Work.

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

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

7.3.2 Demand the Subdivider complete performance of the Work.

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

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

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

Concurrently with the Subdivider's execution of this Agreement and before the beginning of any Work, the Subdivider shall pay the City Inspection Fees in the amount of 3½ % of the estimated Project costs (as approved by the City Engineer). If the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing, and administrative and overhead costs of 15 %) exceeds the amount of inspection fees paid by the Subdivider, the Subdivider shall pay the City the actual costs of inspecting the Work less the inspection fees previously paid. If the City requires an independent inspection, the Subdivider shall pay all such costs and provide a report to the City.

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

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

12. Warranty Period. The Subdivider shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. If during the one year warranty period any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Subdivider, the Subdivider shall be in default.

13. Miscellaneous.

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

To City:
City Engineer
Development Services Dept.
333 Civic Center Plaza
Tracy, CA 95376

To Subdivider:
Civic Tracy, LLC
c/o De Nova Homes
1500 Willow Pass Court
Concord CA 94520

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

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 after the

deposit in the United States Mail of registered or certified mail, sent to the address designated above.

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

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

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

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

13.6 Attorney's Fees. If legal action is begun to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

13.7 Permits, Licenses, and Compliance with Law. The Subdivider shall, at the Subdivider's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Before City signs the Agreement, the Subdivider shall obtain a City of Tracy Business License. The Subdivider shall comply with all local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.8 Entire Agreement; Severability. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

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

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

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

City of Tracy

Robert Rickman, Mayor

Date: _____

Approved by City Council on _____ by
Resolution No. _____.

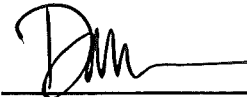
Attest:

By: Adrienne Richardson, City Clerk

Approved As To Form:

By: Leticia Ramirez, City Attorney

Subdivider



Civic Tracy, LLC

By: Dana Tsubota
Title: VP/ General Counsel
Date: 11/20/19

Federal Employer Tax ID No. 84-2569589

Exhibit A: Conditions of Approval (Recital C.)

ACKNOWLEDGMENT

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

State of California
County of Contra Costa)

On 11/20/2019 before me, Jessica Moraes, Notary Public
(insert name and title of the officer)

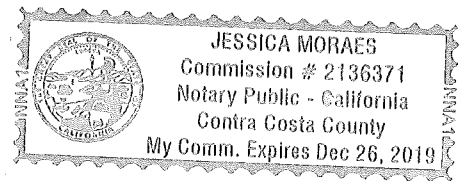
personally appeared Dana Tsubota,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) 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 [Signature]

(Seal)



**Conditions of Approval for the Berg Road Project
 71-lot Vesting Tentative Subdivision Map
 Application Number TSM14-0003
 May 17, 2016**

Project: These Conditions of Approval shall apply to the Vesting Tentative Subdivision Map for the 71-lot Berg Road Project, Application Number TSM14-0003.

Property: The property consists of approximately 10 acres located at 2774 W. Byron Road, 2850 W. Byron Road, and 12920 W. Byron Road (Assessor's Parcel Numbers 238-080-04, 238-080-03, 238-050-01), Application Number TSM14-0003.

A. Definitions; Abbreviations.

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

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider" by Section 12.08.010 of the City of Tracy Municipal Code.
2. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth here. (The Development Services Director is also referred to in the Tracy Municipal Code as the Development and Engineering Services Director.)
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Hills Specific Plan, the Tracy Municipal Code, ordinances, resolutions, written policies, written procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Conditions of Approval" or "Conditions" means these conditions of approval.

The following abbreviations may be used in these Conditions:

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

B. Planning Division Conditions of Approval

1. Compliance with laws. The Subdivider shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").
2. City Regulations. Unless specifically modified by these Conditions of Approval, the Subdivider shall comply with all City Regulations.
3. California Environmental Quality Act (CEQA) Compliance. The Subdivider shall comply with all project requirements identified in the CEQA 15183 Analysis/Environmental Checklist for the Berg Road Project.
4. Notice of protest period. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Subdivider that the 90-day approval period (in which the Subdivider may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] ("Exactions") and imposed on this Project by these Conditions of Approval) shall begin on the date of the conditional approval of this Project. If the Subdivider fails to file a protest of the Exactions complying with all of the requirements of Government Code Section 66020 within this 90-day period, the Subdivider will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the City.
5. Conformance with Vesting Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Vesting Tentative Subdivision Map (Application Number TSM14-0003), which was date stamped as received by the Development Services Department on April 4, 2016, and approved by the City Council on May 17, 2016, unless modified by these Conditions.
6. Effective Date of the Vesting Tentative Subdivision Map. Approval of the Vesting Tentative Subdivision Map shall be effective only upon the effective date of the Ordinance rezoning the subject property to Medium Density Cluster (MDC) Zone.
7. Public Services. Before approval of the first Final Map, the Subdivider shall do one of the following, subject to the approval of the Administrative Services Director:

- a. CFD or other funding mechanism. The Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit, the Subdivider will form a Community Facilities District (CFD) or establish another lawful funding mechanism that is reasonably acceptable to the City for funding the on-going operational costs of providing Police services, Fire services, Public Works and other City services within the Project area. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment which, at the time of formation of the CFD, shall not exceed \$325 per unit per year; provided, however, that the City reserves the right to provide for escalation of the maximum special tax rate to a commercially reasonable rate determined by the City.

Or

- b. Direct funding. The Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that prior to issuance of a building permit, the Subdivider will fund a fiscal impact study to be conducted and approved by the City to determine the long term on-going operational costs of providing Police services, Fire services, Public Works and other City services within the Project area, and deposit with the City an amount necessary, as reasonably determined by the City, to fund the full costs of funding the provision of Police services, Fire services, Public Works and other City services within the Project area in perpetuity as identified by the approved study.
8. Landscape Maintenance. Before approval of the first Final Map, the Subdivider shall do one of the following, subject to the approval of the Administrative Services Director:
 - a. CFD or other funding mechanism. The Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Subdivider shall form a Community Facilities District (CFD) for funding the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within

medians, parkways, dedicated easements, channel-ways, public parks and public open space areas; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the developer shall deposit an amount equal to the first year's taxes; and (6) the developer shall be responsible for all costs associated with formation of the CFD.

Or

- b. Direct funding. The Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that prior to issuance of a building permit, the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks and public open space areas.
9. Private Open Space Area (Parcel B). Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Subdivider shall form a Homeowner's Association (HOA), in accordance with State regulations, for funding the on-going maintenance costs related to maintenance, repair, and replacement of landscaping, hardscape, structures, furniture, and any related appurtenances located in the private open space area (Parcel B); (2) the private open space area shall be designed, improved, and maintained consistent with City standards, to the satisfaction of the Development Services Director; (3) prior to issuance of the 20th building permit, construction of the private open space area shall be completed, to the satisfaction of the Development Services Director; and (4) the private open space area shall contain landscaping, furniture, recreation equipment, or other improvements to provide passive or active recreation, to the satisfaction of the Development Services Director.

10. Emergency Vehicle Access (Parcel A). Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates the following: (1) prior to issuance of a building permit, the Subdivider shall form a Homeowner's Association (HOA), in accordance with State regulations, for funding the on-going maintenance costs related to maintenance, repair, and replacement of all improvements associated with the emergency vehicle access (Parcel A); (2) the emergency vehicle access shall be designed, improved, and maintained consistent with City Standards, and shall include permanent access on a continuous basis for pedestrian and bicycle traffic, to the satisfaction of the Development Services Director; and (3) prior to issuance of a building permit, construction of the emergency vehicle access shall be completed, to the satisfaction of the Development Services Director.

C. Engineering Division Conditions of Approval

C.1. General Conditions

- C.1.1. Subdivider shall comply with the applicable requirements of the approved documents, technical analyses/ reports prepared for the Project listed as follows:
- a. Subdivider shall comply with the applicable recommendations of the "*Berg Road Property Traffic Impact Study*", prepared by TJKM, Inc., dated January 21, 2016 ("Traffic Analysis").
 - b. "*Berg Road Properties Water Distribution System Technical Memorandum*", prepared by Blackwater Consulting Engineers, Inc., dated January 14, 2016 ("Water Analysis").

- C.2. Final Map No application for any final map within the Project boundaries will be accepted by the City as complete until the Subdivider provides all documents as required by City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.2.1. The final map application, which includes tract boundary, street right-of-way, and lot closure calculations, preliminary title report, updated subdivision map guarantee, copies of recorded deeds and/or easements and documents that are necessary to complete the technical accuracy review of the final map.
- C.2.2. The Final Map is prepared in accordance with the Tracy Municipal Code and the City Design Documents, and in substantial conformance with the Tentative Subdivision Map.
- C.2.3. The Final Map shall include dedications or offers of dedication of all right(s)-of-way and/or easement(s) required to serve the

Project described by the Final Map, in accordance with City Regulations and these Conditions of Approval.

- a. The Subdivider shall dedicate a 10-foot wide Public Utility Easement (PUE) along the lot frontages within the Property, for the installation, repair, use, operation, and maintenance of other public utilities such as electric, gas, telephone, cable TV, and others.
 - b. The Subdivider shall coordinate with the respective owner(s) of these utilities including PG&E, AT&T, and Comcast, for the design and installation of these utilities within the Property. Engineering design and construction details of these utilities must be prepared as part of the joint utility trench plans to be submitted for City's approval.
 - c. The Subdivider shall obtain the approval of all other public agencies with jurisdiction over the required public facilities.
- C.2.4. The Subdivider shall prepare Grant Deed documents for conveyance of the existing non-exclusive 20' wide easement for storm drain and sanitary sewer purposes within the subdivision boundary limits. All costs for preparation of the documents, for City's review, and for processing and recordation shall be paid for by the Subdivider.
- C.2.5. The existing easement(s) for ditch and incidental purposes recorded March 8 1948 in favor of West Side Irrigation District (WSID) (1124 OR 100 and 3308 OR 456) shall be vacated or quit-claimed by WSID.
- C.2.6. The existing easement for drainage ditch and pipe line and incidental purposes that was recorded May 23, 1952 (1424 OR 27) in favor of WSID shall be vacated or quit-claimed by WSID.
- C.2.7. The existing easement for right-of-way for underground main or pipe line with right of ingress and egress and incidental purposes that was recorded March 10, 1953 (1503 OR 305) in favor of Pacific Gas and Electric Company (PG&E) shall be vacated or quit-claimed by PG&E.
- C.2.8. The existing easement for right-of-way for pole lines with the right of ingress and egress and incidental purposes that recorded March 9, 1949 (1189 OR 60) in favor of Pacific Telephone and Telegraph Company (AT&T) shall be vacated or quit-claimed by AT&T.
- C.2.9. The EVA parcel shown on the Tentative Map as Parcel 'A', and the open space parcel shown on the Tentative Map as Parcel 'B' shall be dedicated to and maintained by the Homeowner's Association.
- C.2.10. Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd

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order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the control points to a minimum of two separate points adjacent to or within the property described by the Final Map.

- C.2.11. Improvement Plans for in-tract and offsite improvements required to serve the Property described by the final map and Tentative Subdivision Map in accordance with the Tracy Municipal Code, the City Design Documents, and these Conditions of Approval. The Improvement Plans shall specifically include all the requirements specified in Condition C.5.
- a. The Improvement Plans shall consist of the Grading and Storm Drainage Plans, Irrigation and Landscaping Plans, Composite / Joint Utility Plans, In-tract Civil and Utility Plans, Street Lighting Plans, Signing and Striping Plans, Masonry Wall Plans, and Storm Water Quality Plans prepared in accordance with the Tracy Municipal Code and City Regulations. The Grading Plans shall be submitted together with earthwork quantities calculations – specifically, the volumes of cut and fill in cubic yards.
 - b. All supporting and engineering calculations, material and technical specifications, and reports related to the design of the subdivision improvements, and as required by the City Engineer. The engineering calculations shall include calculations for determining the size and capacity of sewer, water and storm drain lines.
 - c. If multiple final maps are to be filed, the Improvement Plans, as described above, must be prepared with a detailed phasing plans showing construction limits and logical sequence or order of constructing street and utilities improvements. The phasing plan shall clearly identify the improvements to be constructed with each construction phase.
- C.2.12. A signed and stamped Engineer's Estimate for the cost of subdivision improvements and all the required public facilities, prepared in accordance with City Regulations. Use and add ten percent (10%) for construction contingencies.
- C.2.13. All the required improvement plans are prepared in accordance with City Regulations and these Conditions of Approval. The improvement agreements are executed, improvement security is submitted and documentation of insurance are provided, as required by these Conditions of Approval. The amounts of improvement security shall be approved by the City and the form of improvement security shall be in accordance with the Tracy Municipal Code.

- C.2.14. Subdivision Improvement Agreement. Before the City's approval of the Final Map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the Final Map), and post all required improvement security in accordance with City Regulations.
- C.2.15. Improvement Security. The Subdivider shall provide improvement security for all public facilities, as required by any Subdivision Improvement Agreement and any Deferred Improvement Agreement. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with City Regulations. The amount of the improvement security shall be as follows:
- a. Faithful Performance (100% of the estimated cost of constructing the public facilities),
 - b. Labor & Material (100% of the estimated cost of constructing the public facilities), and
 - c. Warranty (10% of the estimated cost of constructing the public facilities)
 - d. Monumentation (\$500 multiplied by the total number of street centerline monuments that are shown on the Final Map)
- C.2.16. The Subdivider shall participate in any applicable Benefit Districts, Assessment Districts, or sub-regional reimbursement areas, in accordance with City Regulations.
- C.2.17. Initial payment of plan and map checking, agreement(s) processing, and other fees required by these Conditions of Approval and City Regulations.
- C.2.18. Payment of fair share cost of future traffic signal at the intersection of Byron Road and Berg Road intersection.
- C.3. Grading Permit The City will not accept grading permit application for the Project until the Subdivider has provided all relevant documents related to said grading permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:
- C.3.1. Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.
 - C.3.2. Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

- C.3.3. Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) for the Project with a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any relevant documentation or written approvals from the SWQCB, including the Wastewater Discharge Identification Number (WDID#).
- a. After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB. The Subdivider shall provide the City with a copy of the completed Notice of Termination.
 - b. The cost of preparing the SWPPP, NOI and NOT, including the filing fee of the NOI and NOT, shall be paid by the Subdivider.
 - c. The Subdivider shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall require treatment BMPs that incorporate, at a minimum, the required hydraulic sizing design criteria for volume and flow to treat projected stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from the City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.
- C.3.4. Two (2) sets of the Project's Geotechnical Report signed and stamped by a licensed Geotechnical Engineer licensed to practice in the State of California. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, pavement design recommendations, percolation rate, and elevation of the highest observed groundwater level.
- C.3.5. Two (2) sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system and for determining the size of the project's storm drainage connection.
- C.3.6. Calculations related to the design and sizing of on-site storm water treatment facilities must be submitted with the Grading and Storm Drainage Plans, and approved by City's Stormwater Coordinator prior to issuance of the Grading Permit for the Project.
- C.3.7. A copy of the Approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD) requirements.

C.3.8. Prior to the issuance of Grading Permit for the Project, Subdivider shall submit improvement plans and secure approval of plans from the City's Building Division, for the design of on-site sewer improvements.

C.4. Encroachment Permit - No applications for encroachment permit will be accepted by the City as complete until the Subdivider provides all relevant documents related to said encroachment permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.4.1. Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar). Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.4.2. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.4.3. Signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA. The Subdivider's obligations in the OIA shall be deemed to be satisfied upon City Council's acceptance of the public improvements and release of the Improvement Security.

C.4.4. Check payment for the applicable of engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the fee rate adopted by the City Council on April 15, 2014, per Resolution 2014-059.

C.4.5. If it is necessary to close or interrupt the operation of travel lane(s) on Byron Road during construction, a Traffic Control Plan prepared and/or signed by a Registered Civil or Traffic Engineer licensed to practice in the State of California, must be submitted for review and approval. No work shall start within City's right-of-way or no lane closure shall be made without obtaining City Engineer's approval on the Traffic Control Plan.

- C.5. Improvement Plans - The Improvement Plans that are required in this section shall contain the design and construction details of street and utilities improvements on Byron Road, and all subdivision improvements that are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and prepared under the supervision of, and stamped and signed by a Registered Civil Engineer, Traffic Engineer, Electrical Engineer, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

The Design Engineer shall submit to the City three (3) sets of signed and stamped originals and one (1) pdf version of all Technical Studies, Technical Reports, and supporting Design Calculations prior to final approval of the Improvement Plans.

C.5.1. Grading and Storm Drainage Plans

- a. Erosion Control Improvement Plans shall specify the method of erosion control to be employed and materials to be used.
- b. Site Grading
 - (1) When the grade differential between the Project Site and adjacent property(s) exceeds 12 inches, a reinforced or masonry block, or engineered retaining wall is required for retaining soil. The Grading Plan shall show construction detail(s) and structural calculations of the retaining wall or masonry wall for City's review and approval. The entire retaining wall and footing shall be constructed within the Project Site. A structural calculation shall be submitted with the Grading and Storm Drainage Plans.
 - (2) An engineered fill may be accepted as a substitute of a retaining wall, if the grade differential is less than 2 feet and subject to approval by the City Engineer. If an engineered slope is used to retain soil, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain a slope easement from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map. The Grading and Storm Drainage Plans must show the extent of the slope easement(s). The Subdivider shall be responsible for obtaining permission from owner(s) of the adjacent and affected property(s). The slope easement must be recorded, prior to the issuance of the final building certificate of occupancy.
 - (3) Site grading shall be designed such that the Project's storm water can surface drain directly to a public street that has a functional storm drainage system with adequate capacity to drain storm water from the Project Site, in the event that the on-site storm drainage system fails or it is clogged. The storm drainage release point is

recommended to be at least 0.70 foot lower than the building finish floor elevation and shall be improved to the satisfaction of the City Engineer.

c. Storm Drainage

- (1) The design and construction details of the Project's storm drainage system and treatment facilities shall meet City Regulations in affect at the time of this approval and shall comply with the applicable requirements of the City's Storm Water Quality Control Standards and storm water regulations that were adopted by the City Council in 2008 and any subsequent amendments.
- (2) Prior to the final inspection of the first building to be constructed on the Property, the Subdivider shall submit a signed and notarized Stormwater Treatment Facilities Maintenance Agreement (STFMA) as a guarantee for the performance of Subdivider's responsibility towards the repair and maintenance of on-site storm water treatment facilities. Calculations related to the design and sizing of on-site storm water treatment facilities must be submitted with the STFMA and the Grading and Storm Drainage Plans.

C.5.2. Sanitary Sewer Facilities

- a. The Subdivider shall design and install sanitary sewer facilities including the Project's sewer connection in accordance with City Regulations and utility improvement plans approved by the City Engineer. The Subdivider is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plan No. 203. The City's responsibility to maintain on the sewer lateral is from the wye fitting to the point of connection with the sewer main.
- b. The Developer is hereby notified that the City has limited wastewater treatment capacity in the City's Wastewater Treatment Plant until current and future expansion capital improvement projects are completed and operational. As of January 2015, the City had an unused capacity of approximately 4200 EDU's within its wastewater treatment plant available to new development within the City on a first come-first served basis. These EDU's are currently available to serve the proposed project, but as other development projects within the City come forward and building permits are issued, this remaining capacity will be reduced.

C.5.3. Water System Facilities

- a. The Subdivider shall complete the design and installation of water lines and connections as recommended in the Water Analysis, including the 8-inch diameter DIP connection from the existing 12-inch water main in Berg Road at the intersection of Street 'B' and Berg Road.
- b. Water Shutdown Plan and Traffic Control Plan: If water main shut down is necessary, the City will allow a maximum of four hours water supply shutdown. The Subdivider shall be responsible for notifying residents or business owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least 72 hours before the water main shutdown. Prior to starting the work described in this section, the Subdivider shall submit a Water Shutdown Plan and Traffic Control Plan to be used during the installation of the offsite water mains.
- c. Domestic and Irrigation Water Services
 - (1) All water connections that are bigger than 2 inches in diameter shall be Ductile Iron Pipe (DIP).
 - (2) Domestic water service shall be installed in accordance with City Regulations and the utility improvement plans approved by the City Engineer. City's responsibility to maintain water lines shall be from the water main on the street to the back of the water meter (inclusive) only. Repair and maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Subdivider.
 - (3) All costs associated with the installation of the Project's permanent water connection(s) as identified in the Water Analysis including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings, replacing traffic detecting loops, conduits, and wires, relocating existing utilities that may be in conflict with the water connection(s), and other improvements shall be paid by the Subdivider.
 - (4) Prior to the approval of the Improvement Plans, the Subdivider shall obtain written approval from the City's Fire Safety Officer and Chief Building Official, for the location and spacing of fire hydrants that are to be installed to serve the Project.

C.5.4. Street Improvements

- a. Roadway Improvements Frontage Responsibility – Per the Citywide Roadway & Transportation Master Plan (CRTMP) that was adopted by the City Council on November 26, 2012, pursuant to Resolution 2012-240, Byron Road will be a 4-lane arterial street with a minimum right-of-way of 83 feet.

According to the CRTMP (Fig. 5.1 – Roadway Improvement Cross Section Responsibility per Frontage Policy), the Subdivider is responsible to design and construct the outside travel lane (plus shoulder) and improvements behind the curb up to the property line. Any left-turn and right-turn lane(s) along the Property's frontage at the access points on Byron Road that are provided and are necessary to meet access spacing requirements are considered to be site specific offsite improvements and they are Subdivider's responsibility to design and construct without any reimbursement from the City.

- b. Right-of-Way on Byron Road – The Subdivider shall dedicate minimum 15 feet (25 feet if the wall is staggered to match existing layout to the west) of right-of-way along the entire frontage of the Property on Byron Road. The Subdivider shall execute a Grant Deed to convey the land in fee title or dedicate the right-of-way on the Final Map.

Due to the right-of-way constraints on the north side of Byron Road along the UPRR right-of-way, the City intends to undertake a traffic analysis in the future to determine the ultimate configuration of traffic lanes on Byron Road and, if required, the City will amend the CRTMP based on the findings of the traffic analysis.

- c. Berg Road and Other In-tract Streets. The Subdivider shall dedicate all rights-of-way that are necessary to construct Berg Road and all the in-tract streets based on their respective cross sections shown on the VTM. The width of travel lanes, landscaping strip and sidewalk shall be in accordance with the City Standards.
- d. Emergency Vehicle Access Easement (EVA) A minimum 20-foot wide Emergency Vehicle Access shall be provided to ensure emergency access to Byron Road. The Subdivider and City shall enter into an EVA Agreement prior to the start of construction. This agreement will address access across private property and maintenance responsibilities. The Subdivider shall submit improvement plans for any improvements required by the Police and Fire Departments. The Subdivider shall obtain any permits and/or easements that may be required for construction and use of the EVA.

e. Frontage Improvements on Byron Road – The Subdivider shall design and construct all roadway improvements on Byron Road that are necessary to provide safe and functional access to the Project, as described by the Technical Memorandum prepared by TJKM, dated January 21, 2016 (Traffic Report), and as required by these Conditions of Approval and as approved by the City Engineer. The Traffic Report is on file with the Office of the City Engineer and is available for review upon request.

- (1) Byron Road Improvements: The roadway improvements required on Byron Road shall include street widening and other improvements which include but are not limited to, the installation of new asphalt concrete pavement, concrete curb and gutter, a 12-foot wide meandering sidewalk, parkway landscaping improvements with automatic irrigation system (Motorola Controller), a masonry wall, storm drainage, catch basin/ drop inlet, fire hydrants, domestic, irrigation and fire services, LED street lights, traffic sign(s), pavement marking and striping along the entire frontage of the Project and other improvements such as barricades, signing, and striping that are necessary to provide a safe transitions to and from a widened roadway section of Byron Road. Design and construction of Roadway Improvements shall be completed by the Subdivider, prior to final inspection of the first building to be constructed within the Property.

All roadway improvements described in these Conditions of Approval must be designed and constructed by the Subdivider to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (HDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), all applicable City Regulations, and these Conditions of Approval, prior to final inspection of the first building to be constructed within the Property.

- (2) The masonry wall along the Project's frontage on Byron Road is considered a public improvement which will be maintained by the City's Landscape Maintenance District (TLMD). The masonry wall including its column and wall footings shall be constructed within the area that will be dedicated to the City with the first final map. The masonry wall shall be designed and constructed in accordance with City Regulations.
- (3) Landscaping improvements along Byron Road shall be installed with an automatic irrigation system (Motorola Controller) as approved by the City Engineer, and shall be completed by the Subdivider, prior to the final inspection of the first residential building to be constructed within the

Property (excluding model homes). Irrigation and Landscape Plans shall be signed and stamped by a registered Landscape Architect licensed to practice in the State of California. The species and size of street trees to be planted on Byron Road, Berg Road, and within the Property shall be per City Regulations, or as provided by the City Engineer.

- f. The City will assume responsibility to maintain the public improvements and accept the offer of dedication for right-of-way on Byron Road after the City Council accepts the public improvements.
- g. The City Engineer has made a determination that a traffic signal at the intersection of Byron Road and Berg Road will be required in the future when Byron Road is widened per the Roadway Master Plan. City will collect funds from future developments benefiting from the traffic signal, and install the signal when the traffic signal warrants are met. At the time of issuance of building permit, the Subdivider shall pay to the city \$555.00 per unit towards its fair share cost of the traffic signal at the intersection of Byron Road and Berg Road to be installed by the City.
- h. All traffic control devices and appurtenances, including stop sign, street name sign, pavement legend, and pavement marking and striping shall be installed in accordance with City Regulations and a detailed signing and striping plan approved by the City Engineer.
- i. LED Street lights shall be installed in accordance with City Regulations and at locations approved by the City Engineer. As part of the Improvement Plans, a street lighting plan that shows the LED street lights, conduits, wires and electrical connection to PG&E facility including all pertinent construct details. A Photometric Plan must be submitted for City's review and approval.
- j. A standard barricade and guardrail with appropriate traffic sign will be required at the east end of Berg Road at south end of the Project boundary. The space behind the barricade shall be paved to prevent growth of weeds and provide easier access for removing accumulated debris. To prevent street runoff from draining to adjacent property(s), a concrete curb shall be installed through the entire width of the pavement or curb-to-curb. Asphalt concrete berm or curb is an acceptable alternative solution.
- k. The Subdivider shall coordinate with the Tracy Post Master for location of, and installation (by the Subdivider) of, cluster type mailbox units. Design and construction criteria shall be in accordance with City requirements. The US Postal

Services is responsible for repairing and maintaining all cluster mailboxes located within City's right-of-way.

- I. Prior to recordation of any final map within the Project, the Subdivider shall coordinate with the City and the School District(s) regarding vehicular and pedestrian access to schools from this residential development. The Subdivider shall submit plans to the City showing pedestrian routes, facilities for bus transportation and bike paths for approval by the City.

C.5.5. Joint Utility Trench Plans – All existing utilities along the frontage of the Project on Byron Road shall be placed in an underground facility. No fee credits or reimbursements shall be applicable for utility undergrounding or pole relocations.

- a. Subdivider shall prepare joint trench plans in compliance with utility companies' requirements and City regulations, and obtain approval of the plans. All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities. The Subdivider shall submit Joint Utility Trench Plans for the installation of electric, gas, telephone and TV cable main and service lines that are necessary to be installed to serve the Project. These utilities shall be installed within the 10-foot wide Public Utility Easement (PUE) that will be offered for dedication to the City. The Subdivider shall coordinate, as feasible, with the respective owner(s) of the utilities for the design of these underground utilities to ensure they can be installed within the 10-foot wide PUE to the extent feasible (and except in the event, that additional space beyond the 10-foot PUE is required, as determined by the utilities owner(s)).
- b. Pavement cuts or utility trench(s) on existing street(s) for the installation of water distribution main, storm drain, sewer line, electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement, whichever applies). This pavement repair requirement is applicable when cuts or trenches are perpendicular to the street direction; when the new joint trench is placed in the street parallel to the street

direction; the width of overlay is to be the width of the affected lane.

- C.6. Building Permit No building permit within the Project boundaries will be approved by the City until the Subdivider demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

C.6.1. Payment of the Master Plan Fees for Citywide Roadway and Traffic, Water, Recycled Water, Wastewater, Storm Drainage, Public Safety, Public Facilities, and Park adopted by the City Council on January 7, 2014, per Resolution 2014-010, as required by these Conditions of Approval.

C.6.2. Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC, and these Conditions of Approval.

C.6.3. Payment of the Agricultural Conversion or Mitigation Fee as required in Chapter 13.28 of the TMC, and these Conditions of Approval.

C.6.4. Payment of the Regional Transportation Impact Fees (RTIF) as required in Chapter 13.32 of the TMC, and these Conditions of Approval.

C.6.5. Per Condition 5.4 (g) above, at the time of issuance of building permit, the Subdivider shall pay to the City \$555.00 per unit towards its fair share cost of the traffic signal at the intersection of Byron Road and Berg Road.

C.6.6. A letter signed and stamped by the Project's Geotechnical Engineer certifying that all grading work that was performed by the Subdivider within the Project meets the requirements of the Project's Geotechnical/Soils Report and the recommendations of the Project's Geotechnical Engineer.

C.6.7. The applicable final map is approved by the City and recorded at the Office of the San Joaquin County Recorder.

- C.7. Agreements and Improvement Security

C.7.1. Inspection Improvement Agreement - Prior to City approval of a final map, the Subdivider may request to proceed with construction with the public facilities required to serve the real property described by the final map only if the Subdivider satisfies all of the following requirements to the satisfaction of the City Engineer:

- a. Improvement Plans for in-tract and offsite improvements required to serve the Property described by the final map and Tentative Subdivision Map in accordance with the Tracy Municipal Code, the City Design Documents, and these Conditions of Approval. The Improvement Plans shall

specifically include all the requirements specified in Conditions C.5., above.

- b. The Subdivider has submitted all required improvement plans in accordance with the requirements of City Regulations and these Conditions of Approval, and the improvement plans have been approved by the City Engineer.
- c. The Subdivider has submitted all required improvement plans in accordance with the requirements of City Regulations and these Conditions of Approval, and the improvement plans have been approved by the City Engineer.
- d. The Subdivider has submitted a complete application for a final map which is served by the required public improvements, and the final map is in the process of being reviewed by the City.
- e. The Subdivider executes an Inspection Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all required improvements, and the Subdivider agrees to assume the risk that the proposed final map may not be approved by the City.
- f. The Subdivider posts all required improvement security and provides required evidence of insurance.

C.7.2. Subdivision Improvement Agreement - Concurrently with the City's processing of a final map, and prior to the City's approval of the final map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the final map), which includes the Subdivider's responsibility to complete all of the following requirements to the satisfaction of the City Engineer:

- a. The Subdivider has submitted all required improvement plans in accordance with the requirements of City Regulations and these Conditions of Approval, and the improvement plans have been approved by the City Engineer.
- b. The Subdivider has submitted a complete application for a final map which is served by the required public improvements, and the final map has been approved by the City Engineer.
- c. The Subdivider has paid all required processing fees including plan check and inspection fees.
- d. The Subdivider executes a Subdivision Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all required improvements.

- e. The Subdivider posts all required improvement security and evidence of insurance.

C.7.3. Offsite Improvement Agreement: Prior to starting any work on Roadway Improvements, the Subdivider shall sign an improvement agreement (Offsite Improvement Agreement or OIA) and post improvement security in accordance with Section 12.36.080 of the TMC, to guarantee completion of the public improvements. The OIA requires approval from the City Council.

- a. Prior to the approval of the OIA, the Subdivider will be required to submit Improvement Plans that contains the design, construction details and specifications of all public improvements that are required to serve the Project, prepared in a 24" x 36" size polyester film (mylar), signed and stamped by the Design Engineer, for City's approval and signature. The Subdivider shall also submit Technical Specifications and Cost Estimates. All engineering calculations for the design of the improvements must be submitted as part of the Improvement Plans.
- b. The Subdivider will be required to pay Engineering Review Fees which include plan checking, agreement and permit processing, testing, engineering inspection, and program management fees, prior to the approval of the OIA.

C.7.4. Improvement Security - The Subdivider shall provide improvement security for all public facilities, as required by an Inspection Improvement Agreement or a Subdivision Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with City Regulations. The amount of the improvement security shall be in accordance with City Regulations, generally, as follows: Faithful Performance (100% of the approved estimates of the construction costs of public facilities), Labor & Material (100% of the approved estimates of the construction costs of public facilities), and Warranty (10% of the approved estimates of the construction costs of public facilities).

C.7.5. Release of Improvement Security - Improvement Security(s) described herein shall be released to the Subdivider after City Council's acceptance of public improvements, and after the Subdivider demonstrates, to the satisfaction of the City Engineer, compliance of these Conditions of Approval, and completion of the following:

- a. Improvement Security for Faithful Performance, Labor & Materials, and Warranty shall be released to the Subdivider in accordance with Section 12.36.080 of the TMC.
- b. Written request from the Subdivider and a copy of the recorded Notice of Completion.

- C.8. Acceptance of Public Improvements - Public improvements will not be accepted by the City Council until after the Subdivider completes construction of the relevant public improvements, and also demonstrates to the City Engineer satisfactory completion of the following:
- C.8.1. Correction of all items listed in the deficiency report prepared by the assigned Engineering Inspector relating to public improvements subject to City Council's acceptance.
 - C.8.2. Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements.
- C.9. Temporary or Final Building Certificate of Occupancy - No Temporary or Final Building Certificate of Occupancy will be issued by the City until after the Subdivider provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:
- C.9.1. The Subdivider has satisfied all the requirements set forth in Condition C.8, above.
 - C.9.2. The Subdivider has completed construction of all required public facilities for the building for which a certificate of occupancy is requested and all the improvements required in these Conditions of Approval. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Subdivider shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.10. Special Conditions
- C.10.1. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design documents including the City's Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, or as otherwise specifically approved by the City.
 - C.10.2. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection. The Subdivider shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and

abandonment of any existing well(s), prior to the issuance of the Grading Permit.

- C.10.3. The Subdivider shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Subdivider will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.
- C.10.4. Any damages to existing improvements within the street right-of-way due to construction related activities shall be repaired or replaced as directed by the City at Subdivider's cost.
- C.10.5. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers. Any damaged, displaced, obliterated or lost monuments or survey markers shall be re-established or replaced by a licensed Land Surveyor at the Developer's (or Contractor's) sole expense. A corner record must be filed in accordance with the State law for any reset monuments (California Business and Professions Code Section 8871).
- C.10.6. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the Grading Permit, Encroachment Permit, Building Permit, Improvement Plans, and OIA, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

RESOLUTION 2019-_____

APPROVING THE FINAL SUBDIVISION MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 3856 SANTOSHA, AND AUTHORIZING THE CITY CLERK TO FILE THE AGREEMENT WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The Concept, Preliminary and Final Development Plan, and the Vesting Tentative Subdivision Map for Berg Road Properties Subdivision ("Berg Road VTM"), a single-family residential development with a total of seventy-one (71) single family residential lots, was approved by City Council on May 17, 2016, pursuant to Resolution No. 2016-095, and

WHEREAS, Subdivider submitted a Final Subdivision Map to subdivide the parcel(s) into seventy-one (71) residential lots and is further described as Tract 3856 Santosha, and

WHEREAS, The Subdivider has executed the Subdivision Improvement Agreement and posted improvement security which will guarantee the construction of street and utilities improvements required to serve Tract 3856 Santosha, and

WHEREAS, The Engineering Division has reviewed the Improvement Plans. The Subdivision Improvement Agreement, Final Subdivision Map, and Improvement Plans are on file with the City Engineer and are available for review upon request, and

WHEREAS, Upon completion of all the public improvements, the City will accept the public improvements for maintenance and will accept all offers of dedication of public right-of-way, and

WHEREAS, The Developer has paid the applicable engineering review fees which include the cost of processing the Final Subdivision Map, Improvement Plans, and Subdivision Improvement Agreement;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Final Subdivision Map and Subdivision Improvement Agreement for Tract 3856 Santosha, and authorizes the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2019-_____ was adopted by the City Council on the 17th day of December 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.L

REQUEST

APPROVE THE INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES BUREAU OF RECLAMATION AND THE CITY FOR PROVIDING CENTRAL VALLEY PROJECT WATER SERVICE EFFECTIVE MARCH 1, 2020, THROUGH FEBRUARY 28, 2022, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CONTRACT AND OTHER AGREEMENTS WITH THE BUREAU OF RECLAMATION FOR VARIOUS OPERATIONAL FUNCTIONS RELATED TO THE CENTRAL VALLEY PROJECT

EXECUTIVE SUMMARY

The City receives water from the Central Valley Project (CVP) through the United States Bureau of Reclamation (USBR) as part of the City's water portfolio. The original 1974 contract with USBR for delivery of 10,000 acre-feet of water expired in December 2013. During 2004, the City acquired additional water contract assignments from various irrigation districts with the Bureau's authorization bringing the total contracted water amount up to 20,000 acre feet. After expiration of the original agreement in 2013, the City and USBR had entered into interim renewal contracts several times. Since the long-term contract for 20,000 acre feet of CVP water has not been finalized and negotiations under the WIIN Act are ongoing, another interim renewal contract needs to be entered into between the City and USBR. The current interim contract expires at the end of February, 2020. The proposed interim renewal contract will be effective from March 1, 2020, through February 28, 2022.

In addition, the Bureau has requested a resolution that authorizes the City Manager, or its designee, to execute agreements for a variety of operational functions including purchase, transfer and sale of Bureau water, placing of water into the Semitropic Water Storage District and return of banked water to Tracy.

This agenda item requests that Council authorize the City Manager to execute the interim renewal contract and also authorize the City Manager, or designee, to execute agreements related to various operational functions with the Bureau.

DISCUSSION

In 1974, the City entered into a long-term contract with the Bureau for water service from the Delta-Mendota Canal. This contract was for delivery of 10,000 acre-feet of water per year and expired on December 30, 2013.

In 2004, the Bureau authorized contract assignments between the City and the Banta Carbona Irrigation District (BCID), and the City and the West Side Irrigation District (WSID). The contract assignments provided for delivery of 7,500 acre-feet of water per year (5,000 acre-feet from the BCID contract and 2,500 acre-feet from the WSID contract) from the Delta-Mendota Canal. The City exercised its option with WSID in 2014. The Bureau and the City have also agreed to combine these for a combined interim renewal contract in the amount of 20,000 acre-feet of water.

The City and the Bureau have been negotiating a new long-term renewal contract under the provisions of the WIIN Act. After completion of negotiations, the Bureau will enter into a long-term renewal contract. The current draft contract does not have a termination date and would continue as long as water is available and delivered.

The Bureau has determined that the City has fulfilled all of its obligations under the existing contract and the Bureau intends to assure uninterrupted water service and continuity of the contract in accordance with the terms of the contract.

The Bureau has prepared the Interim Renewal Contract for execution by the City. This interim renewal contract has a term effective from March 1, 2020, through February 28, 2022.

In addition, the Bureau has requested a resolution that authorizes the City Manager, or its designee, to execute a variety of operational functions including purchase, transfer and sale of bureau water, placing of water into the Semitropic Water Storage District and return of banked water to Tracy. This agenda item requests that Council authorize the City Manager to execute the interim renewal contract and other agreements related to a variety of operational and administrative functions with the United States Bureau of Reclamation.

STRATEGIC PLAN

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

ENVIRONMENTAL REVIEW

Approval of this contract is categorically exempt from further environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (b) for existing public facilities.

FISCAL IMPACT

Water purchases are budgeted annually in the Water Fund. The cost of the water is set by the Bureau every five years independently of the interim renewal contract.

RECOMMENDATION

That the City Council, by resolution, approve the Interim Renewal Contract No. 14-06-200-7858A-IR4 between the United States Bureau of Reclamation and the City of Tracy providing for Central Valley Project Water Service and authorize the City Manager to execute the contract and other agreements with the Bureau regarding operational issues.

Agenda Item 1.L
December 17, 2019
Page 3

Reviewed by: Kul Sharma, Utilities Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A - Interim Renewal Contract No. 14-06-200-7858A-IR4

M&I Only
Contract No. 14-06-200-7858A-IR4

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 THE CITY OF TRACY
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE SAN LUIS UNIT AND DELTA DIVISION

10 THIS CONTRACT, made this _____ day of _____, 2020,
11 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
13 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, June
14 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as
15 amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
16 hereinafter referred to as Federal Reclamation law, between the UNITED STATES OF
17 AMERICA, hereinafter referred to as the United States, and the CITY OF TRACY, hereinafter
18 referred to as the Contractor, a public agency of the State of California, duly organized, existing,
19 and acting pursuant to the laws thereof, with its principal place of business in California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 WHEREAS, the United States and the Contractor entered into the interim renewal
23 contract (long-form interim renewal contract) identified as Contract No. 14-06-200-7858A-IR1,
24 hereinafter referred to as IR1, which provided for the continued water service to the Contractor
25 effective from January 1, 2014, through February 29, 2016; and

WHEREAS, the last long-form interim renewal contract between the United States and the Contractor is IR1; and

WHEREAS, the United States and the Contractor have entered into successive renewals of IR1, the most recent of which is Contract No.14-06-200-7858-IR3, hereinafter referred to as IR3, effective March 1, 2018, through February 29, 2020; and

WHEREAS, the United States and the Contractor have made significant progress in their negotiations of a long-term renewal contract, believe that further negotiations on the long-term renewal contract would be beneficial, and mutually commit to continue to negotiate to seek to reach agreement, but anticipate that the environmental documentation necessary for execution of any long-term renewal contract may be delayed for reasons beyond the control of the parties; and

WHEREAS, the Contractor has requested a subsequent interim renewal contract pursuant to IR3; and

WHEREAS, the United States has determined that the Contractor has to date fulfilled all of its obligations under IR3; and

WHEREAS, the United States is willing to renew IR3 pursuant to the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

RENEWAL AND REVISION OF
CONTRACT NO. 14-06-200-7858A-IR3

1. Except as specifically modified by this contract, all provisions of IR3 are renewed with the same force and effect as if they were included in full text with the exception of Article 1 of IR3 thereof, which is revised as follows:

(a) The first sentence in subdivision (a) of Article 1 of IR3 is modified as follows: "This Contract shall renew the Existing Contract and replace Contract Nos. 14-06-200-4305A-IR13B and 7-07-20-W0045-IR13B and shall be effective from March 1, 2020 through February 28, 2022, and thereafter will be renewed as described in Article 1 of IR3 if a long-term renewal contract has not been executed with an effective commencement date of March 1, 2022."

(b) Subdivision (b) of Article 2 of IR3 is amended by deleting the date "February 29, 2020," and replacing same with the date "February 28, 2022."

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

UNITED STATES OF AMERICA

By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

(SEAL)

CITY OF TRACY

By: _____
City Manager

Attest:

By: _____
City Clerk

RESOLUTION 2019-_____

APPROVING THE INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES BUREAU OF RECLAMATION AND THE CITY FOR PROVIDING CENTRAL VALLEY PROJECT WATER SERVICE EFFECTIVE MARCH 1, 2020, THROUGH FEBRUARY 28, 2022, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND OTHER AGREEMENTS WITH THE BUREAU OF RECLAMATION FOR VARIOUS OPERATIONAL FUNCTIONS RELATED TO THE CENTRAL VALLEY PROJECT

WHEREAS, In 1974, the City entered into a long-term contract with the Bureau for water service from the Delta-Mendota Canal, and

WHEREAS, This contract was for delivery of 10,000 acre-feet of water per year and expired on December 30, 2013, and

WHEREAS, In 2004, the Bureau authorized contract assignments between the City and the Banta Carbona Irrigation District (BCID), and the City and the West Side Irrigation District (WSID), and

WHEREAS, The contract assignments provided for delivery of 7,500 acre-feet of water per year (5,000 acre-feet from the BCID contract and 2,500 acre-feet from the WSID contract) from the Delta-Mendota Canal, and

WHEREAS, The Bureau and the City have also agreed to combine these for a combined interim renewal contract in the amount of 20,000 acre-feet of water, and

WHEREAS, The Bureau has determined that the City has fulfilled all of its obligations under the existing contract and the Bureau intends to assure uninterrupted water service and continuity of the contract in accordance with the terms of the contract, and

WHEREAS, The Bureau has prepared the Interim Renewal Contract for execution by the City, and

WHEREAS, The Bureau has requested a resolution that authorizes the City Manager, or its designee, to execute a variety of operational functions including purchase, transfer and sale of bureau water, placing of water into the Semitropic Water Storage District and return of banked water to Tracy, and

WHEREAS, The water purchases are budgeted annually in the Water Fund. The cost of the water is set by the Bureau every five years independently of the interim renewal contract.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Interim Renewal Contract No. 14-06-200-7858A-IR4 between the United States Bureau of Reclamation and the City of Tracy providing for Central Valley Project Water Service and authorizes the City Manager to execute the contract and other agreements with the Bureau.

* * * * *

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 17th day of December, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.M

REQUEST

ADOPT REVISED CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES TO APPOINT NEXT HIGHEST VOTE-GETTER TO FILL COUNCIL VACANCY CREATED WITHIN FIRST YEAR OF THE POSITION'S TERM AND UTILIZE CURRENT APPOINTMENT SELECTION PROCESS FOR OTHER VACANCIES

EXECUTIVE SUMMARY

The 2019 San Joaquin Grand Jury Report (Case No. 0418) recommended that the Council consider amending its appointment policy for filling City Council vacancies to appoint the next highest vote-getter. On December 3, 2019, Council discussed amending the Council's policy in response to the Grand Jury's recommendation and directed staff to amend the policy to appoint the next highest vote-getter to fill a council vacancy created during the first year of the position's term. A vacancy created after the first year of the position's term would be filled through the current appointment selection process, which includes an interview process before Council.

DISCUSSION

The 2019 San Joaquin Grand Jury Report (Case No. 0418) on the Council made several recommendations for the Council to consider implementing, one of which was giving the "Tracy voters more control over Council vacancy appointments." The Grand Jury found that the Council's use of its appointment process to fill Council vacancies had "fostered loyalty, allegiance, and personal obligation by appointed Council members and has resulted in consistent voting blocs and facilitated divisiveness amongst the Council members." Additionally, the Grand Jury found that the current adopted appointment process does not take into account the "will of the voters" and is a process that has not been endorsed by the City's voters. The Council's current policy was adopted in 2017 via Resolution No. 2017-001 (Attachment A).

The Grand Jury recommended that the Council amend the City's Council vacancy filling policy to automatically appoint the "next highest vote-getter" from the previous election, who would thereby serve out the remainder of the vacant Council seat's term. The Grand Jury recommended that this action take place by December 31, 2019.

On December 3, 2019, Council discussed the Grand Jury's recommendation and discussed potential amendments to the Council's policy on filling council vacancies and directed staff to amend the policy to appoint the "next highest vote-getter" to fill a vacancy created during the first year of the vacant position's term. Any vacancy occurring more than a year into the vacant position's term would be filled through the previously established appointment process. (Attachment B- new text is shaded). All other terms of the City's current policy will remain including Council's right to dispense with their policy and call for a special election.

STRATEGIC PLAN

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

FISCAL IMPACT

Costs associated with implementing this policy are included within the City Clerk's existing operating budget.

RECOMMENDATION

That Council adopt, by resolution, a revised Council Policy on Filling City Council Vacancies and repeal Resolution No. 2017-001.

Prepared by: Leticia Ramirez, City Attorney

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENT:

- A. City Council Policy C-10 on Filling City Council Vacancies (Resolution No. 2017-001)
- B. Revised Council Policy on Filling City Council Vacancies

RESOLUTION 2017-001

AMENDING CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES

WHEREAS, State law provides that if a vacancy occurs in the City Council, the Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy, and

WHEREAS, State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires, and

WHEREAS, The City Council adopted a policy regarding filling City Council vacancies on October 21, 2014 via Resolution 2014-180, and

WHEREAS, The City Council wishes to amend that policy to place certain limits on the time for interviews and other matters as set forth in the amended policy.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Tracy that it hereby adopts the attached amended policy regarding filling City Council vacancies.

The foregoing Resolution 2017-001 was passed and adopted by the Tracy City Council on the 3rd day of January, 2017, by the following vote:

AYES: COUNCIL MEMBERS: RANSOM, VARGAS, YOUNG, RICKMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

I. BACKGROUND

The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b), which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the City Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires.

II. POLICY

The following procedures will be used by the City Council to fill a City Council vacancy if the City Council chooses to fill such a vacancy by appointment rather than by special election:

A. Schedule

At the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

B. Applications

The application of a person interested in being appointed to the City Council shall state background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and

2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

C. Disclosure of Applications

Following the deadline set by the City Council for the submittal of applications, copies of all applications and the names of the applicants shall be filed in the City Clerk's office and made public. No information shall be disclosed prior to the close of the application deadline.

D. Questions from the Public

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the City Council for the submittal of questions, all such questions shall be forwarded to City Council Members, who may use them in the applicant interviews.

E. Questions for Applicants

The City Council may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to answer such questions at the interviews and/or provide written responses to such questions prior to the interviews. Questions may be suggested by the public, individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

F. City Council Interviews

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. The first round of interviews, under the Voting Procedure set forth below, shall be limited to ten minutes per applicant. During the first round of interviews under the Voting Procedures set forth below, all applicants will be asked to respond to the same or standard questions approved by a majority Council vote. The order of interviews will be based on a random drawing. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer question(s) approved by the City Council. For the second round of interviews, in addition to the same or standard questions approved by a majority of the City Council and asked of each remaining applicant, each City Council Member may question each remaining applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the City Council. The second round of interviews shall be limited to fifteen minutes per applicant, provided, however, that based on the time available and the number of candidates, the City Council, by majority vote, may extend the time limit on interviews.

G. Voting Procedure

The person to fill the City Council vacancy shall be selected from all applicants by the following process of elimination:

1. If one or two applicants exist:
 - a. each City Council Member shall vote for one applicant; and
 - b. the applicant who receives a majority vote shall be appointed to fill the vacancy.

2. If three or more applicants exist:
 - a. each City Council Member shall vote for two applicants; and
 - b. all applicants receiving the least number of votes (including no votes) shall be eliminated; and
 - c. subsequent votes shall be taken with each City Council Member voting for two applicants until one or two applicants remain; and
 - d. each City Council Member shall then vote for one applicant and the applicant who receives a majority vote shall be appointed to fill the vacancy.
 - i. In the event of a tie between two or more applicants with the highest number of votes, Council may ask those applicants to respond to additional questions. Council may also choose to resolve a tie between two or more applicants with the highest number of votes by any method approved by a majority vote.
3. If no applicant receives a majority vote, the City Council may adopt such other procedures to fill the vacancy as it deems appropriate.
4. Notwithstanding the voting procedure described above, at any time during the appointment process, the City Council in its discretion may abandon the process and call a special election to fill the vacancy.
5. If no applicant receives a majority vote within 60 days of the commencement of the vacancy, the City Council shall call a special election to fill the vacancy.

H. Appointment by the City Council

The appointment to fill the vacancy shall be made by resolution of the City Council.

CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

Adopted by Resolution No. 2019- ____

I. BACKGROUND

The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b), which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the City Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires.

II. POLICY

The following procedures will be used by the City Council to fill a City Council vacancy if the City Council chooses to fill such a vacancy by appointment rather than by special election:

A. Vacancy Occurring within the First Year (365 days or less) of the Vacant Position's Term

The City Council will appoint the next highest vote-getter to fill a vacancy on Council occurring 365 days or less from the commencement of the vacant position's term. In the event, the next highest vote-getter is not interested in filling the vacancy, Council will appoint the candidate with the next highest votes, and so on and so forth until filled.

The appointment to fill the vacancy shall be made by resolution of the City Council.

B. Vacancy Occurring More After the First Year (more than 365 days) of the Vacant Position's Term

i. Schedule

At the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

- a. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
- b. Setting a time and date by which questions for the applicants may be submitted by the public; and
- c. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

ii. Applications

The application of a person interested in being appointed to the City Council shall state background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

- a. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and
- b. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

iii. Disclosure of Applications

Following the deadline set by the City Council for the submittal of applications, copies of all applications and the names of the applicants shall be filed in the City Clerk's office and made public. No information shall be disclosed prior to the close of the application deadline.

iv. Questions from the Public

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the City Council for the submittal of questions, all such questions shall be forwarded to City Council Members, who may use them in the applicant interviews.

v. Questions for Applicants

The City Council may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to answer such questions at the interviews and/or provide written responses to such questions prior to the interviews. Questions may be suggested by the public, individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

vi. City Council Interviews

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. The first round of interviews, under the Voting Procedure set forth below, shall be limited to ten minutes per applicant. During the first round of interviews under the Voting Procedures set forth below, all applicants will be asked to respond to the same or standard questions approved by a majority Council vote [and any other questions individual City Council members may ask of a particular applicant]. The order of interviews will be based on a random drawing. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer question(s) approved by the City Council. Thereafter, [for each

round after the first round of interviews,] in addition to the same or standard questions approved by a majority of the City Council and asked of each remaining applicant, each City Council Member may question each remaining applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the City Council. Each subsequent round of interviews shall be limited to fifteen minutes per applicant [, provided, however, that based on the time available and the number of candidates, the City Council, by majority vote, may extend the time limit on interviews].

vii. Voting Procedure

The person to fill the City Council vacancy shall be selected from all applicants by the following process of elimination:

- a. If one or two applicants exist:
 1. each City Council Member shall vote for one applicant; and
 2. the applicant who receives a majority vote shall be appointed to fill the vacancy.
- b. If three or more applicants exist:
 1. each City Council Member shall vote for two applicants; and
 2. all applicants receiving the least number of votes (including no votes) shall be eliminated; and
 3. subsequent votes shall be taken with each City Council Member voting for two applicants until one or two applicants remain; and
 4. each City Council Member shall then vote for one applicant and the applicant who receives a majority vote shall be appointed to fill the vacancy.

In the event of a tie between two or more applicants with the highest number of votes, Council may ask those applicants to respond to additional questions. Council may also choose to resolve a tie between two or more applicants with the highest number of votes by any method approved by a majority vote.

- c. If no applicant receives a majority vote, the City Council may adopt such other procedures to fill the vacancy as it deems appropriate.
- d. Notwithstanding the voting procedure described above, at any time during the appointment process, the City Council in its discretion may abandon the process and call a special election to fill the vacancy.

- e. If no applicant receives a majority vote within 60 days of the commencement of the vacancy, the City Council shall call a special election to fill the vacancy.

viii. Appointment by the City Council

The appointment to fill the vacancy shall be made by resolution of the City Council.

RESOLUTION 2019 -

REVISING CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES
AND REPEALING RESOLUTION NO. 2017-001

WHEREAS, State law provides that if a vacancy occurs in the City Council, the Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy, and

WHEREAS, State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires, and

WHEREAS, The City Council adopted a policy regarding filling City Council vacancies on January 1, 2017 via Resolution 2017-001, and

WHEREAS, The City Council wishes to amend the policy to establish two different appointment processes for Council vacancies depending on the timing of the vacancy.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Tracy that it hereby adopts the revised policy regarding filling City Council vacancies attached hereto as Exhibit A and repeals Resolution No. 2017-001.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the City Council of the City of Tracy on the 17th day of December, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.N

REQUEST

APPROVE AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES IN THE AMOUNT OF \$13,518 FOR DESIGN SUPPORT FOR EXTENSION OF RECYCLED WATER PIPELINE AND AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL IN THE AMOUNT OF \$150,000 FOR THE RECYCLED WATER PROJECT, CIP 74091 AND STATE AGREEMENT NO. 4600011424

EXECUTIVE SUMMARY

Construction of the recycled water transmission main pipeline and wastewater treatment plant pump station is currently in progress as part of the City's Recycled Water Project (Project), CIP 74091. This Project is mainly funded from Proposition 84 grant. On November 5, 2019, City Council approved a construction change order for extension of the pipeline by 4,120 lineal feet from south of Kimball High School to the intersection of Lammers Road and Schulte Road. This change order is mainly funded from the unspent construction contingency fund for the Project. The extension required additional design support during construction. In addition, California Department of Water Resources as part of Title 22 requirements has asked the City to perform additional studies for use of recycled water for irrigation purposes in Tracy. In order to complete the additional scope of work, amendments to the existing Professional Services Agreement (PSA) with West Yost and Associates and CH2M Hill are required.

DISCUSSION

The Recycled Water Project, mostly funded from Proposition 84 grant from the California Department of Water Resources, is under construction and is anticipated to be completed early next year. Total cost of the project is \$24 million with \$18 million from the State Proposition 84 grant and \$6 million from the City matching funds. The recycled water is initially intended to be used to irrigate sports fields, parks, and street median islands.

The design for the pipeline and design for the pump station for this project was divided due to the specialized nature of the work. On October 4, 2016, a PSA for design of the pipeline was awarded to West Yost and Associates by City Council in the amount of \$962,169. Amendment No. 1 was authorized by Council on October 16, 2018, in the amount of \$80,640 for additional work involving changes in alignment of the pipeline.

A PSA for design of the pump station was awarded to CH2M Hill by City Council on May 17, 2016, in the amount of \$938,840. Subsequently, two amendments to this PSA with CH2M Hill were approved by City Council to include covenants of the grant requirements and provide pump station design support during construction, bringing the total compensation under the agreement to \$1,178,840.

On November 5, 2019, City Council approved a Construction Change Order for the contract with Mountain Cascade for extension of the recycled water pipeline by approximately 4,120 feet from Kimball High School to the intersection of Lammers Road and West Schulte

Road. This change order essentially uses the unspent funds available from the Project for extension of the recycled water pipeline.

The extension of pipeline required additional design support during construction from West Yost and Associates resulting in this Amendment No. 2 to their PSA. Staff negotiated with West Yost and Associates for additional scope for this Project on a time and material basis not to exceed \$13,518.

In addition, the California State Water Resources Control Board (SWRCB) and Department of Water Resources (DWR) is requiring the City to conduct additional studies to provide the contact time for the existing chlorine contact basins at Tracy's wastewater treatment plant prior to formally allowing the City to use recycled water. Furthermore, the State is requiring an update to the Title 22 report to suffice its requirement for recycled water use within the City. Due to specialized nature of work, the services of CH2M Hill are needed to complete this work.

Staff requested proposals for completion of required studies from CH2M Hill and West Yost and Associates who are the main design consultants for this project. The proposal from CH2M Hill is found to be competitive and cost effective to complete this work on a time and material basis with a not to exceed amount of \$150,000 under Amendment No. 3 to their PSA. The revised status of the project budget if requested amendments to the PSA's of both consultants are approved by the City Council is as follows:

• Construction Contract Amount	\$16,194,060
• Construction Change Orders	\$ 2,290,558
• Design, Construction Management, Inspections, Testing & Miscellaneous Project Management	\$ 5,157,876
• West Yost Associates Amendment No. 2	\$ 13,518
• CH2M Hill Amendment No. 3	<u>\$ 150,000</u>
• Current Project Costs	\$23,806,012
• Project Budget	\$24,000,000
• Budget Balance	\$ 193,988

STRATEGIC PLAN

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

FISCAL IMPACT

The total project budget for the Tracy Recycled Water Mains and Wastewater Treatment Plant Pump Station, CIP 74091 is \$24,000,000. There are sufficient funds available within the Project for the recommended amendments for West Yost Associates (\$13,518) and CH2M Hill (\$150,000) totaling \$163,518, with no additional appropriations needed.

RECOMMENDATION

That City Council, by resolution, approve Amendment No. 2 to the Professional Services Agreement with West Yost Associates in the amount of \$13,518 and Amendment No. 3 with CH2M Hill in the amount of \$150,000 for additional design services for the Tracy Recycled Water Project, CIP 74091, and State Agreement No. 4600011424.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, Utilities Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENT

Attachment A: Amendment 2 to PSA with West Yost & Associates
Attachment B: Amendment 3 to PSA with CH2M Hill

**City of Tracy
AMENDMENT NO. 2 TO
PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST AND ASSOCIATES FOR
DESIGN OF TRANSMISSION PIPELINES FOR RECYCLED WATER PROJECT
CIP 74091
State project: City of Tracy Recycled Water Project
Agreement # 4600011424**

This Amendment No. 2 (**Amendment**) to the Professional Services Agreement for design of Transmission Pipelines for the Recycled Water Project Facilities is entered into between the City of Tracy, a municipal corporation (**City**), and West Yost and Associates, a California corporation (**Consultant**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A. The City and Consultant entered into a Professional Services Agreement (Agreement) for the design of transmission pipelines for Recycled Water Project CIP 74091 approved by the City Council on October 4, 2016 (Resolution No. 2016-201).
- B. The Recycled Water Project is mainly funded from Proposition 84 Grant funding and partially funded by the City via Development Impact Fees.
- C. Due to available funding from the Proposition 84 Grant, an additional change order was issued to Contractor to extend pipeline beyond the current terminal point at Kimball High School and Lammers Road. Consultant's design support services for this segment of work was not part of original scope. Because Consultant's services are needed during construction for this additional extension of transmission lines, an amendment to the Agreement is needed to amend their scope of services and increase compensation to fund these additional services.
- D. At the request of City, in November 2019, Consultant submitted a proposal to perform the services described in Exhibit A-2. After negotiations between City and Consultant, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this amendment.
- E. On December 17, 2019, the City Council authorized the execution of this Amendment, pursuant to Resolution No. 2019-_____.

Now therefore, the parties mutually agree as follows:

- 1. Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.

2. Terms of Amendment.

A. The following language shall be added to Section 1 as new section 1.1:

“Consultant shall perform the services described in Exhibit A-2 attached hereto and incorporated by reference. “

B. The following language shall be added to Section 2 as new section 2.1:

“Consultant shall commence performance and shall complete the required services in accordance with the timelines set forth in Exhibit A-2 attached hereto and incorporated by reference.”

C. The following language shall be added to Section 3 as new section 3.1.1:

“For the services performed by Consultant in accordance with Amendment No. 2, City shall pay the Consultant on time and material basis, based on the billing rates set forth in Exhibit B-2, attached hereto and incorporated herein by reference. Consultant fee for performing the services in Exhibit A-2 shall not exceed \$13,518 as shown in Exhibit C-2 on shall perform the services described in Exhibit A-2 attached hereto and incorporated by reference.”

D. Exhibits. Exhibits “A-2”, “B-2”, and “C-2” are attached hereto and incorporated by this reference into the Agreement.

3. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

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

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

SIGNATURES ON NEXT PAGE

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

City of Tracy

West Yost Associates, a California Corporation

By: _____

Title: Mayor

Date: _____

By: _____



Title: Vice President

Date: 12/4/19

Attest:

By: _____

Adrianne Richardson, City Clerk

By: _____



Title: Assistant Treasurer

Date: 12-4-19

Approved as to form

City Business License No. 39903

By: _____

Leticia M. Ramirez, City Attorney

EXHIBIT “A-2” SCOPE OF SERVICES

Phase 2 Change Order 3 includes the installation of approximately 4,120 feet of 24-inch Ductile Iron Pipe recycled water transmission main. This new section of pipeline is in addition to approximately 12,000 feet of pipeline that West Yost has already designed to the 100% level for Phase 2. All additional design work and construction support will be billed under Task 11.

Task 11. Phase 2 Construction Phase Design Support Services

Consultant will assist the City during the construction phase as follows:

- Prepared signed plans from 100% design for 4,120LF of 24-inch ductile iron pipeline including the update of Corrosion Protection Table 1 (To be performed by JDH).
- Participate remotely in 6 additional construction progress meetings estimated at 1.5 hours per meeting and 1 onsite meeting estimated at 6 hours.
- Review up to 5 RFI's and provide written responses.
- Prepare additional record drawings based on markups provided by the Contractor and Construction Manager.
- As needed additional Construction support estimated at 16 hours. Allocated on an as needed basis.

Assumptions

The planning for Task 11 assumes the following:

- West Yost will not receive any more submittals.
- The City or the City's Construction Manager will conduct status meetings and prepare the agenda and meeting notes.
- RFI response time is estimated based on 5 additional RFI's at one and a half hours each.
- Construction progress meeting minutes will be prepared by the City or the City's Construction Manager.
- City will provide copies of as-built record markups prepared by the Contractor and Construction Manager.

Task 11 Deliverables:

- Signed plans in AutoCAD, and PDF files and updated corrosion table
- Responses to RFI
- Draft and final record drawings (7additional) – three (3) full size, two (2) half-size in each , electronic PDF copy of half size and AutoCAD files.

SCHEDULE

The work will be performed to accommodate the construction timeline for the change order.

EXHIBIT “B-2”**2020 Billing Rate Schedule**

(Effective January 1, 2020 through December 31, 2020) *

POSITIONS	LABOR CHARGES (DOLLARS PER HR)
ENGINEERING	
Principal/Vice President	\$298
Engineering/Scientist/Geologist Manager I / II	\$283 / \$295
Principal Engineer/Scientist/Geologist I / II	\$257 / \$272
Senior Engineer/Scientist/Geologist I / II	\$230 / \$241
Associate Engineer/Scientist/Geologist I / II	\$198 / \$212
Engineer/Scientist/Geologist I / II	\$160 / \$185
Engineering Aide	\$92
Administrative I / II / III / IV	\$81 / \$102 / \$123 / \$135
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	\$291 / \$294
Principal Tech Specialist I / II	\$268 / \$279
Senior Tech Specialist I / II	\$245 / \$256
Senior GIS Analyst	\$224
GIS Analyst	\$211
Technical Specialist I / II / III / IV	\$156 / \$178 / \$200 / \$223
CAD Manager	\$178
CAD Designer I / II	\$138 / \$155
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	\$289
Construction Manager I / II / III / IV	\$174 / \$186 / \$198 / \$251
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	\$152 / \$169 / \$188 / \$196
Apprentice Inspector	\$138
CM Administrative I / II	\$74 / \$99
Field Services	\$196

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2020 Billing Rate Schedule (continued)

(Effective January 1, 2020 through December 31, 2020) *

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	\$80/day
Hydrant Pressure Gauge	\$10/day
Hydrant Pressure Recorder, Standard	\$40/day
Hydrant Pressure Recorder, Impulse (Transient)	\$55/day
Trimble GPS – Geo 7x	\$220/day
Vehicle	\$10/hour
Water Flow Probe Meter	\$20/day
Water Quality Multimeter	\$185/day
Well Sounder	\$30/day

**EXHIBIT “C-2”
CONTRACT BUDGET ADJUSTMENT**

Task No.	Task Name	Current Budget	This Amendment	Revised Budget
011	Phase 2 Construction Support	\$ 50,204	\$ 13,518	\$ 63,722
TOTAL		\$1,042,809	\$ 13,518	\$1,056,327

**CITY OF TRACY
AMENDMENT NO. 3 TO
PROFESSIONAL SERVICES AGREEMENT
PLANNING THE RECYCLED WATER PROJECT FACILITIES AND DESIGN FOR WWTP
PUMP STATION, CIP 74091
State project: City of Tracy Recycled Water Project
Agreement # 4600011424**

This Amendment No. 3 (**Amendment**) to the Professional Services Agreement Planning the Recycled Water Project Facilities and Design for Pump Stations A and B for the Tracy Recycled Water Project is entered into between the City of Tracy, a municipal corporation (**City**), and CH2M HILL, a Florida corporation (Consultant). City and Consultant are referred to individually as “**Party**” and collectively as “**Parties**.”

Recitals

- A. The City and Consultant entered into a Planning and Design for Pump Stations A & B (Agreement) for the Recycled Water Project CIP 74091 approved by the City on May 17, 2016 (Resolution No. 2016-086).
- B. The Recycled Water Project is mainly funded from Proposition 84 Grant funding and partially funded by the City via Development Impact Fees.
- C. The City and Consultant executed Amendment 1, approved by Council on October 18, 2016 (Resolution No. 2016-209) that required Consultant or its sub consultants to comply with the non-discrimination requirements during the performance of their agreements.
- D. The City and Consultant executed Amendment 2, approved by Council on October 16, 2018 (Resolution No. 2018-219) for design support during construction.
- E. City is in the process of constructing Recycled Water Pump Station and Associated Pipeline within its wastewater treatment plant. State Department of Water Resources required additional studies to Title 22 report prepared by the Consultant.
- F. At the request of City, in November 2019, Consultant submitted a proposal to perform the services described in Exhibit A-3. After negotiations between City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this amendment.
- G. On December 17, 2019, the City Council authorized the execution of this agreement, pursuant to Resolution No. 2019-_____.

Now therefore, the Parties mutually agree as follows:

- 1. Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.

2. Terms of Amendment.

- A. Amendment to Section 1.** The following language shall be added to Section 1 as a new section 1.2.

“Consultant shall perform the services described in Exhibit “A-3” attached hereto and incorporated by reference.”

- B. Amendment to Section 2.** The following language shall be added to Section 2 as a new section 2.2.

“Consultant shall commence performance and shall complete all required services in accordance with the timelines set forth in Exhibit “A-3” attached hereto and incorporated by reference.

- C. Amendment to Section 3.** The following language shall be added to Section 3 of the Agreement.

“For the services performed by Consultant in accordance with this amendment, City shall pay the Consultant on time and material basis, based on the billing rates set forth in Exhibit “B-3,” attached hereto and incorporated herein by reference. Consultant’s fee for performing the services in Exhibit “A-3” shall not exceed \$150,000 as shown in Exhibit “C-3”.

- D. Exhibits.** Exhibits “A-3”, “B-3”, and “C-3” are attached hereto and incorporated by this reference into the Agreement.

- 3. Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

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

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

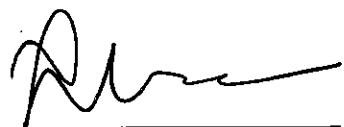
SIGNATURES ON NEXT PAGE

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

City of Tracy

CH2M Hill

By: _____

By:  _____

Title: Mayor

Vijay Kumar, PE

Date: _____

Title: ~~Pres.~~ VICE PRESIDENT

Date: 12/4/19

Attest:

By: _____

By: _____

Adrianne Richardson, City Clerk

Title: _____

Date: _____

Approved as to form

By: _____

Leticia Ramirez, City Attorney

EXHIBIT “A-3” SCOPE OF SERVICES

SCOPE OF WORK:

The California Title-22 water recycling regulations require that when using chlorine disinfection to produce “disinfected tertiary recycled water”, the CT (chlorine residual multiplied by the modal contact time) must be at least 450 mg/L-min and the modal contact time be at least 90 min (based on peak dry weather design flow conditions). After review of the City of Tracy’s Title 22 Report for the certification of the City’s new recycled water operations, the California State Water Resources Control Board (SWRCB), Department of Drinking Water (DDW) required that a tracer study be conducted in order to identify the maximum flow rate that can be treated in the existing chlorine contact basins at the Tracy WWTP, while maintaining the 450 mg/L-min CT. Preparation and execution of a tracer study that meets the requirements of the California SWRCB will include the following tasks:

- Task 1: Protocol preparation
- Task 2: Flow Calibration/Validation and Field Test Preparation
- Task 3: Dye Release and Tracking (five days of field testing)
- Task 4: Data Analysis
- Task 5: Draft and Final TM
- Task 6: Title 22 Report Update

Completion of the Scope of Services

Consultant shall complete the project study elements identified in this Exhibit “A-3” as required by SWRCB for their acceptance of Title 22 Study report.

All tasks shall be completed within 10 Weeks after Notice to Proceed. This time does not include SWRCB staff review.

Exhibit “B-3” Fee Schedule

Classification	Hourly Rates
Engineering/Environmental Tech 2	\$110
Engineering/Environmental Tech 3	\$147
Office/Clerical/Accounting	\$110
Staff Engineer	\$170
Associate Engineer	\$192
Sr. Technologist*/Sr. Project Manager	\$235
Principal Technologist*/Principal Project Manager	\$324

Exhibit “C-3” Fee Estimate

		Principal Technologist/ Principal Project Manager	Sr. Technologist/ Project Manager	Associate Engineer	Staff Engineer	Engineering/Environment al Tech 3	Engineering/Environment al Tech 2	Office/Clerical/Accountin g				
	2020 Hourly Billing Rates	\$324	\$235	\$192	\$170	\$147	\$110	\$113				
Task	Description								Total Hours	Labor (\$)	Expenses (\$)	Total Fee (\$)
1	Testing Protocol Preparation	4	8	30	60	40		16	158	\$ 26,830	\$ 1,280	\$ 28,110
2	Flow Calibration and Field Test Preparation		4	24	40		17		85	\$ 14,220	\$ 720	\$ 14,940
3	Field Testing		12	60	50		0		122	\$ 22,840	\$ 1,150	\$ 23,990
4	Data analysis		12	36	80				128	\$ 23,340	\$ 1,170	\$ 24,510
5	TM Preparation	2	8	30	40	20			100	\$ 18,030	\$ 910	\$ 18,940
6	Title 22 Report Update	4	24	60	40			24	152	\$ 27,970	\$ 1,400	\$ 29,370
7	Project Management	4	24					24	52	\$ 9,650	\$ 490	\$ 10,140
	Subtotal	14	92	240	310	60	17	64	797	\$ 142,880	\$ 7,120	\$ 150,000

Note: This fee estimate assumes all work is completed in calendar year 2020. Any work completed after December 31, 2020 shall be subject to the new billing rates not exceeding 3%. Costs for individual tasks may be more or less than the total for each task. However, the total fee shall not exceed the fee authorized by the City without City's written directive.

RESOLUTION 2019-_____

APPROVING AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES IN THE AMOUNT OF \$13,518 FOR DESIGN SUPPORT FOR EXTENSION OF RECYCLED WATER PIPELINE AND AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT WITH CH2M HILL IN THE AMOUNT OF \$150,000 FOR CONDUCTING CONTACT STUDY AND UPDATE TO TITLE 22 REPORT FOR RECYCLED WATER PROJECT, CIP 74091, AND STATE AGREEMENT NO. 4600011424

WHEREAS, Construction of the recycled water transmission mains and wastewater treatment plant pump station is currently in progress as part of the City's Recycled Water Project, CIP 74091, which is mainly funded from a Proposition 84 grant, and

WHEREAS, On November 5, 2019, City Council approved a change order for extension of the pipeline by 4,120 lineal feet to the intersection of Lammers Road and Schulte Road, and

WHEREAS, The extension required additional design support during construction, and

WHEREAS, The California Department of Water Resources, as part of Title 22 requirements, has asked the City to perform additional studies for use of recycled water for irrigation purposes in Tracy, and

WHEREAS, In order to complete the additional scope of work, amendments to the existing Professional Services Agreement (PSA) with West Yost and Associates and CH2M Hill are required, and

WHEREAS, Staff requested proposals for the additional work from CH2M Hill and West Yost and Associates who are the main design consultants for this project, and

WHEREAS, The proposal from CH2M Hill is competitive and cost effective to complete this work on a time and material basis not to exceed \$150,000, and

WHEREAS, Staff negotiated with West Yost and Associates for additional scope for this project on a time and material basis not to exceed \$13,518, and

WHEREAS, The status of the budget is as follows:

• Construction Contract Amount	\$16,194,060
• Construction Change Orders	\$ 2,290,558
• Design, Construction Management, Inspections, Testing & Miscellaneous Project Management	\$ 5,157,876
• West Yost Associates Amendment No. 2	\$ 13,518
• CH2M Hill Amendment No. 3	<u>\$ 150,000</u>
• Current Project Costs	\$23,806,012
• Project Budget	\$24,000,000
• Budget Balance	\$ 193,988

WHEREAS, The total project budget for the Tracy Recycled Water Mains and Wastewater Treatment Plant Pump Station, CIP 74091 is \$24,000,000. There are sufficient funds available within the project for the recommended amendments for West Yost Associates (\$13,518) and CH2M Hill (\$150,000) totaling \$163,518 with no additional appropriations needed;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves Amendment No. 2 to Professional Services Agreement with West Yost Associates in the amount of \$13,518 for Design Support for Extension of Recycled Water Pipeline and Amendment No. 3 to Professional Services Agreement with CH2M Hill in the amount of \$150,000 for the Recycled Water Project, CIP 74091, and State Agreement No. 4600011424.

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 17th day of December, 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

- 1) **CITY COUNCIL ADOPTION OF A RESOLUTION APPROVING DOCUMENTS AND ACTIONS RELATING TO THE REFINANCING OF OUTSTANDING LEASE REVENUE BONDS AND RELATED LEASE PAYMENT OBLIGATIONS OF THE CITY**
- 2) **TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY BOARD OF DIRECTORS APPROVAL OF A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF LEASE REVENUE BONDS TO REFINANCE OUTSTANDING LEASE REVENUE BONDS, AND APPROVING RELATED DOCUMENTS AND OFFICIAL ACTIONS**

EXECUTIVE SUMMARY

The Tracy Operating Partnership Joint Powers Authority (the “Authority”) is a joint exercise of powers authority formed by the City of Tracy (the “City”) to provide assistance to the City with its financings in accordance with State law.

The Authority previously issued the following outstanding lease revenue bonds (“Outstanding Lease Revenue Bonds”):

- 2007 Lease Revenue Bonds, Series A (Fire Station Project)
- 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding)
- 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects)

The Outstanding Lease Revenue Bonds are payable from lease payments made by the City, with some support from redevelopment tax increment generated in the Successor Agency’s Community Redevelopment Project pursuant to a 2008 reimbursement agreement between the City and the Successor Agency to the Tracy Community Development Agency (the “2008 Reimbursement Agreement”).

The Outstanding Lease Revenue Bonds are eligible for optional redemption, and current capital market conditions offer the City an opportunity to reduce its annual lease payments. Staff recommends that the City Council and the Authority’s Board of Directors adopt the referenced resolutions to authorize the issuance of a refunding lease revenue bonds and related documents. Pursuant to Resolution No. 2019-161 adopted on July 16, 2019, the Successor Agency previously approved an amendment to the 2008 Reimbursement Agreement to facilitate the proposed refinancing of the 2008 Lease Revenue Bonds. The State Department of Finance has completed its review of the Oversight Board Resolution No. 10, and has approved the action. A copy of the approval letter is attached (Attachment N).

DISCUSSION

DEBT MANAGEMENT POLICY

On March 21, 2017, the City Council adopted City of Tracy Council Policy A-6 (Debt Management Policy) pursuant to Resolution No. 2017-058. The Debt Management

Policy provides that it is a policy goal of the City to realize whenever possible and subject to any overriding financial policy considerations minimum net present value debt service savings equal to or greater than 3% of the refunded principal amount of outstanding obligations

POTENTIAL DEBT SERVICE SAVINGS

CSG Advisors Incorporated, the City's municipal advisor, has prepared an analysis of debt service savings that may be achieved as a result of the proposed refunding.

2007 Lease Revenue Bonds. The 2007 Lease Revenue Bonds are currently outstanding in the amount of \$3,420,000. Based on market conditions on November 15, 2019, the refunding of the 2007 Lease Revenue Bonds would generate total debt service savings (net of issuance costs) of approximately \$578,506, or an average of approximately \$32,000 per year through the final maturity date of November 1, 2037. The net present value of the debt service savings is equal to approximately 15% of the aggregate outstanding principal amount of the 2007 Lease Revenue Bonds.

2008 Lease Revenue Bonds. The 2008 Lease Revenue Bonds are currently outstanding in the amount of \$17,580,000. Based on market conditions on November 15, 2019, the refunding of the 2008 Lease Revenue Bonds would generate total debt service savings (net of issuance costs) of approximately \$7,808,250, or an average of approximately \$411,000 per year through the final maturity date of November 1, 2038. The net present value of the debt service savings is equal to approximately 36% of the outstanding principal amount of the 2008 Lease Revenue Bonds.

Because a portion of the lease payments related to the 2008 Lease Revenue Bonds is paid with redevelopment tax increment pursuant to the 2008 Reimbursement Agreement, the annual savings that will be realized by the City's general fund is approximately \$315,000 per year, and the portion of annual savings that will be shared by all of the local taxing agencies is approximately \$96,000 per year. Savings to be realized by the local taxing agencies, including the City, whose territory lies within the Community Redevelopment Project, are roughly in proportion to each agency's share of the 1% general property tax levy collected from within the Community Redevelopment Project.

PROPOSED REFUNDING BONDS

Staff recommends that the City Council and the Authority's Board of Directors adopt the proposed resolutions for the following purposes:

- (i) approve the issuance of Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) (the "Refunding Bonds"),
- (ii) approve the sale of the Refunding Bonds to Piper Jaffray & Co. (the "Underwriter"),
- (iii) approve the documents related to the Refunding Bonds, and

- (iv) authorize staff to take all actions necessary related to issuance of the Refunding Bonds.

TERMS OF THE REFUNDING BONDS

Pursuant to the Resolution, the true interest cost of the Refunding Bonds cannot exceed 5.00% and the principal amount of the Refunding Bonds cannot exceed \$25,000,000.

Government Code Section 5852.1 requires the City to obtain and disclose a good faith estimate of certain information about the Refunding Bonds, including the true interest cost, the financing costs, the use of proceeds and the total payment amount, and this information is included in Appendix A of the proposed resolutions. Based upon current market conditions, the Refunding Bonds are estimated to be issued in the amount of \$17,935,000, which does not include approximately \$3,963,000 of net premium estimated to be generated. Net premium is generated when, on a net aggregate basis for a single issuance of bonds, the price paid for such bonds is higher than the face value of such bonds. At current market conditions, the Refunding Bonds are expected to carry a true interest cost of approximately 2.69%.

DOCUMENTS RELATED TO THE REFUNDING BONDS

California cities commonly use lease structures to finance and refinance capital improvements through their general fund without first holding a city-wide election. Lease financings can be structured as certificates of participation (commonly known as "COPs") or lease revenue bonds issued by a joint powers authority. Under both structures, the City is obligated to make lease payments to a third party (usually, a joint powers authority established by the City) for the right to use and occupy a public building, and the third party assigns its right to receive the lease payments to a corporate bank acting in a trustee capacity; the trustee uses the lease payments to pay debt service on the COPs/lease revenue bonds sold to investors. In lease financing structures, cities covenant to annually budget and appropriate from the general fund for the lease payments.

The proposed refinancing of the Outstanding Lease Revenue Bonds involves the following documents:

- Site Leases: There are two site leases, one relating to the refinancing of the 2007 Lease Revenue Bonds (the "Site and Facility Lease") and the other related to the refinancing of the 2008 Lease Revenue Bonds (the "Amended and Restated Sites and Facilities Lease"). Under the site leases, the City leases certain City assets to the Authority to facilitate the lease financing.
- Lease Agreements: There are two lease agreements, one relating to the refinancing of the 2007 Lease Revenue Bonds (the "Lease Agreement") and the other related to the refinancing of the 2008 Lease Revenue Bonds (the "Amended and Restated Property Lease"). Pursuant to these lease agreements, the Authority will sub-lease the assets leased to it under the site leases back to the City. The City will covenant in the lease agreements to budget and appropriate for the scheduled lease payments – in an amount sufficient to pay debt service on the Refunding Bonds – on an annual basis. If the City fails to

make the scheduled lease payments, the trustee for the Refunding Bonds (the "Trustee") could sue the City to make the scheduled lease payments or the Trustee could take possession of and re-let the leased assets.

- Indenture of Trust; Assignment Agreement: Under an Assignment Agreement and an Indenture of Trust, each between the Authority and U.S. Bank National Association, as Trustee, the Authority will assign to the Trustee its right to receive the lease payments that are payable by the City under the lease agreements. Under the Indenture of Trust, the Authority will issue the Refunding Bonds; the Trustee will use the lease payments assigned to it to pay debt service on the Refunding Bonds.
- Irrevocable Refunding Instructions: Under these instructions, the Authority will direct the trustee for the Outstanding Lease Revenue Bonds to apply proceeds of the Refunding Bonds and moneys related to the Outstanding Lease Revenue Bonds to redeem the Outstanding Lease Revenue Bonds.
- Amendment No. 1 to 2008 Reimbursement Agreement: The amendment of the 2008 Reimbursement Agreement is necessary to reflect the issuance of the Refunding Bonds and to ensure that the benefits of the refinancing of the 2008 Lease Revenue Bonds are shared proportionately by the City and the other taxing entities in the Community Redevelopment Project.
- Preliminary Official Statement. The Official Statement is the primary disclosure document for investors in the Refunding Bonds. A Preliminary Official Statement will be circulated to potential investors prior to the pricing of the Refunding Bonds. After the Refunding Bonds have been priced, a Final Official Statement will be circulated to investors; the Final Official Statement should be identical to the Preliminary Official Statement except for the addition of pricing information (principal amount, interest rates, redemption terms).

The Preliminary Official Statement is prepared by Jones Hall, serving the City as Bond Counsel and Disclosure Counsel for this transaction, with the assistance of the remainder of the financing team, including City staff; CSG Advisors Incorporated, the City's municipal advisor ("Municipal Advisor"); and the Underwriter.

The Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by the City's financing team. The distribution of the Preliminary Official Statement by the City is subject to federal securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934. These laws require the Preliminary Official Statement to include all facts that would be material to an investor in the Refunding Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the bonds. If the City Council concludes that the Preliminary Official Statement includes all facts that would be material to an investor in the Refunding Bonds, it must adopt a resolution that authorizes staff to execute a certificate to the effect that the Preliminary Official Statement has been "deemed final."

The Securities and Exchange Commission (the "SEC"), the agency with regulatory authority over the City's compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its "Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors" (Release No. 36761 / January 24, 1996) (the "Release"), the SEC stated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the Refunding Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC stated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The key sections of the Preliminary Official Statement are summarized below:

- "THE BONDS": This section summarizes the key terms of the Refunding Bonds, including payment dates and redemption provisions.
 - "SECURITY FOR THE BONDS": This section summarizes key security terms, including the lease payments made by the City under the two lease agreements described above.
 - "CITY FINANCIAL INFORMATION": This section summarizes financial and operating data that is material to the City's ability to pay the lease payments.
 - "BOND OWNERS' RISK": This section highlights the primary risks associated with the Refunding Bonds, most of which relate to the financial health of the City's general fund.
 - "TAX MATTERS": This section describes the tax-exempt nature of interest on the Refunding Bonds.
-
- Continuing Disclosure Certificate. Under SEC Rule 15c2-12, the underwriter of the Refunding Bonds may only purchase the Refunding Bonds if it has determined that the City is obligated to provide continuing disclosure, including annual updates of the financial and operating data included in the Official Statement and notices of certain specified events.
 - Bond Purchase Agreement. At the time the Refunding Bonds are sold, the City and the Authority will enter into a Bond Purchase Agreement with the Underwriter, who will agree to underwrite the Refunding Bonds subject to satisfaction of the conditions described in the Bond Purchase Agreement. The resolution provides the Underwriter's discount on the purchase of the Refunding Bonds may not exceed 0.75% of the par amount of the Refunding Bonds. The Underwriter was selected as underwriter through an RFP process, and was chosen based upon the combination of its qualifications and proposed fees.
 - Termination Agreements. The Termination Agreements provide notice of the refunding of the Outstanding Lease Revenue Bonds and will be recorded in the real property records.

STRATEGIC PLAN

Governance - Goal 2: Ensure continued Fiscal Sustainability through Financial and Budgetary Stewardship.

FISCAL IMPACT

The fees and expenses of the financing team, including Bond Counsel, Disclosure Counsel, Underwriter and Municipal Advisor are paid from proceeds of the Refunding Bonds.

RECOMMENDATION

That the City Council adopt a resolution approving documents and actions relating to the refinancing of outstanding lease revenue bonds and related lease payment obligations of the City.

That the Authority Board of Directors adopt a resolution authorizing the issuance and sale of lease revenue bonds to refinance outstanding lease revenue bonds, and approving related documents and official actions.

Prepared by: Karin Schnaider, Finance Director
Christopher Lynch, Jones Hall
Scott Smith, CSG Advisors Incorporated

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

- A. Preliminary Official Statement (including Continuing Disclosure Certificates)
- B. Indenture of Trust
- C. Lease Agreement
- D. Amended and Restated Property Lease
- E. Site and Facility Lease
- F. Amended and Restated Sites and Facilities Lease
- G. Assignment Agreement
- H. Irrevocable Refunding Instructions (2007 Lease Revenue Bonds)
- I. Irrevocable Refunding Instructions (2008 Lease Revenue Bonds)
- J. Amendment No. 1 to Reimbursement Agreement
- K. Bond Purchase Agreement
- L. Termination Agreement (2007 Lease Revenue Bonds)
- M. Termination Agreement (2008 Lease Revenue Bonds)
- N. State Department of Finance Approval of Oversight Board Action

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2020**NEW ISSUE - FULL BOOK-ENTRY****RATING: Standard & Poor's: "____"****See "RATING" herein.**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "TAX MATTERS."

\$ _____ *

**TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS**

Dated: Date of Delivery**Due: November 1, as shown on inside cover**

Authority for Issuance. The bonds captioned above (the "Bonds") are being issued by the Tracy Operating Partnership Joint Powers Authority (the "Authority") under a resolution adopted by the Board of Directors of the Authority on _____, 2019, and an Indenture of Trust dated as of _____ 1, 2020 (the "Indenture") by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). See "THE BONDS – Authority for Issuance."

Purpose. The Bonds are being issued primarily to refinance on a current basis three outstanding series of lease revenue bonds previously issued by the Authority captioned "\$2,690,000 Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series A (Fire Station Project)," "\$1,980,000 Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding)" and "\$19,765,000 Tracy Operating Partnership Joint Powers Authority 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects)," and the related lease payment obligations of the City of Tracy (the "City"). In addition, the proceeds of the Bonds will be used to pay the costs of issuing the Bonds. See "FINANCING PLAN."

Security. Under the Indenture, the Bonds are payable from and secured by a first pledge of and lien on "Revenues" consisting primarily of lease payments (the "Lease Payments") made by the City for the lease of property under the following leases: the Lease Agreement dated as of _____ 1, 2020, between the Authority, as lessor, and the City, as lessee, concerning the leaseback of certain real property and improvements, and the Amended and Restated Property Lease dated as of _____ 1, 2020, between the Authority, as lessor, and the City, as lessee, concerning the leaseback of certain real property and improvements, as further described in this Official Statement. The Bonds are also secured by certain funds on deposit under the Indenture. Neither the Authority nor the City is establishing a reserve fund for the Bonds. See "SECURITY FOR THE BONDS."

Book-Entry Only. The Bonds will be issued in book-entry form only, and will be initially issued and registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"). The Bonds are issuable as fully registered securities in denominations of \$5,000 or any integral multiple of \$5,000. Purchasers of the Bonds (the "Beneficial Owners") will not receive physical certificates representing their interest in the Bonds. See "THE BONDS" and "APPENDIX F - DTC AND THE BOOK-ENTRY ONLY SYSTEM."

Payments. Interest on the Bonds accrues from the date of delivery and is payable semiannually on May 1 and November 1 of each year, commencing May 1, 2020. Payments of principal and interest on the Bonds will be paid by the Trustee to DTC for subsequent disbursement to DTC Participants, which will remit such payments to the Beneficial Owners of the Bonds. See "THE BONDS - General Provisions."

Redemption. The Bonds are subject to optional redemption, mandatory sinking fund payment redemption and special mandatory redemption from insurance or condemnation proceeds prior to maturity. See "THE BONDS – Redemption."

NEITHER THE BONDS, NOR THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, NOR THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS, CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

**MATURITY SCHEDULE
(see inside cover)**

Cover Page. This cover page contains certain information for general reference only. It is not a summary of all the provisions of the Bonds. Prospective investors must read the entire Official Statement to obtain information essential to making an informed investment decision.

The Bonds are offered when, as and if issued and accepted by the Underwriter, subject to approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, and subject to certain other conditions. Certain legal matters will also be passed upon for the Authority and the City by Jones Hall, A Professional Law Corporation, as Disclosure Counsel. Certain legal matters will be passed upon for the City by the City Attorney. Stradling Yocca Carlson & Rauth, P.C., Newport Beach, California, is serving as counsel to the Underwriter. It is anticipated that the Bonds will be delivered in book-entry form through the facilities of DTC on or about _____, 2020.

[Piper Jaffray Logo]

The date of this Official Statement is: _____, 2020

* Preliminary; subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances will this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor will there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful.

**TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS**

MATURITY SCHEDULE*
(Base CUSIP:† _____)

\$ _____ Serial Bonds

<u>Maturity Date</u> <u>(November 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP†</u>

\$ _____ % Term Bond Due November 1, _____, Yield _____%, Price: _____%, CUSIP: _____

* Preliminary; subject to change.

† CUSIP Copyright 2020, CUSIP Global Services, and a registered trademark of American Bankers Association. CUSIP data herein is provided by CUSIP Global Services, which is managed on behalf of American Bankers Association by S&P Capital IQ. None of the Authority, the City nor the Underwriter takes any responsibility for the accuracy of the CUSIP data.

**TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
CITY OF TRACY**

**BOARD OF DIRECTORS OF THE AUTHORITY
AND MEMBERS OF THE CITY COUNCIL**

Robert Rickman, *Chair and Mayor*
Nancy Young, *Vice Chair and Mayor Pro Tem*
Dan Arriola, *Member and Council Member*
Rhodesia Ransom, *Member and Council Member*
Veronica Vargas, *Member and Council Member*

CITY STAFF

Jenny Haruyama, City Manager
Karin Schnaider, Finance Director
Adrienne Richardson, City Clerk
Leticia Ramirez, City Attorney

PROFESSIONAL SERVICES

BOND AND DISCLOSURE COUNSEL

Jones Hall, A Professional Law Corporation
San Francisco, California

MUNICIPAL ADVISOR

CSG Advisors Incorporated
San Francisco, California

Trustee

U.S. Bank National Association
San Francisco, California

Escrow Agent

The Bank of New York Mellon Trust Company, N.A.
San Francisco, California

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

Use of Official Statement. This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract between any bond owner and the Authority or the Underwriter.

No Offering Except by This Official Statement. No dealer, broker, salesperson or other person has been authorized by the Authority or the Underwriter to give any information or to make any representations other than those contained in this Official Statement and, if given or made, such other information or representation must not be relied upon as having been authorized by the Authority or the Underwriter.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor may there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

Preparation of Official Statement. The information set forth in this Official Statement has been furnished by the Authority and other sources which are believed to be reliable, but it is not guaranteed as to accuracy or completeness.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Estimates and Forecasts. When used in this Official Statement and in any continuing disclosure by the Authority in any press release and in any oral statement made with the approval of an authorized officer of the City or the Authority or any other entity described or referenced herein, the words or phrases "will likely result," "are expected to", "will continue", "is anticipated", "estimate", "project", "forecast", "expect", "intend" and similar expressions identify "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, give rise to any implication that there has been no change in the affairs of the City, Authority or any other entity described or referenced herein since the date hereof.

Stabilization of and Changes to Offering Prices. The Underwriter may overallocate or take other steps that stabilize or maintain the market prices of the Bonds at levels above that which might otherwise prevail in the open market. If commenced, the Underwriter may discontinue such market stabilization at any time. The Underwriter may offer and sell the Bonds to certain securities dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the inside cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

Document Summaries. All summaries of the Indenture or other documents referred to in this Official Statement are made subject to the provisions of such documents and qualified in their entirety to reference to such documents, and do not purport to be complete statements of any or all of such provisions.

No Securities Laws Registration. The Bonds have not been registered under the Securities Act of 1933, as amended, in reliance upon exceptions therein for the issuance and sale of municipal securities. The Bonds have not been registered or qualified under the securities laws of any state.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, give rise to any implication that there has been no change in the affairs of the City, the Authority, the other parties described in this Official Statement, or the condition of the property within the City since the date of this Official Statement.

Website. The City maintains a website. However, the information presented on the website is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Bonds.

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APPENDIX C -	FISCAL YEAR 2017-18 COMPREHENSIVE ANNUAL FINANCIAL REPORT
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OFFICIAL STATEMENT

\$ _____ *

**TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS**

The purpose of this Official Statement, which includes the cover page, inside cover page and attached appendices, is to set forth certain information concerning the sale and delivery of the bonds captioned above (the “**Bonds**”) by the Tracy Operating Partnership Joint Powers Authority (the “**Authority**”). All capitalized terms used in this Official Statement, unless noted otherwise, have the meanings set forth in the Indenture (as defined below).

INTRODUCTION

This introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Authority for Issuance. The Authority is issuing the Bonds under the following:

- (a) Article 4 of Chapter 5, Division 7, Title 1 of the California Government Code, as amended, commencing with Section 6584 (the “**Law**”),
- (b) resolutions adopted by the Board of Directors (the “**Board**”) of the Authority on _____, 2019 (the “**Authority Resolution**”), and by the City Council (the “**City Council**”) of the City of Tracy (the “**City**”) on _____, 2019 (the “**City Resolution**”), and
- (c) an Indenture of Trust (the “**Indenture**”) dated as of _____ 1, 2020, by and between the Authority and U.S. Bank National Association, as trustee (the “**Trustee**”).

The Authority. The Authority is a joint powers authority between the City and the City of Tracy Community Development Agency (predecessor to the Successor Agency to the Tracy Community Development Agency) established under a Joint Exercise of Powers Agreement, dated as of October 15, 1995, entered into under Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended, for the purpose, among others, of issuing its bonds to be used to finance and refinance the acquisition, construction and improvement of certain public capital improvements in the City.

* Preliminary; subject to change.

The City. The City is located on the western edge of the Central Valley in San Joaquin County (the “**County**”), approximately 60 miles east of San Francisco and approximately 70 miles south of Sacramento. See “CITY FINANCIAL INFORMATION – General.”

Purpose of the Bonds. The Bonds are being issued to:

- refinance on a current basis the outstanding lease revenue bonds previously issued by the Authority captioned “\$2,690,000 Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series A (Fire Station Project)” (the “2007A Bonds”), and the City’s related lease payment obligation,
- refinance on a current basis the outstanding lease revenue bonds previously issued by the Authority captioned “\$1,980,000 Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding)” (the “2007B Bonds”), and the City’s related lease payment obligation, and
- refinance on a current basis the outstanding lease revenue bonds previously issued by the Authority captioned “\$19,765,000 Tracy Operating Partnership Joint Powers Authority 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects)” (the “2008 Bonds”), and the City’s related lease payment obligation, and
- pay the costs of issuing the Bonds.

See “FINANCING PLAN.”

Security for the Bonds and Pledge of Revenues. Under the Indenture, the Bonds are payable from and secured by a first pledge of and lien on “**Revenues**,” consisting primarily of lease payments (the “**Lease Payments**”) made by the City for the lease of property under the following leases:

- the Lease Agreement dated as of _____ 1, 2020, between the Authority, as lessor, and the City, as lessee (the “**2007-Related Lease**”), concerning the leaseback of certain real property and improvements (the “**2007-Related Leased Property**”), and .
- the Amended and Restated Property Lease dated as of _____ 1, 2020, between the Authority, as lessor, and the City, as lessee (the “**Amended and Restated Property Lease**”), concerning the leaseback of certain real property and improvements (the “**2008-Related Leased Property**”).

The 2007-Related Lease and the Amended and Restated Property Lease are referred to collectively in this Official Statement as the “**Lease Agreements**,” and the 2007-Related Leased Property and the 2008-Related Leased Property are referred to collectively in this Official Statement as the “**Leased Property**.”

The Bonds are also secured by certain funds on deposit under the Indenture. See “SECURITY FOR THE BONDS.”

In order to provide the upfront site lease payment to facilitate the refinancing plan, the City and the Authority will enter into the following:

- A Site Lease dated as of _____ 1, 2020 (the “**2007-Related Site Lease**”), under which the City will lease the 2007-Related Leased Property to the Authority, consisting of the City’s Fire Station 91. Concurrently, the City and the Authority will enter into the 2007-Related Lease, under which the Authority will lease the 2007-Related Leased Property back to the City.

- An Amended and Restated Sites and Facilities Lease dated as of _____ 1, 2020 (the “**Amended and Restated Site Lease**”), under which the City will lease the 2008-Related Leased Property to the Authority, consisting of the City’s Police Department Headquarters and Fire Administration Building. Concurrently, the City and the Authority will enter into the Amended and Restated Property Lease, under which the Authority will lease the 2008-Related Leased Property back to the City.

The 2007-Related Site Lease and the Amended and Restated Site Lease are referred to collectively in this Official Statement as the “**Site Leases**.”

See “THE LEASED PROPERTY.”

Form of Bonds; Book-Entry Only. The Bonds will be issued in fully registered form, registered in the name of The Depository Trust Company, New York, New York (“**DTC**”), or its nominee, which will act as securities depository for the Bonds. Purchasers of the Bonds will not receive certificates representing the Bonds that are purchased. See “THE BONDS - Book-Entry Only System” and “APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Redemption. The Bonds are subject to optional redemption, mandatory redemption from sinking fund payments, and special mandatory redemption from the proceeds of insurance or condemnation proceeds prior to their stated maturity dates. See “THE BONDS – Redemption.”

Abatement. The Lease Payments are subject to complete or partial abatement in the event and to the extent that there is substantial interference with the City’s use and possession of the Leased Property or any portion thereof. If the Lease Payments are abated under either Lease Agreement, the Bond Owners would receive less than the full amount of principal of and interest on the Bonds. To the extent proceeds of rental interruption insurance are available (as described below), Lease Payments (or a portion thereof) may be made from those proceeds during periods of abatement. See “SECURITY FOR THE BONDS – Abatement” and “BOND OWNERS’ RISKS.”

Legal Opinion. Upon delivery of the Bonds, Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel (“**Bond Counsel**”) will release its final approving legal opinion with respect to the Bonds, regarding the validity and tax-exempt status of the Bonds, in the form attached hereto as APPENDIX D.

Risks of Investment. Debt service on the Bonds is payable only from Lease Payments and other amounts payable by the City to the Authority under the Lease Agreements. For a discussion of some of the risks associated with the purchase of the Bonds, see “BOND OWNERS’ RISKS.”

NEITHER THE BONDS, THE OBLIGATION OF THE AUTHORITY TO PAY PRINCIPAL OF OR INTEREST THEREON, NOR THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS, CONSTITUTE A DEBT OR A LIABILITY OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY

CONSTITUTIONAL LIMITATION ON INDEBTEDNESS, OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY. THE BONDS ARE SECURED SOLELY BY THE PLEDGE OF REVENUES AND CERTAIN FUNDS HELD UNDER THE INDENTURE. THE BONDS ARE NOT SECURED BY A PLEDGE OF THE TAXING POWER OF THE CITY.

FINANCING PLAN

Refunding Plan for 2007A Bonds

Authority and Purpose of 2007A Bonds. The Authority issued the 2007A Bonds on October 25, 2007, in the principal amount of \$2,690,000, under an Indenture (the “**2007 Indenture**”) by and between the Authority and The Bank of New York Mellon Trust Company, N.A., acting as the trustee for the 2007A Bonds (the “**Prior Trustee**”). The 2007A Bonds are currently outstanding in the principal amount of \$_____. The 2007A Bonds were issued primarily to finance the acquisition and construction of a City fire station.

The refinancing plan calls for the outstanding 2007A Bonds maturing on and after March 1, 2020, to be redeemed in full, on a current basis, on or about _____, 2020 (the “**Redemption Date**”), at a redemption price equal to 100% of the principal amount thereof, together with interest coming due and payable on the Redemption Date.

Irrevocable Deposit. In order to accomplish the refinancing plan, a portion of the proceeds of the Bonds will be transferred to the Trustee for deposit into a refunding fund held by the Trustee under the Indenture. The Trustee immediately disburse amounts in the refunding fund to the Prior Trustee for deposit in the revenue fund established under the 2007 Indenture (the “**2007 Revenue Fund**”). The Prior Trustee will hold the amounts on deposit in the 2007 Revenue Fund in cash, uninvested. These funds will be sufficient to prepay the 2007A Bonds in full on the Redemption Date, and to defease the outstanding 2007A Bonds as of the date of issuance of the Bonds.

The moneys held by the Prior Trustee in the 2007 Revenue Fund are pledged to the payment and redemption of the 2007A Bonds and the 2007B Bonds and will not be available for payment of the Bonds.

Refunding Plan for 2007B Bonds

Authority and Purpose of 2007B Bonds. The Authority issued the 2007B Bonds on October 25, 2007, in the principal amount of \$1,980,000, under the 2007 Indenture. The 2007B Bonds are currently outstanding in the principal amount of \$_____. The 2007B Bonds were issued primarily to prepay certain certificates of participation of the City captioned “City of Tracy 1995 Refunding Certificates of Participation (1988 Community Park and Civic Center Land Acquisition Project).”

The refinancing plan calls for the outstanding 2007B Bonds maturing on and after March 1, 2020, to be redeemed in full, on a current basis, on or about the Redemption Date, at a redemption price equal to 100% of the principal amount thereof, together with interest coming due and payable on the Redemption Date.

Irrevocable Deposit. In order to accomplish the refinancing plan, a portion of the proceeds of the Bonds will be transferred to the Trustee for deposit into a refunding fund held by the Trustee under the Indenture. The Trustee immediately disburse amounts in the refunding fund to the Prior Trustee for deposit in the 2007 Revenue Fund. The Prior Trustee will hold the amounts on deposit in the 2007 Revenue Fund in cash, uninvested. These funds will be sufficient to prepay the 2007B Bonds in full on the Redemption Date, and to defease the outstanding 2007B Bonds as of the date of issuance of the Bonds.

The moneys held by the Prior Trustee in the 2007 Revenue Fund are pledged to the payment and redemption of the 2007A Bonds and the 2007B Bonds and will not be available for payment of the Bonds.

Refunding Plan for 2008 Bonds

Authority and Purpose of 2008 Bonds. The Authority issued the 2008 Bonds on December 16, 2008, in the principal amount of \$19,765,000, under an Indenture (the “**2008 Indenture**”) by and between the Authority and the Prior Trustee. The 2008 Bonds are currently outstanding in the principal amount of \$_____. The 2008 Bonds were issued primarily to finance the acquisition and construction of certain public capital improvements of benefit to the City, and to prepay certain certificates of participation of the City captioned “City of Tracy 1998 Certificates of Participation (1-205 Corridor Improvements and Refinancing Project).”

The refinancing plan calls for the outstanding 2008 Bonds maturing on and after November 1, 2020, to be redeemed in full, on a current basis, on or about the Redemption Date, at a redemption price equal to 100% of the principal amount thereof, together with interest coming due and payable on the Redemption Date.

Irrevocable Deposit. In order to accomplish the refinancing plan, a portion of the proceeds of the Bonds will be transferred to the Trustee for deposit into a refunding fund held by the Trustee under the Indenture. The Trustee immediately disburse amounts in the refunding fund to the Prior Trustee for deposit in the revenue fund established under the 2008 Indenture (the “**2008 Revenue Fund**”). The Prior Trustee will hold the amounts on deposit in the 2008 Revenue Fund in cash, uninvested. These funds will be sufficient to prepay the 2008 Bonds in full on the Redemption Date, and to defease the outstanding 2008 Bonds as of the date of issuance of the Bonds.

The moneys held by the Prior Trustee in the 2008 Revenue Fund are pledged to the payment and redemption of the 2008 Bonds and will not be available for payment of the Bonds.

Estimated Sources and Uses of Funds

The estimated sources and uses of funds relating to the Bonds are as follows:

Sources of Funds:

Principal Amount of Bonds	\$
<i>Plus:</i> Net Original Issue Premium	
<i>Plus:</i> Funds Available with respect to 2007A Bonds	
<i>Plus:</i> Funds Available with respect to 2007B Bonds	
<i>Plus:</i> Funds Available with respect to 2008 Bonds	
<i>TOTAL SOURCES</i>	\$

Uses of Funds:

Deposit to Refunding Fund ⁽¹⁾	\$
Deposit to Costs of Issuance Fund ⁽²⁾	
Underwriter's Discount	
<i>TOTAL USES</i>	\$

(1) Represents funds to be used to refund and defease the 2007A Bonds, the 2007B Bonds and the 2008 Bonds. See “– Refunding Plan for 2007A Bonds,” “– Refunding Plan for 2007B Bonds” and “– Refunding Plan for 2008 Bonds” above.

(2) Represents funds to be used to pay Costs of Issuance, which include legal fees, printing costs, rating agency fees and other costs of issuing the Bonds.

THE LEASED PROPERTY

Description and Location

Lease Payments will be made by the City under the Lease Agreements for the use and occupancy of the Leased Property, which consists of the following:

The City has determined that the fair rental value of the leased property is commensurate with the annual Lease Payments.

2007-Related Leased Property.

Fire Station 91. Fire Station 91 is located at 1701 West 11th Street. This station consists of a 1-story wood-frame construction building containing approximately 7,720 square feet of occupied space originally constructed in 2005.

2008-Related Leased Property.

Police Department Headquarters. The Police Department headquarters is located at 1000 Civic Center Drive and consists of (i) a building that is two stories, approximately 26,000 square feet, and of steel frame construction and (ii) an approximately 1.8 acre lot. The building is designed to meet specific needs of the Police Department which includes interrogation rooms, detaining cells and evidence storage rooms. The facility also includes secured parking and public parking lots. Construction of the Police facility was completed in late 1996.

Fire Administration Building. The Fire Administration Building is located at 835 Central Avenue. The building consists of a 1-story masonry-construction building containing approximately 9,550 square feet of occupied space originally constructed in 1917 and completely rehabilitated in 2005, and includes office space, training room, conference room and related facilities located on an approximately one-half acre lot with associated parking. The building is designed to meet current seismic and building code requirements.

Modification of Leased Property

Under the Lease Agreements, the City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of the Lease Agreements.

Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this provision of the Lease Agreements, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

The City will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this provision of the Lease Agreements; except that if any such lien is established and the City first notifies or causes to be notified the Authority of the City's intention to do so, the City may in good

faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

Substitution

Under each Lease Agreement, the City has the option at any time and from time to time, to substitute other real property (the “**Substitute Property**”) for the Leased Property or any portion thereof (the “**Former Property**”), upon satisfaction of all of the requirements set forth in the Lease Agreements, which includes (among others) the following:

- The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the County Recorder, sufficient memorialization of an amendment of the related Lease Agreement that adds the legal description of the Substitute Property and deletes therefrom the legal description of the Former Property, and has filed and caused to be recorded corresponding amendments to the related Site Lease and Assignment Agreement.
- The City has obtained a CLTA policy of title insurance insuring the City’s leasehold estate under related Lease Agreement in the Substitute Property, subject only to Permitted Encumbrances (as defined in each Lease Agreement), in an amount at least equal to the estimated value thereof.
- The City has certified in writing to the Authority and the Trustee that the Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- The City has filed with the Authority and the Trustee a written certificate of the City or other written evidencing stating that the useful life of the Substitute Property at least extends to the final maturity date of the Bonds, that the estimated value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the substitution, and the fair rental value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the Lease Payments thereafter coming due and payable under the Lease Agreements.

See “APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS.”

Upon the satisfaction of all such conditions precedent, the Term of the Lease Agreement will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of any substitution of property under this provision of the Lease Agreements.

Release of Leased Property

Under each Lease Agreement, the City has the option at any time and from time to time to release any portion of the Leased Property from the Lease Agreement (the “**Released Property**”) provided that the City has satisfied all of the requirements under the Lease Agreement that are conditions precedent to such release, which include (among others) the following:

- The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the County Recorder sufficient memorialization of an amendment of the related Lease Agreement, Site Lease and Assignment Agreement which removes the Released Property from the related Lease Agreement, Site Lease and Assignment Agreement.
- The City has certified in writing to the Authority and the Trustee that the value of the property which remains subject to the Lease Agreement following such release is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the release, and the fair rental value of the property which remains subject to the Lease following such release is at least equal to the Lease Payments thereafter coming due and payable thereunder.

See “APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS.”

THE BONDS

This section provides summaries of the Bonds and certain provisions of the Indenture. See APPENDIX B for a more complete summary of the Indenture. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

Authority for Issuance

The Bonds are being issued under the Law, the Authority Resolution (which was adopted by the Board of the Authority on _____, 2019), the City Resolution (which was adopted by the City Council on _____, 2019), and the Indenture. Under the Authority Resolution and the City Resolution, the Bonds may be issued in a principal amount not to exceed \$_____.

General Provisions

Bond Terms. The Bonds will be dated their date of delivery and issued in fully registered form without coupons in integral multiples of \$5,000, so long as no Bond has more than one maturity date.

Interest on the Bonds will be payable on May 1 and November 1 in each year, commencing May 1, 2020 (each an “**Interest Payment Date**”). The Bonds will mature in the amounts and on the dates, and bear interest at the annual rates, set forth on the inside cover page of this Official Statement.

Calculation of Interest. Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or
- (c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest with respect to the Bonds will be computed on the basis of a 360-day year composed of 12 months of 30 days each.

Record Date. Under the Indenture, “Record Date” means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date, whether or not such day is a Business Day.

Payments of Principal and Interest. Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered

on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which will remain in effect until rescinded in writing by the Owner.

The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to the Bonds will be paid by the Trustee to DTC for subsequent disbursement to beneficial owners of the Bonds. See “– Book-Entry Only System” below.

Redemption*

Optional Redemption. The Bonds maturing on or before November 1, 20__, are not subject to optional redemption prior to their stated maturity. The Bonds maturing on or after November 1, 20__, are subject to redemption, as a whole or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on November 1, 20__, and on any date thereafter, at a redemption price equal to 100% of the principal amount of Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Special Mandatory Redemption From Insurance or Condemnation Proceeds. The Bonds are subject to redemption as a whole, or in part on a pro rata basis among maturities, on any date, from any Net Proceeds required to be used for such purpose as provided in the Indenture, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

Mandatory Sinking Fund Redemption. The Term Bonds are subject to mandatory redemption in part by lot, at a redemption price equal to 100% of the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on November 1 in the respective years as set forth in the following tables; *provided, however*, that if some but not all of the Term Bonds have been redeemed through an optional redemption or special mandatory redemption from insurance or condemnation proceeds, the total amount of all future sinking fund payments will be reduced by the aggregate principal amount of the Term Bonds so redeemed, to be allocated among such sinking fund payments on a pro rata basis in integral multiples of \$5,000 (as set forth in a schedule provided by the Authority to the Trustee).

* Preliminary; subject to change.

Mandatory Sinking Fund Redemption of
Term Bonds Maturing November 1, 20

Sinking Fund Redemption Date <u>(November 1)</u>	Principal Amount <u>To Be Redeemed</u>

Mandatory Sinking Fund Redemption of
Term Bonds Maturing November 1, 20

Sinking Fund Redemption Date <u>(November 1)</u>	Principal Amount <u>To Be Redeemed</u>

Selection of Bonds for Redemption. Whenever provision is made in the Indenture for the redemption of less than all of the Bonds of a single maturity, the Trustee will select the Bonds of that maturity to be redeemed from all Bonds of that maturity to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond.

Notice of Redemption. The Trustee shall mail notice of redemption of the Bonds by first class mail, postage prepaid, not less than 30 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Municipal Securities Rulemaking Board as provided in the Continuing Disclosure Certificate.

Neither the failure to receive any notice nor any defect therein will affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date.

Rescission of Redemption. The Authority has the right to rescind any notice of optional redemption of the Bonds by written notice to the Trustee on or prior to the date fixed for redemption.

Any notice of redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default under the Indenture.

The Authority and the Trustee have no liability to the Bond Owners or any other party related to or arising from such rescission of redemption. The Trustee will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under the Indenture.

Effect of Redemption. If notice of redemption has been duly given as provided in the Indenture, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption will become due and payable, interest on the Bonds so called for redemption will cease to accrue, said Bonds (or portions thereof) will cease to be entitled to any benefit or security under the Indenture, and the Owners of said Bonds will have no rights in respect thereof except to receive payment of the redemption price thereof.

Book-Entry Only System

The Bonds will be issued as fully registered bonds in book-entry only form, registered in the name of Cede & Co. as nominee of DTC, and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple of \$5,000, under the book-entry system maintained by DTC. While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to a Bond will be paid by the Trustee to DTC, which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the Bonds. Purchasers of the Bonds will not receive certificates representing their interests therein, which will be held at DTC.

See “APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM” for further information regarding DTC and the book-entry system.

Transfer, Registration and Exchange

The following provisions regarding the exchange and transfer of the Bonds apply only during any period in which the Bonds are not subject to DTC’s book-entry system. While the Bonds are subject to DTC’s book-entry system, their exchange and transfer will be effected through DTC and the Participants and will be subject to the procedures, rules and requirements established by DTC. See “APPENDIX F – DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

Bond Register. The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall upon reasonable notice as agreed to by the Trustee, be open to inspection during regular business hours by the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as provided in the Indenture.

Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee will require the Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds are surrendered for transfer, the Authority will execute and the Trustee will authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The Authority will pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

Exchange of Bonds. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee will require the Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The Authority will pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

Limitations on Transfer and Exchange. The Trustee may refuse to transfer or exchange, under these provisions of the Indenture, any Bonds selected by the Trustee for redemption under the Indenture, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

DEBT SERVICE SCHEDULE

The table below shows annual debt service payments on the Bonds.

Year Ending November 1	Principal	Interest	Total Debt Service
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
2037			
2038			
Total:			

SECURITY FOR THE BONDS

The principal of and interest on the Bonds are not a debt of the Authority or the City, nor a legal or equitable pledge, charge, lien or encumbrance, upon any of their respective property, or upon any of their income, receipts, or revenues except the Revenues and other amounts pledged under the Indenture.

This section provides summaries of the security for the Bonds and certain provisions of the Indenture, the Lease Agreements and the Site Leases. See "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" for a more complete summary of the Indenture, the Lease Agreements and the Site Leases. Capitalized terms used but not defined in this section have the meanings given in APPENDIX B.

Revenues; Pledge of Revenues

Pledge of Revenues and Other Amounts. Subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth therein, all of the Revenues and all amounts (including proceeds of the sale of the Bonds) held in any fund or account established under the Indenture are pledged to secure the payment of the principal of and interest and premium (if any) on the Bonds in accordance with their terms and the provisions of the Indenture. Said pledge constitutes a lien on and security interest in the Revenues and such amounts and will attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

Definition of Revenues. "Revenues" are defined in the Indenture as follows:

(a) all amounts received by the Authority or the Trustee under or with respect to the Lease Agreements, including, without limiting the generality of the foregoing, all of the Lease Payments (including both timely and delinquent payments, any late charges, and whether paid from any source), but excluding (i) any amounts described in the provisions of the Lease Agreements relating to permitted amendments that provide for additional rental to be pledged or assigned for the payment of bonds issued to finance or refinance projects for which the City is authorized to expend its funds, and (ii) any Additional Rental Payments (consisting of certain administrative costs due to the Authority and the Trustee under the Lease Agreements), and

(b) all interest, profits or other income derived from the investment of amounts in any fund or account established under the Indenture.

Assignment to Trustee. Under each Assignment Agreement, the Authority has transferred to the Trustee all of the rights of the Authority in the Lease Agreements (other than the rights of the Authority under the provisions of the Lease Agreements regarding Additional Rental Payments, advances, release and indemnification covenants, and agreement to pay attorneys' fees).

The Trustee is entitled to collect and receive all of the Revenues, and any Revenues collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and will forthwith be paid by the Authority to the Trustee.

The Trustee is also entitled to and required to, subject to the provisions of the Indenture regarding rights of the Trustee, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Lease Agreements.

Allocation of Revenues by Trustee; Application of Funds

Deposit of Revenues in Bond Fund. All Revenues will be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the “Bond Fund” which the Trustee will establish, maintain and hold in trust; except that all moneys received by the Trustee and required under the Indenture or under the Lease Agreements to be deposited in the Redemption Fund or the Insurance and Condemnation Fund will be promptly deposited in such funds.

All Revenues deposited with the Trustee will be held, disbursed, allocated and applied by the Trustee only as provided in the Indenture. Any surplus remaining in the Bond Fund, after payment in full of the principal of and interest on the Bonds or provision therefore under Indenture, and any applicable fees and expenses to the Trustee, will be withdrawn by the Trustee and remitted to the City.

Allocation of Revenues. On or before each Interest Payment Date, the Trustee will transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee will establish and maintain within the Bond Fund), the following amounts in the following order of priority:

(a) Deposit to Interest Account. The Trustee will deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.

(b) Deposit to Principal Account. The Trustee will deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due and payable on such Interest Payment Date, including principal of any Term Bonds payable as a result of mandatory sinking fund redemption.

Lease Payments; Covenant to Appropriate

Obligation to Pay. Under the Lease Agreements, subject to the provisions of Lease Agreements regarding abatement and prepayment, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments in the respective amounts specified in the Lease Agreements, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in the Lease Agreements, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in the Lease Agreements.

Any amount held in the Bond Fund, the Interest Account and the Principal Account on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole under the Lease Agreements, and amounts required for payment of past due principal or interest on any Bonds not presented for payment) will be credited towards the Lease Payment then required to be paid under the Lease Agreements. The City is not required

to deposit any Lease Payment with the Trustee on any Lease Payment Date if the amounts then held in the Bond Fund, the Interest Account and the Principal Account are at least equal to the Lease Payment then required to be deposited with the Trustee.

The Lease Payments payable in any Rental Period are for the use of the Leased Property during that Rental Period.

Fair Rental Value. The aggregate amount of the Lease Payments and Additional Rental Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and are payable by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period.

The City and the Authority have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

Source of Payments; Covenant to Budget and Appropriate. Under the Lease Agreements, the Lease Payments are payable from any source of available funds of the City, subject to the provisions of the Lease Agreements regarding abatement. See “ – Abatement” below.

The City covenants in the Lease Agreements to take all actions required to include the Lease Payments in each of its budgets during the Term of the Lease Agreements and to make the necessary appropriations for all Lease Payments and Additional Rental Payments. This covenant of the City constitutes a duty imposed by law and each and every public official of the City is required to take all actions required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements agreed to be carried out and performed by the City under the Lease Agreements.

Limited Obligation

THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE CITY, THE AUTHORITY OR THE STATE OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, AND DOES NOT CONSTITUTE AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

Abatement

Termination or Abatement Due to Eminent Domain. Under each Lease Agreement, if the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of the respective Lease Agreement thereupon ceases as of the day possession is taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, then:

(a) the Lease Agreement will continue in full force and effect with respect thereto and does not terminate by virtue of such taking, and the parties waive the benefit of any law to the contrary; and

(b) the Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

Abatement Due to Damage or Destruction. Under each Lease Agreement, the Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain as described above) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof.

The Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction.

In the event of any such damage or destruction, each Lease continues in full force and effect and the City waives any right to terminate each Lease by virtue of any such damage and destruction.

Notwithstanding the foregoing, there will be no abatement of Lease Payments under either Lease to the extent that the proceeds of hazard insurance, rental interruption insurance or capitalized interest are available to pay Lease Payments that would otherwise be abated, it being declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

In addition, there will be no abatement of Lease Payments due under the Amended and Restated Property Lease to the extent of amounts received by the City from the Successor Agency to the Tracy Community Development Agency (the “**Successor Agency**”) under an agreement entitled “Amendment No. 1 to Reimbursement Agreement” dated as of _____ 1, 2020, between the City and the Successor Agency.

No Reserve Fund

No debt service reserve fund has been established with respect to the Bonds. See “BOND OWNERS’ RISKS – No Debt Service Reserve Fund.”

Property Insurance

Liability and Property Damage Insurance. Under each Lease Agreement, the City is required to maintain or cause to be maintained throughout the Term of the Lease Agreement, but only if and to the extent available from reputable insurers at reasonable cost in the reasonable opinion of the City, a standard commercial general liability insurance policy or policies in protection of the Authority, the City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property.

Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of the Lease Agreements, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance.

The proceeds of such liability insurance must be applied toward extinguishment or satisfaction of the liability with respect to which paid.

Casualty Insurance. Under the Lease Agreements, the City is required to procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease Agreements, casualty insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the lesser of (a) 100% of the replacement value of the insured buildings, or (b) 100% of the aggregate principal amount of the Outstanding Bonds.

Such insurance must, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake insurance if available at reasonable cost from reputable insurers in the judgment of the City.

Such insurance may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance must be applied as provided in the Lease Agreements and described below.

Rental Interruption Insurance. Under the Lease Agreements, the City is required to procure and maintain, or cause to be procured and maintained, throughout the Term of the Lease Agreements, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Leased Property constituting buildings or other improvements as a result of any of the hazards covered in the casualty insurance described above, in an amount at least equal to the maximum such Lease Payments coming due and payable during any consecutive two Fiscal Years.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance.

The Net Proceeds of such insurance, if any, must be paid to the Trustee and deposited in the Bond Fund, to be applied as a credit towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

Application of Net Proceeds. The Trustee, as assignee of the Authority under the Assignment Agreement, has the right to receive all Net Proceeds. As provided in the Indenture, the Trustee will deposit all Net Proceeds in the Insurance and Condemnation Fund to be applied to the redemption of Bonds as set forth in the Indenture.

CITY FINANCIAL INFORMATION

General

The City is located on the western edge of the Central Valley in San Joaquin County (the “County”). The City is 60 miles east of San Francisco and 70 miles south of Sacramento. The City is situated within a triangle formed by three interstate freeways: I-5, I-205 and I-580.

The City was founded in 1878 as a railroad center, incorporated as a city in 1910 and is currently composed of approximately 21 square miles. During the 1980s, the City experienced a period of major growth influenced by the East Bay area of the San Francisco Bay region with its high cost of housing. Population in the City has increased from 18,429 in 1980 to 92,800 in 2019.

The City operates under a Council-Manager form of government. Policymaking and legislative authority are vested in the City Council, which consists of a mayor and four council members. Council members are elected to four-year staggered terms, with two council members elected every two years. The mayor is also elected every two years. The City Council appoints the City Manager and the City Attorney.

Certain demographic information concerning the City is included in APPENDIX A.

Management

Jenny Haruyama, City Manager. Prior to her appointment in May 2019 as Tracy City Manager, Ms. Haruyama served as the City Manager for Scotts Valley, California, overseeing their budget while managing their day-to-day operations. In her role as City Manager, she served as a Board Member for the Santa Cruz Public Libraries Joint Powers Authority, Monterey Bay Area Self Insurance Authority (MBASIA), and Visit Santa Cruz County, the official visitor marketing entity for the Santa Cruz area. Jenny also served as Scotts Valley's Director of Innovation and Economic Development and places a strong emphasis on leveraging private/public partnerships and strategic investments to strengthen a City's economic base.

Prior to Scotts Valley, Jenny served as the Assistant City Manager for the City of Livermore and as the Chief Operating Officer, providing strategic policy and budget guidance on a variety of citywide initiatives.

Before working for the City of Livermore, Jenny worked for the City of Tracy as the Administrative Services Director, providing leadership in the areas of Finance, Human Resources and Information Technology. Jenny also worked for the Town of Los Gatos, serving in a variety of senior management positions including Assistant Director of Budget and Finance, Budget Manager, and Assistant to the Town Manager.

Ms. Haruyama has over 20 years of local government experience and holds a Bachelor of Science degree in Business Administration from San Jose State University and a Master of Public Administration with an emphasis in organizational development from California State University, Hayward. She also is a graduate of the California Local Governance Institute at Stanford for Best Practices in Innovative Government and Executive Management.

Ray McCray, City Treasurer. Ray McCray is a graduate of local schools in Tracy, Delta College in Stockton, Whittier College in Southern California and has completed certificate courses at Wharton Business School, Kellogg Business School and Hass Business School.

Ray McCray was appointed by the City Council to serve the remaining term of the City Treasurer in 1995 and continues in that role as their elected Treasurer. He is a member of the California Municipal Treasurers Association. Ray was appointed by the San Joaquin County Board of Supervisors to serve on the County Employees' Retirement Board, has served as its Chairman and was elected President of the State Association of County Retirement Systems (SACRS). Mr. McCray is a Director of the Merchant Services Credit Bureau, a founding board member of the Community Foundation of San Joaquin, and San Joaquin County Schools' Foundation Board. Mr. McCray has a Series 6 securities license and life and disability license.

Karin Schnaider, Finance Director. Karin Schnaider has been a Finance Director for over 13 years and has been in governmental accounting for over 19 years. She has worked for the City of San Diego, Pasadena Unified School District, City of Sierra Madre, City of Benicia. Karin's experience providing budget management and financial reporting for a wide variety of community based services; ranging from Police, Fire, Public Works, Utilities, Libraries, Development Services, and Parks/Recreation.

Karin understands the complexity of providing sound fiscal policies to a wide range of full service agencies from small (10,000) population to medium (90,000+) population. In her first job as a Finance Director, she helped the City of Sierra Madre bring more than three years of late audits current and completed five audits within her first two years. She also has experience with Federal Emergency Management Agency, Gas Tax, Internal Revenue Services, and CalPERS audits, as well as, many others. These experiences provided the framework for two conference presentations and a professional development webinar for California State and Municipal Finance Officer (CSMFO). She has executed Enterprise Resource Planning (accounting software) conversions in her last four agencies and understands the implications it has on financial transactions and business processes. Karin has issued more than \$100M in new and refinancing debt, both agency and community facilities districts; along with developing and maintaining sound maintenance/replacement, debt, and investment policies to support financial sustainability for asset and infrastructure management and planning. Karin has expanded her policy experience to include development of the City's cannabis policy and ordinance, State and Federal lobbying activities, and completing the City's Hazard Mitigation Plan for emergency management strategies.

She received her Bachelors of Science in Accountancy from San Diego State University and her Masters in Public Policy Administration from California State University Long Beach.

Budget Process

The Tracy Municipal Code requires that the City Council adopt a budget by no later than the close of the fiscal year (June 30). This annual budget serves as the foundation for the City's financial planning and control. The budget is prepared by fund, by department, and by program. The Finance Department maintains budgetary controls to ensure compliance with legal provisions embodied in the appropriated budget approved by the City Council. The level of budgetary control (the level at which expenditures cannot legally exceed the appropriated amount) is the department level and within a single fund. The City Manager may authorize transfers between administrative control accounts within a department or within a capital project. Supplemental appropriations during the year must be approved by the City Council. Any transfer of appropriations between departments in the operating budget or between capital projects in the capital budget also requires City Council approval. For further information concerning the City's budgetary procedures, see the City's audited financial statements attached hereto as Appendix C.

The City's fiscal year runs from July 1 to June 30. The City adopted an biennial (two-year) budget for fiscal year 2017-2019 in June 2017. The City returned to an annual (single-year) budget in fiscal year 2019-20. The proposed fiscal year 2019-20 budget was released on May 23, 2019. A public hearing was held on June 4, 2020, where the City Council reviewed and considered the proposed operating budget prepared by City staff. The public hearing provided the opportunity for City Council to discuss the budget and to modify the proposed budget to reflect the Council's priorities. The workshop also permitted public comment and participation in the budget process. Copies of the budget are available for public viewing at the City's Public Library and at City Hall. The City Council adopted the fiscal year 2019-20 budget on June 4, 2019.

General Fund Budgets

General. The following table provides the adopted General Fund budget comparisons for fiscal years 2018-19 and 2019-20, plus projected General Fund budgets for fiscal years 2020-21 and 2021-22.

Table 1
General Fund
Adopted Budget, Revised Budget and Unaudited Actuals for Fiscal Year 2018-19
Adopted Budget for Fiscal Year 2019-20
Projected Budgets for Fiscal Years 2020-21 and 2021-22
(Dollars in Thousands)

	Original Budget 2018-19	Revised Budget 2018-19	Unaudited Actuals 2018-19	Adopted Budget 2019-20	Projected Budget 2020-21	Projected Budget 2021-22
Revenues						
Taxes	\$55,914,407	\$55,914,407	\$62,924,050	\$60,654,488	\$62,887,211	\$64,794,617
Licenses and permits	2,968,300	2,968,300	3,588,115	3,843,385	3,881,820	3,920,638
Fines and forfeitures	204,869	204,869	209,256	466,321	466,321	466,322
Use of money and property	352,305	352,305	1,298,234	720,619	735,031	742,382
Charges for services	11,297,791	11,297,791	9,819,853	11,216,108	11,301,230	11,344,640
Intergovernmental	1,250,370	1,250,370	1,476,988	1,564,753	1,580,401	1,596,205
Special assessment	400,000	400,000	463,527	429,468	433,763	438,100
Contributions	143,350	143,350	147,221	147,221	147,221	147,221
Other revenues	--	--	130,464	14,357	14,356	14,356
Total Revenues	72,531,392	72,531,392	80,057,708	79,056,720	81,447,354	83,464,481
Expenditures						
General Government						
Economic Development	821,383	842,070	618,371	689,333	703,120	717,183
General Government	7,656,437	8,083,916	7,171,550	7,402,580	7,552,019	7,701,780
Finance	4,537,614	4,951,773	5,052,344	5,055,188	5,156,291	5,259,417
Nondept	463,095	519,753	433,091	601,459	613,489	625,758
Public Safety						
Fire	14,231,502	14,231,502	14,929,009	15,007,904	15,308,062	15,614,223
Police	27,053,062	29,154,007	29,918,132	30,556,505	31,167,639	31,790,992
Public Ways And Facilities						
Development Services	1,080,680	1,145,473	1,217,573	1,186,582	1,210,636	1,234,849
Public Works	5,866,431	6,117,166	6,464,589	6,331,780	6,458,415	6,587,584
Utilities	348,586	364,075	422,224	420,185	428,588	437,159
Cultural And Leisure						
Parks And Rec	2,904,571	2,984,642	3,245,197	3,055,356	3,116,470	3,178,799
Capital	--	87,170	185,068	--	--	--
Debt	68,552	68,552	--	68,552	69,922	71,321
Total Expenditures	65,031,913	68,550,099	69,657,149	70,375,424	71,784,651	73,219,065
Excess Revenues Over (Under) Expenditures	7,499,479	3,981,293	10,400,559	8,681,296	9,662,703	10,245,416
Other Financing Sources						
Proceeds from sale of property	500	500	2,034	--	--	--
Transfers in	1,250,000	1,250,000	1,250,000	--	--	--
Transfers out	(3,259,400)	(3,259,400)	(19,411,948)	(12,047,271)	(12,047,270)	(12,047,269)
Other Financing Sources Total	(2,008,900)	(2,008,900)	(18,159,914)	(12,047,271)	(12,047,270)	(12,047,269)
Net Change to Fund Balance	\$5,490,579	\$1,972,393	\$(7,759,355)	\$(3,365,975)	\$(2,384,567)	\$(1,801,853)

Source: City of Tracy 2019-2021 Biennial Budget.

Budget Summary

The fiscal year 2019-20 proposed budget totals \$228 million from all funding sources. The fiscal year 2019-20 budget for the General Fund is \$79 million, which includes Measure V revenue, a local half-cent sales tax revenue. The City has committed the funds received from Measure V sales tax revenue for discretionary funding dedicated to amenitizing the City. The General Fund expenditures and net transfers out are \$82 million, which includes Measure V capital projects. Included in the expenditures is the second year of personnel contract increases that reflect a 3-year contract with 4% salary increases annually through July 1, 2020. In addition, the General Fund personnel costs reflect the highest staffing level since the recession; over 10% increase since 2015. The net result is a General Fund budget with expenses greater than revenues with the proposed use of one-time funds to balance the General Fund budget carried over from prior year surpluses. Additionally, the City averages a 3% to 5% annual expenditure savings from vacancies (averaging \$3 million annually) that is anticipated to reduce estimated expenditures. The net result projected at end of fiscal year 2019-20 is expected to be a balanced budget that maintains the City's Fund Balance Policy (as described below).

The City Council has an adopted "**Fund Balance Policy**" that establishes the procedures for reporting fund balance in the City's financial statements. Certain commitments and assignments of fund balance will help ensure that there will be adequate financial resources to protect the City against unforeseen circumstances and events such as revenue shortfalls and unanticipated expenditures. Beginning in fiscal year 2014-15, the City Council, through budget adoption, approved a minimum fund balance in the General Fund to be equal to 30% of operating revenues; 10% for Economic/Budget Stability Reserves and 20% for Contingency Reserves. These fund balances have been carved out and represented in the table on the following page. The policy also authorizes and directs the Finance Director to prepare financial reports which accurately categorize fund balance as per Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. This policy took effect for financial reports for fiscal year ending June 30, 2011.

The City anticipates having a General Fund fund balance of \$31.5 million as of June 30, 2020. Per the City's Fund Balance policy, the City has set aside 30% (or \$25 million) of the reserves for economic uncertainty and emergencies. In addition, the City Council has committed an additional \$7 million to new capital projects, as well as, setting aside funds for personnel salaries and benefits in future years.

Table 2
General Fund
Three-Year General Fund Fund Balance Allocations

Fund Balance Allocations

		<u>FY 17/18 Actuals</u>
Unspendable	prepaid items	\$ -
	Advance To	1,042,000
	Loans Receivable	506,111
Committed	20% reserve policy	14,960,997
Restricted	10% reserve policy	7,480,499
	Measure V capital	7,550,250
	Prior Year Appropriation Carryover	1,594,000
	Economic/Budget Stability	4,350,000
	Animal Control	22,192
Uncommitted	Uncommitted	807,861
Audited General Fund: Fund Balance FY 2017-18		\$38,313,910
		<u>FY 2018-19 Unaudited Actuals</u>
	Revenues	\$82,361,429
	Expenditures	(69,653,253)
	Net Transfers In/(Out)	(16,060,875)
Net Changes to FY 2018-19		(3,352,699)
Unspendable	Loans Receivable	495,249
Committed	20% reserve policy	16,472,286
Restricted	10% reserve policy	8,236,143
	Measure V capital	5,900,000
	Prior Year Appropriation Carryover	1,594,000
	Economic/Budget Stability	2,263,533
Uncommitted	Uncommitted	(0)
Unaudited General Fund: Fund Balance FY 2018-19		\$34,961,211
		<u>FY 2019-20 Estimated Actuals</u>
	Revenues	\$79,056,724
	Expenditures	(70,375,746)
	Net Transfers In/(Out)	(12,047,271)
Net Changes to FY 2019-20		(3,366,293)
Unspendable	Loans Receivable	495,249
Committed	20% reserve policy	16,472,286
Restricted	10% reserve policy	8,236,143
	Measure V capital	5,900,000
	Prior Year Appropriation Carryover	1,594,000
	Economic/Budget Stability	1,073,221
	3% Salary Savings	(2,175,981)
Uncommitted	Uncommitted	(0)
Estimated General Fund: Fund Balance FY 2019-20		\$31,594,918

Source: City of Tracy.

State Budget and Its Impact on the City

General. Information about the fiscal year 2019-20 adopted State budget and other State budgets is regularly available at various State-maintained websites. An impartial analysis of the budget is posted by the Legislative Analyst Office at www.lao.ca.gov. In addition, various State official statements, many of which contain a summary of the current and past State budgets, may be found at the website of the State Treasurer, www.treasurer.ca.gov. *The information referred*

to in this paragraph is prepared by the respective State agency maintaining each website and not by the City or the Underwriter, and the City and the Underwriter take no responsibility for the continued accuracy of the Internet addresses or for the accuracy or timeliness of information posted there, and such information is not incorporated in this Official Statement by these references.

Future State Budgets. The City cannot predict what actions will be taken in future years by the State Legislature and the Governor to address a State budget deficit. Future State budgets will be affected by national and state economic conditions and other factors over which the City has no control. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget.

Financial Statements

The accounting policies of the City conform to generally accepted accounting principles. The Governmental Accounting Standards Board (“**GASB**”) published its Statement No. 34 “Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments” on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities, on new requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management’s Discussion and Analysis; (ii) financial statements prepared using the economic measurement focus and the accrual basis of accounting; (iii) fund financial statements prepared using the current financial resources measurement focus and the modified accrual method of accounting; and (iv) required supplementary information.

Accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. There are three groups of funds: governmental funds (which include the General Fund), proprietary funds (which include internal service funds) and fiduciary funds (which are used to account for resources held for the benefit of parties outside the City). Information is presented separately in the governmental statement of revenues, expenditures, and changes in fund balances for the General Fund and the other major funds. Data for the non-major funds are combined into a single aggregated presentation.

All governmental funds and fiduciary funds use the modified accrual basis of accounting. The proprietary funds use the accrual basis of accounting. The General Fund is the general operating fund of the City and is used to account for all financial resources except those required to be accounted for in a separate fund.

In fiscal year 2014-15, the City implemented GASB Statements No. 68 and 71. These statements establish standards for measuring and recognizing liabilities, deferred outflows of resources, deferred inflows of resources and pension plan expenses. GASB Statements No. 68 and No. 71 do not change the pension funding obligations of the City and have had no effect on the General Fund.

The City’s most recent audited financial statements are included in the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2019, which is attached as APPENDIX C to this Official Statement. The financial statements were prepared by the City and audited by Maze & Associates Accountancy Corporation (the “**Auditor**”).

The Financial Statements should be read in their entirety. *The City has neither requested nor obtained permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. Accordingly, the Auditor has not performed any post-audit review of the financial condition or operations of the City or General Fund. In addition, the Auditor has not reviewed this Official Statement.*

Set forth on the following pages are (i) a general fund balance sheet for fiscal years 2014-15 through 2018-19 and (ii) a statement of revenues, expenditures and changes in fund balances for the City's general fund for the same period.

Table 3
General Fund Balance Sheet

	<u>Audited</u> <u>2014-15</u>	<u>Audited</u> <u>2015-16</u>	<u>Audited</u> <u>2016-17</u>	<u>Audited</u> <u>2017-18</u>	<u>Unaudited</u> <u>2018-19</u>
<u>Assets:</u>					
Cash and investments held by City	\$36,562,467	\$29,021,461	\$19,678,857	\$17,957,628	\$25,319,165
Receivables:					
Accounts receivable	4,198,081	6413,188	7,742,385	7,502,054	8,415,783
Interest receivable	140,954	41,153	217,346	302,454	231,123
Prepaid items	8,649	774	5,847	--	--
Loans receivable	532,952	524,443	515,500	506,111	495,249
Due from other funds	1,458,000	1,966,600	10,209,715	13,510,793	801,832
Advances to CDA successor agency	--	--	--	1,042,000	--
Advances to other funds	6,116,234	5,366,594	4,616,954	1,042,000	--
Total assets	\$49,017,337	\$43,334,213	\$42,986,604	\$40,821,040	\$35,263,152
<u>Liabilities:</u>					
Accounts payable	2,392,453	1,601,937	1,865,986	2,214,888	1,840,494
Salary and employee benefits payable					520,144
Due to other funds	--	--	--	--	1,833,600
Deposits payable	6,394,573	754,686	119,421	182,066	401,907
Unearned revenue	--	302,723	209,090	75,927	76,194
Total liabilities	2,559,613	2,659,346	2,194,497	2,472,881	4,672,339
<u>Deferred inflows of resources:</u>					
Unavailable revenue-loans	17,265	19,270	21,270	23,270	25,270
Total Deferred Inflows of Resources	--	--	--	--	--
Total Liabilities and Deferred Inflows of Resources	17,265	19,270	21,270	23,270	25,270
<u>Fund Balance:</u>					
Nonspendable:					
Prepaid items	8,649	774	5,847	--	--
Advances	6,116,234	5,366,594	4,616,954	1,042,000	--
Loans receivable	515,687	505,173	494,230	482,841	495,249
Restricted	--	--	--	--	--
Committed	--	--	11,716,000	14,960,997	14,882,560
Assigned	1,151,925	358,441	11,455,470	20,996,942	14,702,377
Unassigned	29,860,938	34,424,615	12,482,336	842,109	485,356
Total fund balance	37,653,433	40,655,597	40,770,837	38,324,889	30,565,543
Total liabilities, deferred inflows of resources and fund balance	\$49,017,337	\$43,334,213	\$42,986,604	\$40,821,040	\$35,263,152

Source: City of Tracy Comprehensive Annual Financial Reports.

Table 4
Statement of General Fund Revenues, Expenditures
and Changes in Fund Balance

	Audited 2014-15	Audited 2015-16	Audited 2016-17	Audited 2017-18	Unaudited 2018-19
<u>Revenues:</u>					
Taxes	\$44,083,078	\$46,316,573	\$46,173,331	\$55,155,390	\$62,924,050
Licenses	4,388,047	2,940,002	2,980,580	3,694,142	3,588,115
Fines and penalties	195,891	237,437	198,177	220,087	209,256
Use of money and property	637,267	1,141,217	639,648	672,721	1,298,234
Intergovernmental	1,866,269	1,827,138	1,433,843	1,583,991	9,819,853
Charges for services	8,913,153	4,833,574	4,333,327	11,340,010	1,476,988
Special assessments	379,936	392,427	404,207	421,006	463,527
Contributions	--	135,120	139,175	143,350	147,221
Other revenues	1,390,190	3,494,326	3,375,741	1,574,278	130,464
Total revenues	61,853,831	61,317,814	59,678,029	74,804,975	80,057,708
<u>Expenditures:</u>					
Current:					
General government					
Economic Development	383,332	581,642	625,750	763,391	618,371
General Development	3,655,711	3,670,685	6,149,909	6,538,415	7,171,550
Finance	2,243,029	3,429,302	4,449,060	4,091,660	5,052,344
Non-departmental	757,445	5,558,520	861,455	268,301	433,091
Public Safety					
Police	21,996,611	23,107,214	24,238,642	26,539,255	14,929,009
Fire	9,716,446	11,019,160	11,946,948	13,701,292	29,918,132
Public Safety					
Development and engineering	7,621,782	621,012	882,145	972,497	1,217,573
Public works	3,937,723	4,275,144	5,646,319	6,249,178	6,886,813
Culture and leisure					
Cultural arts	1,409,819	1,451,658	--	--	--
Parks and community services	1,609,547	1,658,607	2,286,985	2,682,569	3,245,197
Capital outlay	241,745	252,077	453,978	660,507	185,068
Debt service:					
Principal	52,732	63,278	63,279	68,552	--
Interest and fiscal charges	--	--	--	--	--
Total expenditures	53,625,922	55,688,299	57,604,470	62,535,617	69,657,148
Excess of revenues over (under) expenditures	8,227,909	5,629,515	2,073,559	12,269,358	10,400,560
<u>Other financing sources (uses):</u>					
Proceeds from sale of capital assets	--	--	5,158	500	2034
Transfers in	--	1,250,00	1,250,000	1,250,000	1,250,000
Transfers out	(11,518,000)	(3,877,351)	(3,976,247)	(12,618,396)	(19,411,948)
Total other financing sources (uses)	(11,518,000)	(2,627,351)	(2,721,089)	(11,367,896)	(18,159,914)
Net change in fund balance before special items				901,462	(7,759,354)
Special Item-SCFA Loan Write-off	--	--	--	(3,347,410)	--
Net change in fund balance	(3,290,091)	(3,002,164)	(647,530)	(2,445,948)	(7,759,354)
Fund balance - July 1	40,943,524	37,653,433	41,418,367	40,770,837	38,324,897
Fund balance - June 30	\$37,653,433	\$40,655,597	\$40,770,837	\$38,324,889	\$30,565,543

Source: City of Tracy Comprehensive Annual Financial Reports.

Major Revenues

General. Taxes and other sources of revenue received by the City are listed in the table below, which presents the major revenues of the City's General Fund for the last five audited fiscal years.

Combined, taxes comprise over 80% of the City's General Fund revenues. Property Tax and Sales Tax contribute more than two-thirds of the total income for the General Fund (and 90% of the total taxes). The next largest income is received through Charges for Services at 14% of the total General Fund revenue. All other revenues, including taxes from Business License, Transient Occupancy Tax, and Franchise Fees, comprise the remaining 15% of the total revenues. The City's revenues are expected to continue to increase annually for the next several years; with an annual increase estimated at 2-3%. Although the City can not foresee all economic trends, the City annually completes a ten-year forecast based upon historical collections, market trends and consumer demands. The City's revenues are diversified among Property Tax, Sales Tax, and other revenues. Sales Tax is the most responsive to the volatility changes of the economy, while Property Tax tends to lag by 18-24 months. This allows the City to adjust more gradually to changes such as an economic downturn.

Certain general taxes currently imposed by the City are affected by Proposition 218. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Article XIIC and Article XIID of the State Constitution."

Table 5
Major Tax Revenues by Source – General Fund

	Audited 2014-15	Audited 2015-16	Audited 2016-17	Audited 2017-18	Unaudited 2018-19	% of 2018-19 Total
Property Tax	\$17,709,090	\$19,638,061	\$20,392,536	\$20,848,493	\$22,139,194	32.74%
Property Transfer	362,107	368,922	372,636	1,311,406	1,130,147	1.67
Business License	818,656	814,210	838,037	847,027	934,793	1.38
Sales Tax	24,279,575	24,371,002	23,290,667	30,760,699	38,230,509	56.54
Franchise Tax	2,727,886	2,775,984	2,829,424	3,508,816	3,545,578	5.24
Transient Tax	1,123,087	1,378,802	1,507,518	1,597,341	1,638,102	2.42
Total	\$47,020,401	\$49,346,981	\$49,230,817	\$58,873,782	\$67,618,323	100.00%

Source: Statistical Table (does not include Gas Tax); Finance Department, City of Tracy.

Property Taxes

General. This section describes property tax levy and collection procedures and certain information regarding historical assessed values and major property tax payers in the City.

Property taxes represent one of the largest source of tax revenue to the City at approximately 28% in fiscal year 2018-19 and 31% in fiscal year 2019-20 of General Fund total revenues. The City has projected to receive \$ 22 million in property tax revenue for fiscal year 2018-19 (6% growth over prior year) and the revenues is projected to increase to \$24 million in fiscal year 2019-20 (9% growth over fiscal year 2018-19). The revenue growth is attributable to the 2% statutory inflationary increase on Assessed Valuation related to Proposition 13, as well

as a steady increase in home sales and new home construction that is expected to continue for several years. See “ – Assessed Valuation” below. The City utilizes the services of two consulting firms to assist in forecasting property tax revenues. In addition, these firms provide auditing services to ensure the County tax accurately reflect the City’s allocations.

See “ – Assessed Valuation” below.

Property taxes have historically been the primary revenue source affected by voter initiatives and legislative actions. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS” and “BOND OWNERS’ RISKS – Limitations on Taxes and Fees.”

ERAF Shift Legislation. Certain property taxes have been shifted from local government agencies to schools by the State Legislature for deposit in the Education Revenue Augmentation Fund (“**ERAF**”), a shift that has resulted in diversion of City property taxes since fiscal year 1992-93.

Levy and Collection. Property taxes are levied for each fiscal year on taxable real and personal property as of the preceding January 1. For assessment and collection purposes, property is classified either as “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State-assessed public utilities property and real property the taxes on which are a lien sufficient, in the opinion of the County Assessor, to secure payment of the taxes. Other property is assessed on the “unsecured roll.”

Property taxes on the secured roll are due in two installments, on November 1 and February 1 of each fiscal year, and become delinquent on December 10 and April 10, respectively. A penalty of 10% attaches immediately to all delinquent payments. Property on the secured roll with respect to which taxes are delinquent become tax defaulted on or about June 30 of the fiscal year. Such property may thereafter be redeemed by payment of a penalty of 1.5% per month to the time of redemption, plus costs and a redemption fee. If taxes are unpaid for a period of five years or more, the property may be sold at public auction.

Property taxes on the unsecured roll are due as of the January 1 lien dates and become delinquent on August 31. A 10% penalty attaches to delinquent unsecured taxes. If unsecured taxes are unpaid at 5:00 p.m. on October 31, an additional penalty of 1.5% attaches to them on the first day of each month until paid. The County has four ways of collecting delinquent unsecured personal property taxes: (1) a civil action against the taxpayer; (2) filing a judgment in the office of the County Clerk specifying certain facts in order to obtain a lien on certain property of the taxpayer; (3) filing a certificate of delinquency for record in the County Recorder’s office in order to obtain a lien on certain property of the taxpayer; and (4) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee.

Assessed Valuation. All property is assessed using full cash value as defined by Article XIII A of the State Constitution. State law provides exemptions from *ad valorem* property taxation for certain classes of property such as churches, colleges, non-profit hospitals, and charitable institutions. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS.”

Future assessed valuation growth allowed under Article XIII A of the State Constitution (new construction, certain changes of ownership, 2% inflation) will be allocated on the basis of

“situs” among the jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and schools will share the growth of “base” revenues from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year.

Assessed Valuation History. The following table shows a ten-year history of the City’s assessed valuation.

Table 6
Assessed Value of Taxable Property
Fiscal Years 2009-10 through 2018-19

Fiscal Year	Residential Property	Commercial/Industrial Property	Agricultural Exemptions	Total	Less Exemptions	Taxable Assessed Value
2009-10	\$4,992,382,327	\$1,113,010,224	\$197,778,028	\$6,303,170,579	\$120,292,254	\$6,182,878,325
2010-11	5,102,129,763	1,279,961,758	156,244,642	6,538,336,163	84,950,354	6,453,385,809
2011-12	4,576,276,289	1,132,426,026	181,181,654	5,889,883,969	119,824,162	5,770,059,807
2012-13	4,514,547,256	1,126,415,078	179,798,206	5,820,760,540	119,652,776	5,701,107,764
2013-14	5,010,295,280	1,136,022,186	215,287,460	6,361,604,926	117,977,641	6,243,627,285
2014-15	5,762,710,327	1,272,788,513	269,549,238	7,305,048,078	95,658,079	7,209,389,999
2015-16	6,176,651,051	1,421,947,826	239,064,864	7,837,663,741	120,326,228	7,717,337,513
2016-17	7,115,317,076	1,934,803,880	300,485,585	9,350,606,541	144,153,495	9,206,453,046
2017-18	7,028,699,966	1,614,086,845	467,565,285	9,110,352,096	126,335,095	8,984,017,001
2018-19	7,441,347,218	1,600,184,071	622,561,370	9,664,092,659	130,129,000	9,533,963,659

Source: City of Tracy Comprehensive Annual Financial Reports.

Proposition 13 and Proposition 8 Property Value Adjustments. Proposition 13, adopted in 1978, established the base year value concept for property tax assessments. Under Proposition 13, the 1975-76 fiscal year serves as the original base year used in determining the assessment for real property. Thereafter, annual increases to the base year value are limited to the inflation rate, as measured by the California Consumer Price Index, or 2%, whichever is less. A new base year value, however, is generally established whenever a property, or portion thereof, has had a change in ownership or has been newly constructed.

Proposition 8, enacted in 1978, allows for a temporary reduction in assessed value when a property suffers a “decline-in-value.” As of January 1st (lien date) each year, the Assessor must enroll either a property’s Proposition 13 value (adjusted annually for inflation by no more than 2%) or its current market value, whichever is less. When the current market value replaces the higher Proposition 13 value, the lower value is commonly referred to as a “Proposition 8 Value.” “Proposition 8 values” are temporary and, once enrolled, must be reviewed annually by the assessor until the Proposition 13 adjusted base year value is enrolled.

Major Property Taxpayers. The following table shows the principal property taxpayers in the City as determined by their taxable assessed valuations in fiscal year 2018-19.

Table 7
Principal Property Tax Payers

	Fiscal Year 2018-19		
	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value
<u>Taxpayer</u>			
Prologis Lp	\$285,161,351	1	2.61%
Golden State Fc Llc	175,008,750	2	1.60
Fedex Ground Package System In	122,632,022	3	1.12
Tracy Mall Partners Lp	101,003,380	4	0.93
Dct Tracy Logistics Center Llc	99,089,617	5	0.91
Medline Industries Inc.	91,059,388	6	0.83
Leprino Foods Company Corp	67,518,049	7	0.62
Tracy 300 Lp	66,298,051	8	0.61
Pac Corp Center Tracy	58,071,788	9	0.53
Central Valley Ltd. Liability	50,135,622	10	0.46
Top Ten Total	\$1,115,978,018		10.23%

Source: City of Tracy Comprehensive Annual Financial Report.

Teeter Plan. The Board of Supervisors of the County has approved the implementation of the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the “**Teeter Plan**”), as provided for in Section 4701 et seq. of the California Revenue and Taxation Code. Under the Teeter Plan, the County apportions secured property taxes on an accrual basis when due (irrespective of actual collections) to local political subdivisions, including the City, for which the County acts as the tax-levying or tax-collecting agency.

The Teeter Plan is applicable to all tax levies on secured property for which the County acts as the tax-levying or tax-collecting agency, or for which the County treasury is the legal depository of the tax collections.

The Teeter Plan is to remain in effect unless the Board of Supervisors of the County orders its discontinuance or unless, prior to the commencement of any fiscal year of the County (which commences on July 1), the Board of Supervisors receives a petition for its discontinuance joined in by resolutions adopted by at least two-thirds of the participating revenue districts in the County, in which event the Board of Supervisors is to order discontinuance of the Teeter Plan effective at the commencement of the subsequent fiscal year. If the Teeter Plan is discontinued subsequent to its implementation, only those secured property taxes actually collected would be allocated to political subdivisions (including the City) for which the County acts as the tax-levying or tax-collecting agency.

Sales and Use Taxes

Sales taxes represent the largest source of tax revenue to the City at approximately 47% in fiscal year 2018-19 and 42% in fiscal year 2019-20 of General Fund total revenues. The City has projected to receive \$ 38 million in property tax revenue for fiscal year 2018-19 (27% growth

over prior year) and the revenues is projected to increase to \$34 million in fiscal year 2019-20 (13% decrease over fiscal year 2018-19). The decrease in Sales Tax revenue is a result on a timing issue with the Sales Tax payments for the 4th quarter (April-June 2019) by the State. The State remitted most of the last quarter of fiscal year 2017-2018 to the City in the first quarter of fiscal year 2018-19. To forecast, the City averaged the three year growth is 10%. The revenue growth is attributable a growing retail and distribution base in the City. The City continues to be successful in attracting large distribution centers to its industrial parks which not only increase the City's base tax, but add to the City's half-cent sales tax revenue (Measure V).

This section describes the current system for levying, collecting and distributing sales and use tax revenues in the State of California.

Sales Tax Rates. The City collects a percentage of taxable sales in the City (minus certain administrative costs imposed by the State) pursuant to the Bradley-Burns Uniform Local Sales and Use Tax (the "**Sales Tax Law**"), as shown below.

Local taxes are included in the statewide sales and use tax rate of 7.25%. Additional local taxes approved by voters (also referred to as district taxes or "transaction taxes") are applied to purchases where the goods are delivered or placed into use in the City.

Currently, taxable transactions in the City are subject to the following sales and use tax, of which the City's share is only a portion. The State collects and administers the tax, and makes distributions on taxes collected within the City, as follows:

Table 8
Sales Tax Rates
Fiscal Year 2019-20

<u>Component</u>	<u>Rate</u>
<u>State and County Sales Tax Rates</u>	
State General Fund	3.94%
County Realignment (Mental Health/Welfare/Public Safety)	1.56
City/County General Fund (Bradley-Burns)	1.00
County Public Safety (Prop 172)	0.50
Countywide Transportation Fund	0.25
Total	7.25%
<u>District Sales Tax Rates</u>	
Tracy Transactions & Use Tax (Measure V)	0.50%
San Joaquin Transportation Authority (K) (SJTA)	0.50
Total	1.00%
Total Sales Tax Rate	8.25%

Source: City of Tracy, based on information provided by HdI.

Sales and use taxes are complementary taxes; when one applies, the other does not. In general, the statewide sales tax applies to gross receipts of retailers from the sale of tangible

personal property in the State of California. The use tax is imposed on the purchase, for storage, use or other consumption in the State of tangible personal property from any retailer. The use tax generally applies to purchases of personal property from a retailer outside the State of California where the use will occur within the State of California. The Sales Tax is imposed upon the same transactions and items as the statewide sales tax and the statewide use tax.

Certain transactions are exempt from the State sales tax, including sales of the following products:

- food products for home consumption;
- prescription medicine;
- newspapers and periodicals;
- edible livestock and their feed;
- seed and fertilizer used in raising food for human consumption; and
- gas, electricity and water when delivered to consumers through mains, lines and pipes.

This is not an exhaustive list of exempt transactions. A comprehensive list can be found in the State Board of Equalization's Publication No. 61 entitled "Sales and Use Taxes: Exemptions and Exclusions," which can be found on the California Department of Tax and Fee Administration (CDTFA) website at www.cdtfa.ca.gov. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

Sales Tax Collection Procedures. Collection of the sales and use tax is administered by the California Department of Tax and Fee Administration ("CDTFA") Retailers engaged in business in California must register with the CDTFA and pay the state's sales tax, which applies to all retail sales of goods and merchandise except those sales specifically exempted by law. The use tax generally applies to the storage, use, or other consumption in California of goods purchased from retailers in transactions not subject to the sales tax. Use tax may also apply to purchases shipped to a California consumer from another state, including purchases made by mail order, telephone, or Internet. The sales and use tax rate in a specific California location has three parts: the state tax rate, the local tax rate, and any district tax rate that may be in effect. These transmittals are required to be made at least twice in each calendar quarter.

Under its procedures, CDTFA projects receipts of the sales and use tax on a quarterly basis and remits an advance of the receipts of the sales and use tax to the City on a monthly basis. The amount of each monthly advance is based upon CDTFA's quarterly projection. During the last month of each quarter, CDTFA adjusts the amount remitted to reflect the actual receipts of the sales and use tax for the previous quarter.

According to CDTFA, it distributes quarterly tax revenues to cities, counties and special districts using the following method:

Using the prior year's like quarterly tax allocation as a starting point, CDTFA first eliminates nonrecurring transactions such as fund transfers, audit payments and refunds, and then adjusts for growth, in order to establish the estimated base amount. CDTFA disburses 90% to each local jurisdiction in three monthly installments (advances) prior to the final computation of the quarter's

actual receipts. Ten percent is withheld as a reserve against unexpected occurrences that can affect tax collections (such as earthquakes, fire or other natural disaster) or distributions of revenue such as unusually large refunds or negative fund transfers. The first and second advances each represent 27% of the 90% distribution, while the third advance represents 46%. One advance payment is made each month, and the quarterly reconciliation payment (clean-up) is distributed with the third payment. Statements showing total collections, administrative costs, prior advances and the current advance are provided with each quarterly clean-up payment.

CDTFA receives an administrative fee based on the cost of services provided by CDTFA to the City in administering the City's sales tax, which is deducted from revenue generated by the sales and use tax before it is distributed to the City. In addition, the City receives auditing and forecasting services from HdL to ensure that the City receives the proper allocation of sales tax revenue.

Location Agreements.

In December 2015, the City entered into a Location Agreement with a manufacturer and distributor of healthcare products and services (the "**2015 Company**") to make payments to the 2015 Company in return for the 2015 Company establishing, locating and operating a sales office in the City. Under the terms of the agreement, the City has agreed to pay the 2015 Company 50% of the quarterly local sales tax revenues attributable to the 2015 Company's taxable sales for each fiscal quarter, excluding penalty assessments, commencing with the quarter beginning January 1, 2017 and ending on December 31, 2036, unless otherwise extended in accordance with the agreement. The City paid \$_____ to the 2015 Company during the year ended June 30, 2019.

In December 2017, the City entered into a Location Agreement with a manufacturer and distributor of healthcare products and services (the "**2017 Company**") to make payments to the 2017 Company in return for the 2017 Company establishing, locating and operating a sales office in the City. Under the terms of the agreement, the City has agreed to pay the 2017 Company 50% of the quarterly local sales tax revenues attributable to the 2017 Company's taxable sales for each fiscal quarter, excluding penalty assessments, commencing with the quarter beginning January 1, 2017 and ending on December 31, 2036, unless otherwise extended in accordance with the agreement. The City paid \$_____ to the 2017 Company during the year ended June 30, 2019.

In December 2019, the City entered into a Location Agreement with a manufacturer and distributor of general merchandise (the "**2019 Company**") to make payments to the 2019 Company in return for the 2019 Company establishing, locating and operating a sales office in the City. Under the terms of the agreement, the City has agreed to pay the 2019 Company 50% of the quarterly local sales tax revenues attributable to the 2019 Company's taxable sales for each fiscal quarter, excluding penalty assessments, commencing with the quarter beginning January 1, 2020 and ending on December 31, 2040, unless otherwise extended in accordance with the agreement. The City paid \$0 to the 2019 Company during the year ended June 30, 2019.

Historical Composition of Sales Tax Revenue. A historical summary of sales tax composition by category is shown in the following table. The data presented show the full value of the City's 1.0% share of sales taxes under the Sales Tax Law, and do not reflect the State's "triple-flip" adjustments, administrative fees, or the 5% of the City's revenue allocable to San Joaquin County. The table below is provided by the City's sales tax auditors (HdL) and reflects allocation on a calendar year basis.

Table 9
Taxable Sales by Category
(calendar year basis)
(\$000s)

Category	2014	2015	2016	2017	2018
Apparel stores	\$40,152	\$37,205	\$42,756	\$44,760	\$48,498
General merchandise stores	192,657	194,528	203,460	210,820	212,792
Food and beverage stores	56,254	42,526	39,953	39,602	41,342
Eating and drinking places	128,827	143,887	155,560	162,261	169,434
Home furnishings and appliances	137,236	--	--	--	--
Building maintenance and garden supplies	71,129	130,449	140,715	159,799	180,713
Auto dealers and auto suppliers	299,869	321,977	343,861	379,058	369,499
Service stations	187,653	160,104	144,048	159,778	183,856
Other retail stores	75,167	154,697	160,573	155,252	163,611
All other outlets	198,209	524,513	601,684	1,091,917	1,344,089
Total	\$1,387,153	\$1,709,886	\$1,832,610	\$2,403,247	\$2,713,834

Source: City of Tracy, based on information provided by HdI.

Other Taxes and Revenues

Assessments. _____

Business License Taxes. Business taxes are paid by individuals and entities for the privilege of conducting business in the City and to help pay for public services that contribute to a favorable business environment. The tax rate depends upon the type and size of the business. Some businesses pay a flat rate. Business tax receipts tend to fluctuate with economic cycles, though to a lesser degree than sales taxes.

Each person transacting and carrying on a business not specifically classified by other sections of the City municipal code is required to pay an annual business tax of \$100, which covers one owner, plus \$20 for each additional employee or owner. Each business tax will be determined annually based upon the average number of employees of the business in the City's preceding year.

Exemptions are provided for the following:

- Nonprofit organizations.
- Disabled veterans.
- Disabled persons.
- Minimal income persons. Any person whose annual gross income from any such business is less than \$2,000.
- Minors.
- Solicitors in interstate commerce.

The City has projected to receive approximately \$1 million in Business License tax revenue for fiscal year 2018-19 and fiscal year 2019-20 (approximately 1% growth); primarily related to increased business growth within the City.

Franchise Taxes. State law provides cities with the authority to grant franchises to privately-owned utility and other companies for their use of the public right-of-way. The City receives franchise fees from the electric and gas utility, the solid waste collection company, and local cable companies. The dominant franchise fees are calculated as a percentage of the respective franchisee's gross revenues (subject to specified statutory adjustments) earned from services delivered or performed by the franchisee within the City.

Gas and electricity franchise: PG&E franchise fee revenues change because of changes to the cost of natural gas and other resources used to generate electricity, consumer power demands (which are affected by the economy), interstate energy contract pricing, and State and federal regulatory changes. [In August 2016, PG&E filed a settlement agreement with the California Public Utilities Commission (CPUC) for its three-year "rate case" that took effect on January 1, 2017. The settlement agreement provides for a 1.1% revenue increase in the first year, a 5.5% revenue increase in the second year, and a 4.2% revenue increase in the third year.] Decreased demand (a factor of weather and price) or significant interstate cost decreases are factors that might negatively affect this revenue. Gas and electric franchise fee revenues were \$698,871 in fiscal year 2018-19 and are estimated to be \$752,147 in fiscal year 2019-20.

Cable franchise: AB 2987 was signed into California law and became effective January 1, 2007. This legislation transferred the franchising functions to the State and set a fixed franchise fee of 5%. Cable franchise fee revenues were \$ 769,952 in fiscal year 2018-19 and estimated to be \$871,405 in fiscal year 2019-20.

Solid waste collection franchise: Solid waste collection franchise fee revenues were \$2,076,755 in fiscal year 2018-19 and are estimated to be \$2,078,876 in fiscal year 2019-20.

Transient Occupancy Taxes (TOT). The City's transient occupancy tax rate of 10% is charged on hotel and motel room occupancies of 30 days or less. It is paid by hotel and motel customers in addition to the room rate. Fiscal year 2018-19 transient occupancy tax revenues were \$1.6 million, an increase of 3% from the prior fiscal year level and constituting 2% of General Fund tax revenues. Fiscal year 2019-20 transient occupancy tax revenues are estimated to be \$2 million, an increase of 19% from the prior fiscal year and constituting approximately 3% of General Fund's tax revenues.

The City anticipates that three hotels will open over the next five years. The first hotel is slated to be open in 2020 with 87 rooms. Another hotel with 94 rooms is in plan review with construction to begin over the summer of 2020. The City has also entitled a third hotel with 107 rooms that is expected to be submitted for final review in 2020-21.

Long-Term Obligations

Following is a summary schedule of the City's outstanding debt, including both general fund obligations and enterprise (business-type) obligation.

	Balance June 30, 2019
Governmental Activities	
2007 Lease Revenue Bonds, Series A	\$2,690,000
2007 Lease Revenue Bonds, Series B	730,000
2008 Lease Revenue Bonds	<u>17,895,000</u>
Total Governmental Activities	21,315,000
Business-Type Activities	
2004 Wastewater Certificates of Participation	22,890,000
State of California Public Health Loan	<u>9,645,194</u>
Total Business-Type Activities	<u>32,535,194</u>
Total	<u>\$53,850,194</u>

Source: City of Tracy Fiscal Year 2018-19 Comprehensive Annual Financial Report.

Employee Relations

There are approximately 645 full and part-time employees of the City, represented by formal labor organizations or not represented, as shown in the table below.

Labor Group	Number of Employees	Contract Expiration Date
Elected/Appointed	6	N/A
Department Heads	9	06/30/2021
Confidential Mid-Managers	17	06/30/2021
Mid-Managers Bargaining Unit	60	06/30/2021
Tracy Technical & Support Services Employees Assn	72	06/30/2021
Teamsters	173	06/30/2021
Tracy Police Officers Assn	84	06/30/2021
Tracy Police Managers Assn	8	06/30/2021
Tracy Fire Fighters Assn	66	06/30/2021
South County Fire Chiefs Assn	3	06/30/2021
Confidential Non-Managers	6	06/30/2021
Limited Services	113	N/A
Commissioners	<u>28</u>	N/A
Total	645	

Risk Management

The City is exposed to various risks related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The city maintains the Insurance Internal Service Fund to account for and finance its risks of loss.

Coverage. The City participates in the Central San Joaquin Valley Risk Management Authority (“CSJVRMA”), a public entity risk pool currently operating as a common risk management and insurance program for 54 cities. The purpose of CSJVRMA is to spread the adverse effect of losses among the members and to purchase excess insurance as a group, thereby reducing its expense. The CSJVRMA is governed by a Board of Directors elected by the member agencies; it is not a component unit of the City. Audited financial statements are available from the Central San Joaquin Risk Management Authority at 1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833.

[PLEASE UPDATE AS NEEDED]

The City participates in the following pooled coverages through CSJVRMA:

Type of Coverage (Deductible)	Coverage Limits
Liability (\$100,000)	\$29,000,000
Property (\$5,000 to \$10,000)	1,000,000,000
Worker’s Compensation (\$200,000)	Statutory Limits
Boiler and Machinery (\$1,000 to \$10,000)	1,000,000,000
Automobile-for vehicles with values more than \$25,000 (\$500)	1,000,000,000

The CSJVRMA maintains separate records for each member for each year of participation. The records track cash paid to the CSJVRMA through deposit premium assessments, the City’s self-insured retention portion of claims paid, and the City’s allocation of shared risks. Three years after the close of the workers’ compensation coverage year and five years after the close of the general liability coverage year, the CSJVRMA assesses the status of all members for the year, then either makes a refund to a member if it has positive balance (i.e. payout and reserve experience is less than premiums paid) or collects any deficit.

During the fiscal year ended June 30, 2019, the City contributed \$_____ for current year coverage. Settled claims have not exceeded insurance coverage in any of the past three fiscal years.

Liability for Uninsured Claims. The City provides for the uninsured portion of claims and judgments, including provisions for claims incurred but not reported, in the Insurance Internal Service Fund. Claims and judgments are recorded when a loss is deemed probable of asserting and the amount of the loss is reasonably determinable. As discussed above, the City has coverage for such claims, but it has retained the risk for the deductible, or uninsured portion of these claims. The City has estimated that claims will become due and payable in more than one year. The City’s liability for uninsured claims was estimated by management based on prior year claims experience and CSJVRMA where the City as of June 30, 2018 has reserve deposits which cover claims and IBNRs.

For the year ending June 30,	Claims Payable July 1	Fiscal Year Claims and Changes in Estimates	Claims Payments	Claims Payable June 30
2016	\$112,494	\$0.0	\$0.0	\$112,494
2017	112,494	0.0	0.0	112,494
2018	112,494	(112,494)	0.0	0
2019	_____	_____	_____	_____

Source: City of Tracy Fiscal Year Comprehensive Annual Financial Report.

See Note 13 in the City's fiscal year 2018-19 audited financial statements, which are attached to this Official Statement as APPENDIX C, for additional information about the City's risk management practices.

Employee Retirement System

This caption contains certain information relating to California Public Employees' Retirement System ("CalPERS"). The information is primarily derived from information produced by CalPERS, its independent accountants and actuaries. The City has not independently verified the information provided by CalPERS and makes no representations and expresses no opinion as to the accuracy of the information provided by CalPERS.

The comprehensive annual financial reports of CalPERS are available on its Internet website at www.calpers.ca.gov. The CalPERS website also contains CalPERS' most recent actuarial valuation reports and other information concerning benefits and other matters. Such information is not incorporated by reference in this Official Statement. None of the Authority, City or Purchaser can guarantee the accuracy of such information. Actuarial assessments are "forward-looking" statements that reflect the judgment of the fiduciaries of the pension plans, and are based upon a variety of assumptions, one or more of which may not materialize or may be changed in the future. Actuarial assessments will change with the future experience of the pension plans.

Plan Descriptions. All qualified permanent and probationary employees are eligible to participate in the City's separate Safety (police and fire) and Miscellaneous (all other) Plans, agent multiple-employer defined benefit pension plans administered by the CalPERS, which acts as a common investment and administrative agent for its participating member employers. Benefit provisions under the Plans are established by State statute and City resolution. CalPERS issues publicly available reports that include a full description of the pension plans regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

Benefits Provided. CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments ("**COLA**") for each plan are applied as specified by the Public Employees' Retirement Law. The Pension Reform Act of 2013 (PEPRA), Assembly Bill 340, is applicable to employees new to CalPERS and hired after December 31, 2012.

A summary of the City's benefit formulas is provided below:

Miscellaneous

	<u>Classic Tier 1</u>	<u>Classic Tier II</u>	<u>PEPRA</u>
Hire date	Prior to October 9, 2011	After October 9, 2011	On or after January 1, 2013
Benefit formula	2.5% @55	2.0% @55	2.0% @62
Benefit vesting schedule	5 years service	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life	Monthly for life
Retirement age	50-55	50-63	52-67
Monthly benefits, as of % of eligible compensation	2.0%-2.5%	1.426%-2.418%	1.0%-2.5%
Required employee contribution rates	8%	7%	6.25%
Required employer contribution rates	9.207%	9.207%	9.207%

Required UAL contribution-Miscellaneous \$2,479,417

Safety-Police

	<u>Classic Tier 1</u>	<u>Classic Tier II</u>	<u>PEPRA</u>
Hire date	Prior to April 8, 2012	After April 8, 2012	On or after January 1, 2013
Benefit formula	3.0% @50	3.0% @50	2.7% @57
Benefit vesting schedule	5 years service	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life	Monthly for life
Retirement age	50	50-55	50-57
Monthly benefits, as of % of eligible compensation	3.0%	2.4%-3.0%	2.0%-2.7%
Required employee contribution rates	9%	9%	12%
Required employer contribution rates	20.618%	20.618%	20.618%

Required UAL contribution-Police and Fire \$2,313,800

Safety-Fire

	<u>Classic Tier 1</u>	<u>PEPRA</u>
Hire date	Prior to October 9, 2011	On or after January 1, 2013
Benefit formula	3.0% @55	2.7% @57
Benefit vesting schedule	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life
Retirement age	50-55	50-57
Monthly benefits, as of % of eligible compensation	2.4%-3.0%	2.0%-2.7%
Required employee contribution rates	9%	12%
Required employer contribution rates	35.197%	35.197%

Required UAL contribution-Police and Fire Included in Safety-Police total in the prior table

Beginning in fiscal year 2018, CalPERS collects employer contributions for the Plans as a percentage of payroll for the normal cost portion as noted in the rates above and as a dollar amount for contributions toward the unfunded accrued liability ("UAL"). The dollar amounts are billed on an annual basis. The City's required contributions for the unfunded liability for Miscellaneous and Safety Plans were \$2,479,417 and \$2,313,800, respectively, in fiscal year 2019, as shown in the tables above.

Employees Covered. At the June 30, 2017 valuation date, the following employees were covered by the benefit terms for each plan:

	<u>Miscellaneous</u>	<u>Safety</u>
Inactive employees or beneficiaries currently receiving benefits	288	152
Inactive employees entitled to but not yet receiving benefits	252	54
Active employees	287	150
Total	827	356

The City is required to contribute at an actuarially determined rate of annual covered payroll for normal cost and an actuarially determined dollar amount to amortized the unfunded liability. The actuarially determined rates and contribution amounts for each plan for the fiscal years ended June 30, 2019, through June 30, 2021, are as follows:

	<u>Fiscal Year 2018-19</u>		<u>Fiscal Year 2019-20</u>		<u>Fiscal Year 2020-21</u>	
	Employer Normal Cost Rate	Employer Payment of Unfunded Liability	Employer Normal Cost Rate	Employer Payment of Unfunded Liability	Employer Normal Cost Rate	Employer Payment of Unfunded Liability
Safety Plan	20.618%	\$2,397,604	21.647%	\$2,827,833	21.845%	\$3,259,512
Miscellaneous Plan	9.207	2,569,219	9.665	3,129,838	9.838	3,442,778

Source: CalPERS Actuarial Reports dated, July 2017, July 2018, and July 2019.

On July 11, 2019, CalPERS announced preliminary investment returns for the 12-month period ended June 30, 2019, of 6.7%. Such returns are lower than CalPERS' current assumed rate of investment return (7.0%) and, along with other factors (including future investment returns and contributions rates), may result in increased required contributions in the future. See "Recent Actions Taken by CalPERS" below.

The City's total contributions to each plan in fiscal years 2016-17, 2017-18, and 2018-19 were as follows:

Miscellaneous Plan

<u>Fiscal Year</u>	<u>Total City Contribution</u>
2016-17	3,873,007
2017-18	4,050,711
2018-19	4,749,293

Safety Plan

<u>Fiscal Year</u>	<u>Total City Contribution</u>
2016-17	4,604,350
2017-18	5,148,037
2018-19	5,643,974

Funded Status. The following table sets forth the schedule of funding progress for the City's Miscellaneous and Safety pension plans as of the three most recent actuarial valuation dates.

Miscellaneous Plan

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2016	134,975,185	97,644,232	37,330,953	72.3	19,692,044
2017	145,744,862	108,464,485	37,280,377	74.4	20,983,706
2018	159,190,541	116,812,860	42,377,681	73.4	23,490,377

(1) Based on the market value of assets.

Source: CalPERS Actuarial Report Dated July 2019.

Safety

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2016	156,770,525	116,160,468	40,610,057	74.1	15,049,963
2017	169,282,484	128,767,526	40,514,958	76.1	15,886,030
2018	188,517,760	139,620,656	48,897,104	74.1	17,089,085

(1) Based on the market value of assets.

Source: CalPERS Actuarial Report Dated July 2019.

Recent Actions Taken by CalPERS. At its April 17, 2013, meeting, CalPERS' Board of Administration (the "**Board of Administration**") approved a recommendation to change the CalPERS amortization and smoothing policies. Prior to this change, CalPERS employed an amortization and smoothing policy that spread investment returns over a 15-year period with experienced gains and losses paid for over a rolling 30-year period. After this change, CalPERS will employ an amortization and smoothing policy that will pay for all gains and losses over a 20-year period with a five-year ramp-up, and five-year ramp-down, period. The new amortization and smoothing policy was used for the first time in the June 30, 2013, actuarial valuations in setting employer contribution rates for fiscal year 2015-16.

On February 18, 2014, the CalPERS Board approved new demographic actuarial assumptions based on a 2013 study of recent experience. The largest impact, applying to all benefit groups, is a new 20-year mortality projection reflecting longer life expectancies and that longevity will continue to increase. Because retirement benefits will be paid out for more years, the cost of those benefits will increase as a result. The Board of Administration also assumed earlier retirements for Police 3%@50, Fire 3%@55, and Miscellaneous 2.7%@55 and 3%@60, which will increase costs for those groups. As a result of these changes, rates will increase beginning in fiscal year 2016-17 (based on the June 30, 2014 valuation) with full impact in fiscal year 2020-21.

On November 18, 2015, the CalPERS Board adopted a funding risk mitigation policy intended to incrementally lower its discount rate – its assumed rate of investment return – in years of good investment returns, help pay down the pension fund's unfunded liability, and provide greater predictability and less volatility in contribution rates for employers. The policy establishes

a mechanism to reduce the discount rate by a minimum of 0.05 percentage points to a maximum of 0.25 percentage points in years when investment returns outperform the existing discount rate, currently 7.5%, by at least four percentage points. CalPERS staff modeling anticipates the policy will result in a lowering of the discount rate to 6.5% in about 21 years, improve funding levels gradually over time and cut risk in the pension system by lowering the volatility of investment returns. More information about the funding risk mitigation policy can be accessed through CalPERS' web site at the following website address:

<https://www.calpers.ca.gov/page/newsroom/calpers-news/2015/adopts-funding-risk-mitigation-policy>

The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.

On December 21, 2016, the CalPERS Board voted to lower its discount rate from the current 7.5% to 7.0% over the next three years according to the following schedule.

<u>Valuation Date</u>	<u>Fiscal Year Required Contribution</u>	<u>Discount Rate</u>
June 30, 2016	2018-19	7.375%
June 20, 2017	2019-20	7.250
June 30, 2018	2020-21	7.000

For public agencies like the City, the new discount rate will increase contribution costs beginning in fiscal year 2018-19. Lowering the discount rate means employers that contract with CalPERS to administer their pension plans will see increases in their normal costs and unfunded actuarial liabilities. Active members hired after January 1, 2013, under the Public Employees' Pension Reform Act will also see their contribution rates rise. The three-year reduction of the discount rate will result in average employer rate increases of about 1 percent to 3 percent of normal cost as a percent of payroll for most miscellaneous retirement plans, and a 2 percent to 5 percent increase for most safety plans. Additionally, many CalPERS employers will see a 30 to 40 percent increase in their current unfunded accrued liability payments. These payments are made to amortize unfunded liabilities over 20 years to bring the pension fund to a fully funded status over the long-term.

In December 2017, the CalPERS Board adopted relatively modest changes to the asset allocation that reduced the expected volatility of returns. The adopted asset allocation was expected to have a long-term blended return that continued to support a discount rate assumption of 7.00%. The Board also approved several changes to the demographic assumptions that more closely aligned with actual experience.

Other Post-Employment Benefits ("OPEB")

Plan Description. The City administers a single employer defined benefit (implicit subsidy) healthcare plan. No assets have been accumulated in a trust for the payment of benefits that meets the criteria in paragraph 4 of Governmental Accounting Standards Board Statement No. 75.

The City offers medical, dental, vision and life insurance benefits to its employees, retirees, and their dependents. However, the City does not explicitly pay for the cost of retiree

health premiums. The medical plans consist of a Kaiser HMO, a Kaiser POS, and a Kaiser PPO, all fully insured. Medical premiums for retirees under age 65 are the same as those charged for active employees.

Employees who retire with at least ten years of service may elect to convert all accrued sick leave at the time of retirement to a medical insurance bank that can be used for medical, dental and vision premiums. Miscellaneous employees except members of the Teamsters Bargaining Unit can bank their unused sick leave upon retirement. Members of the Teamsters can also bank their unused sick leave only if they have at least 10 years of employment with the City. Safety employees: Police employees can bank their unused sick leave if they have at least 10 years of employment. Fire employees have a choice to bank their unused sick leave. Fire employees also need at least 10 years of employment to receive this benefit. The value of the medical insurance bank is determined by multiplying the number of accrued sick leave hours by the employees' hourly rate of pay at the time of retirement.

The retired employee and his/her dependents are entitled to continued group health insurance coverage currently in effect with premiums for such coverage being deducted from the medical leave bank until that bank is exhausted.

The cost of retiree health care benefits is recognized as an expenditure as health care premiums are paid. For the fiscal year ending June 30, 2019, those costs for 78 retirees totaled \$598,941 and the total liability amount in the medical leave bank is \$3,346,164.

After the account is exhausted, the retiree has the option either to terminate coverage or elect to continue paying the medical (but not dental or vision) premiums from personal funds. Spouses and eligible dependent children of retirees may also be covered at the retiree's expense. While the City does not directly contribute towards the cost of premiums for retirees, the ability to obtain coverage at an active employee rate constitutes a significant economic benefit to the retirees, called an "implicit subsidy" under generally accepted accounting principles. The inclusion of the retirees increases the City's overall health insurance rates; it is, in part, the purpose of this valuation to determine the amount of the subsidy.

The ability to participate in the City's health plan by self-paying the premiums extends for the lifetime of the retiree; however, upon attaining the age of Medicare eligibility (65), the retiree may enter a plan coordinated with Medicare. Standard actuarial practice assumes that Medicare supplement plans do not generally give rise to an implicit subsidy, and while we have included Medicare eligible retirees in this valuation, both their liability and their annual implicit subsidy are both \$0. The Plan does not issue a separate financial report.

Membership of the Plan as of June 30, 2018, the date of the latest actuarial valuation, consists of 208 active plan members, 40 inactive employees or beneficiaries currently receiving benefit payments, and 90 inactive employees entitled to, but not yet, receiving benefits.

Changes in Reporting Requirements – GASB 75. In fiscal year 2017-18, the City implemented "Governmental Accounting Standards Board ("GASB") Statements No. 75, Accounting and Financial Reporting for Postemployment Benefits other than Pensions, and No. 85, Omnibus 2017" ("GASB Statement No. 75"). GASB Statement No. 75 established standards of accounting and financial reporting for defined benefit OPEB and defined contribution OPEB that are provided to the employees of state and local governmental employers through OPEB plans that are administered through trusts or equivalent arrangements. Statement No. 75 replaces the requirements of GASB 45, Accounting and Financial Reporting by Employers for

Postemployment Benefits Other Than Pensions. The standards set forth in GASB Statement No. 75 parallel the pension standard issued in 2012—GASB Statement No. 68, Accounting and Financial Reporting for Pensions. As result of the implementation of GASB Statement No. 75, the City was required to include a Net OPEB liability of \$5.9 million on the Statement of Net Position in fiscal year 2017-18. Additionally, as a result of this new standard, the City was required to restate its beginning net position for the 2017-18 fiscal year by \$-3.3 million.

Funding Policy. The contribution requirement of plan members and the City are established and may be amended by the City. The required contribution is based on projected pay-as-you-go financing requirements.

Actuarial Methods and Assumptions. The City's total OPEB liability of \$6,150,884 was measured as of June 30, 2018 and was determined by an actuarial valuation as of June 30, 2018 using the following actuarial assumptions, applied to all periods included in the measurement, unless otherwise specified, using the entry age normal cost method: inflation 2.75%, projected salary increase 3.25%, healthcare trend rates 8.00% for 2019, declining to 5.00% for 2024 and beyond. The discount rate used to measure the total OPEB liability was 2.98%. The City's funding policy affects the calculation of liabilities by impacting the discount rate that is used to develop the plan liability and expense. The City is currently financing its OPEB liability on a pay-as-you-go basis, the discount rate used in the June 30, 2018 valuation is based on the S&P Municipal Bond 20-year high grade index. Mortality rates were based on the MacLeod Watts Scale 2018 applied generationally. Demographic actuarial assumptions used in this valuation are based on the 2017 experience study of the California Public Employees Retirement System using data from 1997 to 2015, except for a different basis used to project future mortality improvements. Mortality rates used were those published by CalPERS, adjusted to back out 15 years of Scale MP 2016 to central year 2015, then projected.

Changes in OPEB Liability of the City. The changes in OPEB liability of the Cityt as of June 30, 2018, is shown in the following table:

CHANGES IN TOTAL OPEB LIABILITY
City of Tracy

	Total OPEB Liability
Balance at June 30, 2017 (Measurement Date)	\$5,931,522
Service Cost	318,114
Interest on the total OPEB liability	192,889
Changes of Assumptions	(117,527)
Benefit payments and refunds	<u>(174,114)</u>
Net changes	219,362
Balance at June 30, 2018(Valuation Date)	\$6,150,884

Source: City of Tracy Fiscal Year 2018-19 Comprehensive Annual Financial Report.

The following presents the net OPEB liability of the City if it were calculated using a discount rate that is one percentage point lower or one percentage point higher than the current rate, for measurement period ended June 30, 2019:

	Discount Rate – 1% 1.98%	Current Discount Rate 2.98%	Discount Rate + 1% 3.98%
Net OPEB Liability	\$6,676,795	\$6,150,884	\$5,664,966

Source: City of Tracy Fiscal Year 2018-19 Comprehensive Annual Financial Report.

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Actuarially determined amounts are subject to revision at least biannually as results are compared to past expectations and new estimates are made about the future.

See Note 11 in the City's fiscal year 2018-19 audited financial statements, which are attached to this Official Statement as APPENDIX C, for additional information about the City's OPEB plan.

Investment Policies and Procedures

The City invests its funds in accordance with the City's Investment Policy (the "**Investment Policy**"), which is subject to annual review and approval by the City Council. The purpose of the Investment Policy is to establish the investment goals of safety, liquidity, and yield (in that order). The Investment Policy complies with the provisions of the California Government Code, Sections 53600 through 53659 (the authority governing investments for municipal governments in the State). The Investment Policy limits the City to investments authorized by State law (Sections 53601 et seq). In addition, the Investment Policy establishes further guidelines.

It is the policy of the City to invest public funds in a prudent manner which will provide the highest yield consistent with the maximum security and preservation of invested principal, while meeting the daily cash flow demands of the City, and conforming to all applicable federal, state and local statutes governing the investment of public funds.

The City Council receives monthly cash and investments reports. As of June 30, 2019, the City has invested funds as set forth in the table below.

Table 10
Investment Portfolio as of June 30, 2019

	Value	Percentage of Portfolio
Investments City Pool		
Investments in Securities at Market Value		
State of California Local Agency Investment Funds (LAIF)		
California Asset Management Program (CAMP)		
Money Market Funds		
Total		

Source: City of Tracy.

CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS

The constitutional and statutory provisions discussed in this section have the potential to affect the ability of the City to levy taxes and spend tax proceeds for operating and other purposes.

Article XIII A of the State Constitution

On June 6, 1978, California voters approved Proposition 13, which added Article XIII A to the State Constitution. Article XIII A, as amended, limits the amount of any *ad valorem* tax on real property to one percent of the full cash value thereof, except that additional *ad valorem* taxes may be levied to pay debt service (i) on indebtedness approved by the voters prior to July 1, 1978, (ii) on bonded indebtedness approved by a two-thirds vote on or after July 1, 1978, for the acquisition or improvement of real property or (iii) bonded indebtedness incurred by a school district, community college district or county office of education for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters voting on the proposition. Article XIII A defines full cash value to mean "the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value," or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." This full cash value may be increased at a rate not to exceed two percent per year to account for inflation.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster, and in other minor or technical ways.

Legislation Implementing Article XIII A

Legislation has been enacted and amended a number of times since 1978 to implement Article XIII A. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the County and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1989.

Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the two percent annual adjustment are allocated among the various jurisdictions in the "taxing area" based upon their respective "situation." Any such allocation made to a local agency continues as part of its allocation in future years.

All taxable property is shown at full market value on the tax rolls. Consequently, the tax rate is expressed as \$1 per \$100 of taxable value. All taxable property value included in this Official Statement is shown at 100 percent of market value (unless noted differently) and all tax rates reflect the \$1 per \$100 of taxable value.

Article XIII B of the State Constitution

In addition to the limits Article XIII A imposes on property taxes that may be collected by local governments, certain other revenues of the State and most local governments are subject to an annual “appropriations limit” imposed by Article XIII B which effectively limits the amount of such revenues those entities are permitted to spend. Article XIII B, approved by the voters in June 1979, was modified substantially by Proposition 111 in 1990. The appropriations limit of each government entity applies to “proceeds of taxes,” which consist of tax revenues, State subventions and certain other funds, including proceeds from regulatory licenses, user charges or other fees to the extent that such proceeds exceed “the cost reasonably borne by such entity in providing the regulation, product or service.” “Proceeds of taxes” excludes tax refunds and some benefit payments such as unemployment insurance. No limit is imposed on the appropriation of funds which are not “proceeds of taxes,” such as reasonable user charges or fees, and certain other non-tax funds. Article XIII B also does not limit appropriation of local revenues to pay debt service on Bonds existing or authorized by January 1, 1979, or subsequently authorized by the voters, appropriations required to comply with mandates of courts or the federal government, appropriations for qualified capital outlay projects, and appropriation by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990, levels. The appropriations limit may also be exceeded in case of emergency; however, the appropriations limit for the next three years following such emergency appropriation must be reduced to the extent by which it was exceeded, unless the emergency arises from civil disturbance or natural disaster declared by the Governor, and the expenditure is approved by two-thirds of the legislative body of the local government.

The State and each local government entity has its own appropriations limit. Each year, the limit is adjusted to allow for changes, if any, in the cost of living, the population of the jurisdiction, and any transfer to or from another government entity of financial responsibility for providing services. Proposition 111 requires that each agency’s actual appropriations be tested against its limit every two years.

If the aggregate “proceeds of taxes” for the preceding two-year period exceeds the aggregate limit, the excess must be returned to the agency’s taxpayers through tax rate or fee reductions over the following two years.

The City has never exceeded its appropriations limit.

Articles XIII C and XIII D of the State Constitution

General. On November 5, 1996, the voters of the State approved Proposition 218, known as the “Right to Vote on Taxes Act.” Proposition 218 adds Articles XIII C and XIII D to the California Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the “Supermajority Vote to Pass New Taxes and Fees Act.” Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as “fees.” Proposition 26 amended Articles XIII A and XIII C of the State Constitution. The amendments to Article XIII A limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article

XIIIC define “taxes” that are subject to voter approval as “any levy, charge, or exaction of any kind imposed by a local government,” with certain exceptions.

Taxes. Article XIIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City (“general taxes”) require a majority vote; taxes for specific purposes (“special taxes”), even if deposited in the City’s General Fund, require a two-thirds vote.

Property-Related Fees and Charges. Article XIID also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs.

Reduction or Repeal of Taxes, Assessments, Fees and Charges. Article XIIIC also removes limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives which reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City’s General Fund. If such repeal or reduction occurs, the City’s ability to pay debt service on the Bonds could be adversely affected.

Burden of Proof. Article XIIIC provides that local government “bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Similarly, Article XIID provides that in “any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance” with Article XIID.

Judicial Interpretation of Proposition 218. The interpretation and application of Articles XIIIC and XIID will ultimately be determined by the courts, and it is not possible at this time to predict with certainty the outcome of such determination.

Impact on City’s General Fund. The City does not believe that any material source of General Fund revenue is subject to challenge under Proposition 218 or Proposition 26.

The approval requirements of Articles XIIIC and XIID reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees, charges or taxes in the future that it may need to meet increased expenditure needs.

Proposition 62

Proposition 62 was adopted by the voters at the November 4, 1986, general election and (a) requires that any new or higher taxes for general governmental purposes imposed by local governmental entities such as the City be approved by a two-thirds vote of the governmental entity’s legislative body and by a majority vote of the voters of the governmental entity voting in an election on the tax, (b) requires that any special tax (defined as taxes levied for other than general governmental purposes) imposed by a local governmental entity be approved by a two-thirds vote of the voters of the governmental entity voting in an election on the tax, (c) restricts the use of revenues from a special tax to the purposes or for the service for which the special tax was imposed, (d) prohibits the imposition of ad valorem taxes on real property by local governmental entities except as permitted by Article XIII A, (e) prohibits the imposition of

transaction taxes and sales taxes on the sale of real property by local governmental entities, and (f) requires that any tax imposed by a local governmental entity on or after August 1, 1985, be ratified by a majority vote of the voters voting in an election on the tax within two years of the adoption of the initiative or be terminated by November 15, 1988.

California appellate court cases have overturned the provisions of Proposition 62 pertaining to the imposition of taxes for general government purposes. However, the California Supreme Court upheld Proposition 62 in its decision on August 28, 1995, in *Fresno County Transportation Authority v. Guardino*. This decision reaffirmed the constitutionality of Proposition 62. Certain matters regarding Proposition 62 were not addressed in the Supreme Court's decision, such as what remedies exist for taxpayers subject to a tax not in compliance with Proposition 62, and whether the decision applies to charter cities. The City has not experienced any substantive adverse financial impact as a result of the passage of this initiative.

Proposition 1A; Proposition 22

Proposition 1A. Proposition 1A, proposed by the Legislature in connection with the State's Fiscal Year 2004-05 Budget, approved by the voters in November 2004 and generally effective in Fiscal Year 2006-07, provided that the State may not reduce any local sales tax rate, limit existing local government authority to levy a sales tax rate or change the allocation of local sales tax revenues, subject to certain exceptions. Proposition 1A generally prohibited the State from shifting to schools or community colleges any share of property tax revenues allocated to local governments for any Fiscal Year, as set forth under the laws in effect as of November 3, 2004. Any change in the allocation of property tax revenues among local governments within a county had to be approved by two-thirds of both houses of the Legislature.

Proposition 22. Proposition 22, entitled "The Local Taxpayer, Public Safety and Transportation Protection Act," was approved by the voters of the State in November 2010. Proposition 22 eliminates or reduces the State's authority to (i) temporarily shift property taxes from cities, counties and special districts to schools, (ii) use vehicle license fee revenues to reimburse local governments for State-mandated costs (the State will have to use other revenues to reimburse local governments), (iii) redirect property tax increment from redevelopment agencies to any other local government, (iv) use State fuel tax revenues to pay debt service on State transportation bonds, or (v) borrow or change the distribution of State fuel tax revenues.

Possible Future Initiatives

Articles XIII A, XIII B, XIII C and XIII D and Propositions 62, 111, 218 and 1A were each adopted as measures that qualified for the ballot pursuant to the State's initiative process. From time to time other initiative measures could be adopted, further affecting revenues of the City or the City's ability to expend revenues. The nature and impact of these measures cannot be anticipated by the City.

BOND OWNERS' RISKS

The following describes certain special considerations and risk factors affecting the payment of and security for the Bonds. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of any Bonds and does not necessarily reflect the relative importance of the various risks. Potential investors in the Bonds are advised to consider the following special factors along with all other information in this Official Statement in evaluating the Bonds. There can be no assurance that other considerations will not materialize in the future.

No Pledge of Taxes

General. The obligation of the City to pay the Lease Payments and Additional Rental does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments and Additional Rental does not constitute a debt or indebtedness of the Authority, the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

The City is currently liable on other obligations payable from general revenues, which are described above under "CITY FINANCIAL INFORMATION – Long-Term General Fund Obligations."

Limitations on Taxes and Fees

Limitations on Taxes and Fees. Certain taxes, assessments, fees and charges presently imposed by the City could be subject to the voter approval requirements of Article XIIC and Article XIID of the State Constitution. Based upon the outcome of an election by the voters, such fees, charges, assessments and taxes might no longer be permitted to be imposed, or may be reduced or eliminated and new taxes, assessments fees and charges may not be approved. The City has assessed the potential impact on its financial condition of the provisions of Article XIIC and Article XIID of the State Constitution respecting the imposition and increase of taxes, fees, charges and assessments and does not believe that an election by the voters to reduce or eliminate the imposition of certain existing fees, charges, assessments and taxes would substantially affect its financial condition. However, the City believes that if the initiative power was exercised so that all local taxes, assessments, fees and charges that may be subject to Article XIIC and Article XIID of the State Constitution are eliminated or substantially reduced, the financial condition of the City, including its General Fund, could be materially adversely affected.

Although the City does not currently anticipate that the provisions of Article XIIC and Article XIID of the State Constitution would adversely affect its ability to pay Lease Payments and its other obligations payable from the General Fund, no assurance can be given regarding the ultimate interpretation or effect of Article XIIC and Article XIID of the State Constitution on the City's finances. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS."

Additional Obligations of the City

The City has existing obligations payable from its General Fund. See "CITY FINANCIAL INFORMATION – Long-Term General Fund Obligations." The City is permitted to enter into other obligations which constitute additional charges against its revenues without the consent of

Owners of the Bonds. To the extent that additional obligations are incurred by the City, the funds available to pay Lease Payments may be decreased.

The Lease Payments and other payments due under the Lease Agreements (including payment of costs of repair and maintenance of the Leased Property, taxes and other governmental charges levied against the Leased Property) are payable from funds lawfully available to the City. If the amounts that the City is obligated to pay in a fiscal year exceed the City's revenues for such year, the City may choose to make some payments rather than making other payments, including Lease Payments and Additional Rental, based on the perceived needs of the City. The same result could occur if, because of California Constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues or is required to expend available revenues to preserve the public health, safety and welfare.

Default

Whenever any event of default referred to in the Lease Agreements happens and continues, the Authority is authorized under the terms of the Lease Agreements to exercise any and all remedies available under law or granted under the Lease Agreements. See "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" for a detailed description of available remedies in the case of a default under the Lease Agreements.

If a default occurs, there is no remedy of acceleration of the total Lease Payments due over the term of the Lease Agreements. The Trustee is not empowered to sell the Leased Property and use the proceeds of such sale to prepay the Bonds or pay debt service on the Bonds.

The City will be liable only for Lease Payments on an annual basis and, in the event of a default, the Trustee would be required to seek a separate judgment each year for that year's defaulted Lease Payments. Any such suit for money damages would be subject to limitations on legal remedies against municipalities in the State, including a limitation on enforcement of judgments against funds of a fiscal year other than the fiscal year in which the Lease Payments were due and against funds needed to serve the public welfare and interest.

Abatement

Under certain circumstances related to damage, destruction, condemnation or title defects which cause a substantial interference with the use and possession of the Leased Property, the City's obligation to make Lease Payments will be subject to full or partial abatement and could result in the Trustee having inadequate funds to pay the principal and interest on the Bonds as and when due. See "SECURITY FOR THE BONDS – Abatement" and "APPENDIX B – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS."

Although the City is required under the Lease Agreements to maintain property and liability insurance with respect to the Leased Property, the required insurance coverage is subject to certain conditions and restrictions. See "SECURITY FOR THE BONDS – Property Insurance."

In addition, the Authority is required to use the proceeds of rental interruption insurance maintained under the Lease Agreements to make debt service payments on the Bonds during any period of abatement. See "SECURITY FOR THE BONDS – Property Insurance." However, there is no assurance that the Authority will receive proceeds of rental interruption insurance in time to make debt service payments on the Bonds when due.

No Debt Service Reserve Fund

The Authority will not fund a debt service reserve fund for the Bonds. If Revenues are insufficient for the Authority to pay debt service on the Bonds when due, no debt service reserve will be available under the Indenture for the Authority to make such payments.

Property Taxes

Levy and Collection. The City does not have any independent power to levy and collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the City's property tax revenues, and accordingly, could have an adverse impact on the ability of the City to make Lease Payments. Likewise, delinquencies in the payment of property taxes could have an adverse effect on the City's ability to pay principal of and interest on the Bonds when due.

Reduction in Inflationary Rate. Article XIII A of the California Constitution provides that the full cash value base of real property used in determining assessed value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS." Such measure is computed on a calendar year basis. Because Article XIII A limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. Since Article XIII A was approved, the annual adjustment for inflation has fallen below the 2% limitation a limited number of times.

The City is unable to predict if any adjustments to the full cash value base of real property within the City, whether an increase or a reduction, will be realized in the future.

Appeals of Assessed Values. There are two types of appeals of assessed values that could adversely impact property tax revenues:

Proposition 8 Appeals. Most of the appeals that might be filed in the City would be based on Section 51 of the Revenue and Taxation Code, which requires that for each lien date the value of real property must be the lesser of its base year value annually adjusted by the inflation factor pursuant to Article XIII A of the State Constitution or its full cash value, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property or other factors causing a decline in value.

Under California law, property owners may apply for a reduction of their property tax assessment by filing a written application, in form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board. In most cases, the appeal is filed because the applicant believes that present market conditions (such as residential home prices) cause the property to be worth less than its current assessed value. These market-driven appeals are known as Proposition 8 appeals.

Any reduction in the assessment ultimately granted as a Proposition 8 appeal applies to the year for which application is made and during which the written application was filed. These reductions are often temporary and are adjusted back to their original values when market conditions improve. Once the property has regained its prior value,

adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A.

Base Year Appeals. A second type of assessment appeal is called a base year appeal, where the property owners challenge the original (basis) value of their property. Appeals for reduction in the “base year” value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

No assurance can be given that property tax appeals in the future will not significantly reduce the City’s property tax revenues.

Limitations on Remedies Available to Bond Owners

The ability of the City to comply with its covenants under the Lease Agreements may be adversely affected by actions and events outside of the control of the City, and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or payers of assessments, fees and charges. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS” above. Furthermore, any remedies available to the owners of the Bonds upon the occurrence of an event of default under the Lease Agreements or the Indenture are in many respects dependent upon judicial actions, which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition to the limitations on Bondowner remedies contained in the Lease Agreements and the Indenture, the rights and obligations under the Bonds, the Lease Agreements and the Indenture may be subject to the following: the United States Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors’ rights generally, now or hereafter in effect; usual equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Federal Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or state government, if initiated, could subject the Owners of the Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

The opinion to be delivered by Bond Counsel, concurrently with the issuance of the Bonds, will include a qualification that the rights of the owners of the Bonds and the enforceability of the Bonds and the Indenture, the Lease Agreements and the Site Leases may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights heretofore or hereafter enacted and may also be subject to the exercise of judicial discretion in accordance with principles of equity or otherwise in appropriate cases. See “APPENDIX D — PROPOSED FORM OF OPINION OF BOND COUNSEL.”

Loss of Tax-Exemption

As discussed under the caption “TAX MATTERS,” interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date the

Bonds were issued, as a result of future acts or omissions of the Authority or the City in violation of their respective covenants in the Lease Agreements and the Indenture. Should such an event of taxability occur, the Bonds are not subject to special redemption and will remain Outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that any Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

Cyber Security

The City, like many other public and private entities, relies on computer and other digital networks and systems to conduct its operations. As a recipient and provider of personal, private or other sensitive electronic information, the City is potentially subject to multiple cyber threats, including without limitation hacking, viruses, ransomware, malware and other attacks. No assurance can be given that the City's efforts to manage cyber threats and attacks will be successful in all cases, or that any such attack will not materially impact the operations or finances of the City. The City is also reliant on other entities and service providers in connection with the administration of the Bonds, including without limitation the County tax collector for the levy and collection of property taxes, and the Trustee. No assurance can be given that the City, the District and these other entities will not be affected by cyber threats and attacks in a manner that may affect the Bond owners.

IRS Audit of Tax-Exempt Bond Issues

The Internal Revenue Service (the "IRS") has initiated an expanded program for the auditing of tax-exempt bond issues, including both random and targeted audits. It is possible that the Bonds will be selected for audit by the IRS. It is also possible that the market value of such Bonds might be affected as a result of such an audit of such Bonds (or by an audit of similar bonds or securities).

Impact of Legislative Proposals, Clarifications of the Tax Code and Court Decisions on Tax Exemption

Future legislative proposals, if enacted into law, clarification of the Tax Code (defined herein) or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Bond owners from realizing the full current benefit of the tax status of such interest.

TAX MATTERS

Federal Tax Status. In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax.

The opinions set forth in the preceding paragraph are subject to the condition that the Authority comply with all requirements of the Internal Revenue Code of 1986, as amended (the "**Tax Code**") that must be satisfied subsequent to the issuance of the Bonds in order that the interest thereon be, and continue to be, excludable from gross income for federal income tax purposes. The Authority has made certain representations and covenants in order to comply with each such requirement. Inaccuracy of those representations, or failure to comply with certain of those covenants, may cause the inclusion of such interest in gross income for federal income tax purposes, which may be retroactive to the date of issuance of the Bonds.

Tax Treatment of Original Issue Discount and Premium. If the initial offering price to the public at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public at which a Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "bond premium" for purposes of federal income taxes and State of California personal income taxes.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering to the public at the first price at which a substantial amount of such Bonds is sold to the public.

Under the Tax Code, bond premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of bond premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of bond premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

California Tax Status. In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Other Tax Considerations. Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the Bonds. It cannot be predicted whether or in what form any such proposal might be enacted or whether, if enacted, such legislation would apply to bonds issued prior to enactment.

The opinions expressed by Bond Counsel are based upon existing legislation and regulations as interpreted by relevant judicial and regulatory authorities as of the date of such opinion, and Bond Counsel has expressed no opinion with respect to any proposed legislation or as to the tax treatment of interest on the Bonds, or as to the consequences of owning or receiving interest on the Bonds, as of any future date. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Other than as expressly described above, Bond Counsel expresses no opinion regarding other federal or state tax consequences arising with respect to the Bonds, the ownership, sale or disposition of the Bonds, or the amount, accrual or receipt of interest on the Bonds.

CERTAIN LEGAL MATTERS

Jones Hall, A Professional Law Corporation, Bond Counsel, will render an opinion with respect to the validity of the Bonds, the form of which is set forth in APPENDIX D.” Certain legal matters will also be passed upon for the City and the Authority by Jones Hall, as Disclosure Counsel. Certain legal matters will be passed upon for the City and the Authority by the City Attorney.

LITIGATION

To the best knowledge of the City, there is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending and notice of which has been served on and received by the City or, to the knowledge of the City, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Lease Agreements, the Site Leases or the Indenture, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially adversely affect the consummation of the transactions contemplated by the Lease Agreements, the Site Leases or

the Indenture, or the financial conditions, assets, properties or operations of the City, including but not limited to the payment and performance of the City's obligations under the Lease Agreements.

RATING

S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC ("**S&P**"), has assigned its municipal bond rating of "____" to the Bonds.

This rating reflects only the views of S&P, and an explanation of the significance of this rating, and any outlook assigned to or associated with this rating, should be obtained from S&P.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The City has provided certain additional information and materials to the rating agency (some of which does not appear in this Official Statement).

There is no assurance that this rating will continue for any given period of time or that this rating will not be revised downward or withdrawn entirely by the rating agency, if in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating on the Bonds may have an adverse effect on the market price or marketability of the Bonds.

CONTINUING DISCLOSURE

The City (on behalf of the Authority and itself) will covenant for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the City (the "**Annual Report**"), by not later than nine months after the end of the City's fiscal year (presently June 30) and commencing April 1, 2020, with the report for the fiscal year ending June 30, 2019, and to provide notices of the occurrence of certain listed events.

These covenants have been made in order to assist the Underwriter in complying with Securities Exchange Commission Rule 15c2-12(b)(5), as amended (the "**Rule**"). The specific nature of the information to be contained in the Annual Report or the notices of listed events is set forth in "APPENDIX E — FORM OF CONTINUING DISCLOSURE CERTIFICATE."

The City, on its own behalf and on behalf of related entities, has entered into a number of prior continuing disclosure undertakings under the Rule in connection with the issuance of long-term obligations, and has provided annual financial information and event notices in accordance with those undertakings. During the past five years, the City or its related entities have failed to comply with prior undertakings as follows:

- The audited financial statements for Fiscal Years 2013-14, 2014-15, 2015-16, 2016-17 and 2017-18 were filed up to approximately 27 months late; and
- Certain operating and financial data for Fiscal Years 2013-14, 2014-15 and 2016-17 were filed up to 633 days late.

- Certain information was omitted from the operating and financial data for filed Fiscal Years 2013-14, 2014-15, 2016-17 and 2017-18 because it was unavailable at the time the filing was due, but that information was subsequently filed when it became available.

The City has engaged Goodwin Consulting Group, Inc., to serve as its dissemination agent and assist the City in complying with its continuing disclosure undertakings. To further ensure such compliance, the City has adopted policies and procedures related thereto.

UNDERWRITING

The Bonds are being purchased by Piper Jaffray & Co. (the “**Underwriter**”), at a purchase price of \$_____ (which represents the aggregate principal amount of the Bonds (\$_____), plus an original issue premium/less an original issue discount of \$_____, less an Underwriter's discount of \$_____).

The purchase agreement relating to the Bonds provides that the Underwriter will purchase all of the Bonds, if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in such purchase agreement.

The Underwriter may offer and sell the Bonds to certain dealers and others at prices lower than the offering prices stated on the inside cover page hereof. The offering prices may be changed from time to time by the Underwriter.

MUNICIPAL ADVISOR

The Authority has retained CSG Advisors Incorporated, San Francisco, California, as Municipal Advisor for the sale of the Bonds. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume any responsibility for the accuracy, completeness or fairness of the information contained in this Official Statement.

CSG Advisors Incorporated, is an independent advisory firm and is not engaged in the business of underwriting, trading or distributing municipal or other public securities.

PROFESSIONAL FEES

In connection with the issuance of the Bonds, fees or compensation payable to certain professionals are contingent upon the issuance and delivery of the Bonds. Those professionals include:

- the Underwriter;
- Jones Hall, A Professional Law Corporation, as Bond Counsel and Disclosure Counsel;
- Stradling Yocca Carlson & Rauth, P.C., as Underwriter’s Counsel;
- A portion of the fees of CSG Advisors Incorporated, as municipal advisor;
- U.S. Bank National Association, as Trustee; and
- The Bank of New York Mellon Trust Company, N.A., as Escrow Agent.

EXECUTION

The execution of this Official Statement and its delivery have been authorized by the Board of the Authority and the City Council of the City.

TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY

By: _____
Chair

CITY OF TRACY

By: _____
Finance Director

APPENDIX A

GENERAL INFORMATION ABOUT THE CITY OF TRACY AND THE COUNTY OF SAN JOAQUIN

*The following information concerning the City of Tracy (the “**City**”) and the County of San Joaquin (the “**County**”) is included only for the purpose of supplying general information regarding the area of the District. The Bonds are not a debt of the City, the County, the State of California (the “**State**”) or any of its political subdivisions (other than the Authority), and none of the City, the County, the State or any of its political subdivisions (other than the Authority) is liable therefor.*

Population

Population figures for the City, the County and the State for the last six years are shown in the following table.

CITY OF TRACY, SAN JOAQUIN COUNTY AND THE STATE OF CALIFORNIA Population Estimates Calendar Years 2014 through 2019 as of January 1

<u>Calendar Year</u>	<u>City of Tracy</u>	<u>San Joaquin County</u>	<u>State of California</u>
2014	86,495	712,134	38,568,628
2015	88,074	723,856	39,912,464
2016	89,591	735,319	39,179,627
2017	91,051	747,263	39,500,973
2018	90,832	757,279	39,740,508
2019	92,800	770,385	39,927,315

Source: State Department of Finance estimates.

Employment and Industry

The District is included in the Stockton Metropolitan Statistical Area (“**MSA**”), which includes all of San Joaquin County. The unemployment rate in the County was 4.7% in September 2019, down from a revised 5.7% in August 2019, and below the year-ago estimate of 5.0%. This compares with an unadjusted unemployment rate of 3.5% for the State and 3.3% for the nation during the same period.

Set forth below is data from calendar years 2014 to 2018 reflecting the County’s civilian labor force, employment and unemployment. These figures are county-wide statistics and may not necessarily accurately reflect employment trends in the District.

**STOCKTON-LODI MSA
(San Joaquin County)
Annual Average Labor Force and Employment by Industry
Calendar Years 2014 through 2018
(March 2018 Benchmark)**

	2014	2015	2016	2017	2018
Civilian Labor Force ⁽¹⁾	312,000	314,600	318,500	323,600	326,400
Employment	279,200	286,600	292,600	301,100	306,800
Unemployment	32,900	28,000	25,900	22,600	19,600
Unemployment Rate	10.5%	8.9%	8.1%	7.0%	6.0%
<u>Wage and Salary Employment:</u> ⁽²⁾					
Agriculture	15,700	16,700	16,600	16,300	16,100
Mining and Logging	100	100	100	100	100
Construction	8,900	10,100	11,100	11,700	12,700
Manufacturing	18,600	18,700	18,900	19,400	19,700
Wholesale Trade	11,000	11,300	11,600	12,000	12,600
Retail Trade	25,700	26,000	26,500	26,800	26,600
Transportation, Warehousing and Utilities	18,300	20,400	23,600	26,700	28,400
Information	2,100	1,900	2,000	1,800	1,800
Financial Activities	7,500	7,400	7,500	7,800	8,100
Professional and Business Services	18,300	19,400	19,600	19,200	19,600
Educational and Health Services	35,900	36,500	36,400	38,200	38,500
Leisure and Hospitality	19,100	19,700	20,500	21,500	22,000
Other Services	6,900	7,200	7,500	7,600	7,600
Federal Government	3,100	3,000	3,000	3,100	3,100
State Government	5,800	6,200	6,400	6,600	6,700
Local Government	29,600	30,400	31,400	32,800	33,700
Total All Industries ⁽³⁾	226,700	234,900	242,600	251,600	257,300

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: State of California Employment Development Department.

Largest Employers

The following table lists the major employers within the County, listed in alphabetical order without regard to the number of employees, as of October 2019.

SAN JOAQUIN COUNTY Major Employers As of October 2019

<u>Employer Name</u>	<u>Location</u>	<u>Industry</u>
A Sambado & Sons Inc	Linden	Nuts-Edible
Amazon Corpnet	Tracy	Internet & Catalog Shopping
Amazon Fulfillment Ctr	Stockton	Mail Order Fulfillment Service
Blue Shield of California	Lodi	Insurance
Dameron Hospital Assn	Stockton	Hospitals
Deuel Vocational Institution	Tracy	City Govt-Correctional Institutions
Foster Care Svc	Stockton	Government Offices-County
Juvenile Justice Div CI	Stockton	State Govt-Correctional Institutions
Leprino Foods Co	Tracy	Cheese Processors (mfrs)
Lodi Health Home Health Agency	Lodi	Home Health Service
Lodi Memorial Hospital	Lodi	Hospitals
Morada Produce	Stockton	Fruits & Vegetables-Growers & Shippers
NA Chaderjian Youth	Stockton	State Govt-Correctional Institutions
Pacific Coast Producers	Lodi	Canning (mfrs)
Prima Frutta Packing Inc	Linden	Fruit & Produce Packers
Safeway Distribution Ctr	Tracy	Distribution Centers (whls)
San Joaquin County Human Svc	Stockton	Government Offices-County
San Joaquin County Sch	Stockton	School Districts
San Joaquin General Hospital	French Camp	Hospitals
San Joaquin Sheriff's Office	French Camp	Government Offices-County
Sjgov	Stockton	Government Offices-County
St Joseph's Cancer Ctr	Stockton	Cancer Treatment Centers
Stockton Police Dept	Stockton	Police Departments
Stockton Unified School Dist	Stockton	School Districts
Walmart Supercenter	Stockton	Department Stores

Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database, 2020 1st Edition.

The following table lists the twenty principal employers within the City, by number of employees, as of June 30, 2018.

CITY OF TRACY
Principal Employers
As of June 30, 2018

<u>Employer Name</u>	<u>Number of Employees</u>
Golden State FC LLC (Amazon)	4,589
Golden State FC LLC (Amazon)	997
Taylor Farms Pacific Inc.	996
Barbosa Cabinets Inc.	718
Medline Industries Inc.	505
Restoration Hardware	481
Fedex Ground Package System	374
The Home Depot #5641	350
Leprino Foods	303
Orchard Supply Hardware	264
Wal-Mart Stores Inc. #2025	250
Pacific Medical Inc.	240
Costco Wholesale	208
Best Buy	205
YRC	193
MC Lane Foodservice	191
International Paper	190
Best Buy Stores LP #391	186
GlassFab Tempering	186
Texas Roadhouse	182

Source: City of Tracy Comprehensive Financial Report for fiscal year ended June 30, 2018.

Commercial Activity

Summaries of historic taxable sales within the City and the County during the past five years in which data is available are shown in the following tables. Annual figures are yet not available for calendar year 2018.

Total taxable sales during the first quarter of calendar year 2018 in the City were \$520,182,175, a 12.49% increase over the total taxable sales of \$462,441,930 reported during the first quarter of calendar year 2017.

CITY OF TRACY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2013	972	\$1,139,346	1,382	\$1,339,394
2014	1,010	1,188,945	1,441	1,387,154
2015 ⁽¹⁾	1,057	1,233,481	1,641	1,421,064
2016	1,088	1,280,961	1,715	1,536,172
2017	1,150	1,371,679	1,803	2,042,411

(1) Permit figures for calendar year 2015 are not comparable to that of prior years due to outlet counts in these reports including the number of outlets that were active during the reporting period. Retailers that operate part-time are now tabulated with store retailers.

Source: State Board of Equalization. Taxable Sales in California (Sales & Use Tax) for years 2013-2016. State Department of Tax and Fee Administration for year 2017.

Total taxable sales during the first quarter of calendar year 2018 in the County were \$3,019,083,970, a 10.74% increase over the total taxable sales of \$2,726,400,144 reported during the first quarter of calendar year 2017.

SAN JOAQUIN COUNTY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2013	8,754	\$6,519,537	12,752	\$9,466,015
2014	8,900	6,780,160	12,865	10,031,845
2015 ⁽¹⁾	4,958	6,986,878	14,255	10,467,214
2016	9,480	7,380,226	14,682	10,922,271
2017	9,506	7,994,473	14,758	12,153,268

(1) Permit figures for calendar year 2015 are not comparable to that of prior years due to outlet counts in these reports including the number of outlets that were active during the reporting period. Retailers that operate part-time are now tabulated with store retailers.

Source: State Board of Equalization. Taxable Sales in California (Sales & Use Tax) for years 2013-2016. State Department of Tax and Fee Administration for year 2017.

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the median household effective buying income for the City, the County, the State and the United States for the period 2015 through 2019.

CITY OF TRACY AND SAN JOAQUIN COUNTY Median Household Effective Buying Income 2015 through 2019

	2015	2016	2017	2018	2019
City of Tracy	\$60,154	\$64,225	\$65,371	\$68,295	\$73,172
San Joaquin County	44,235	46,491	48,149	49,883	55,534
California	50,072	53,589	55,681	59,646	62,637
United States	45,448	46,738	48,043	50,735	52,841

Source: The Nielsen Company (US), Inc for years 2015 through 2018; Claritas, LLC for 2019.

Building Activity

The tables below summarize building activity in the City and the County for the past five available years.

CITY OF TRACY Building Permit Activity For Calendar Years 2014 through 2018 (Dollars in Thousands)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
<u>Permit Valuation</u>					
New Single-family	\$44,538.3	\$62,319.4	\$87,820.2	\$98,767.2	\$214,928.9
New Multi-family	0.0	0.0	34,038.7	9,686.4	84,832.3
Res. Alterations/Additions	<u>44,884.6</u>	<u>5,381.8</u>	<u>2,281.9</u>	<u>2,982.3</u>	<u>6,058.5</u>
Total Residential	\$89,422.9	\$67,701.2	\$124,140.8	\$111,435.9	\$305,819.7
 New Commercial	 \$1,481.9	 \$113,546.0	 \$92,124.7	 \$184,438.3	 \$331,633.7
New Industrial	809.6	49,162.0	57,441.7	38,978.1	74,814.4
New Other	2,426.4	12,340.6	11,375.8	4,769.2	8,265.5
Com. Alterations/Additions	<u>18,846.3</u>	<u>127,941.0</u>	<u>138,604.1</u>	<u>93,059.7</u>	<u>60,479.7</u>
Total Nonresidential	\$23,564.2	\$302,989.6	\$299,546.3	\$321,245.3	\$475,193.3
 <u>New Dwelling Units</u>					
Single Family	135	183	216	236	534
Multiple Family	<u>0</u>	<u>0</u>	<u>432</u>	<u>65</u>	<u>507</u>
TOTAL	135	183	648	301	1,041

Source: Construction Industry Research Board, Building Permit Summary.

SAN JOAQUIN COUNTY Building Permit Activity For Calendar Years 2014 through 2018 (Dollars in Thousands)

	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
<u>Permit Valuation</u>					
New Single-family	\$318,760.2	\$455,877.1	\$467,494.7	\$652,308.1	\$883,071.1
New Multi-family	4,726.9	48,792.9	66,794.5	62,635.8	99,601.4
Res. Alterations/Additions	<u>78,511.0</u>	<u>42,764.8</u>	<u>99,049.9</u>	<u>86,516.1</u>	<u>95,073.4</u>
Total Residential	\$401,998.1	\$547,434.8	\$633,339.1	\$801,460.0	\$1,077,745.9
 New Commercial	 \$42,976.5	 \$177,272.0	 \$205,510.1	 \$357,856.9	 \$498,359.0
New Industrial	29,357.4	85,322.6	61,687.0	179,728.4	240,073.7
New Other	41,819.6	44,373.1	42,074.7	27,794.7	31,904.4
Com. Alterations/Additions	<u>89,630.8</u>	<u>193,659.3</u>	<u>298,721.9</u>	<u>269,172.8</u>	<u>249,142.4</u>
Total Nonresidential	\$203,784.3	\$500,627.0	\$607,993.7	\$834,552.8	\$1,019,479.5
 <u>New Dwelling Units</u>					
Single Family	1,214	1,698	1,754	2,078	2,765
Multiple Family	<u>19</u>	<u>387</u>	<u>550</u>	<u>516</u>	<u>293</u>
TOTAL	1,233	2,085	2,304	2,594	3,358

Source: Construction Industry Research Board, Building Permit Summary.

APPENDIX B

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX C

FISCAL YEAR 2017-18 COMPREHENSIVE ANNUAL FINANCIAL REPORT

APPENDIX D

PROPOSED FORM OF OPINION OF BOND COUNSEL

APPENDIX E

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$ _____
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS

This Continuing Disclosure Certificate (this “Disclosure Certificate”) is executed and delivered by the City of Tracy (the “City”) in connection with the issuance by the Tracy Operating Partnership Joint Powers Authority (the “Authority”) of the bonds captioned above (the “Bonds”). The Bonds are being issued under an Indenture of Trust dated as of _____ 1, 2020 (the “Indenture”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”). The City hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City on behalf of itself and the Authority for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“*Annual Report*” means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“*Annual Report Date*” means nine months after the end of the City’s fiscal year (currently April 1, based on the City’s fiscal year-end of June 30).

“*Dissemination Agent*” means, initially, Goodwin Consulting Group, Inc., and any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

“*Listed Events*” means any of the events listed in Section 5(a) of this Disclosure Certificate.

“*MSRB*” means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

“*Official Statement*” means the final official statement dated _____, 2020, executed by the City and the Authority in connection with the issuance of the Bonds.

“*Participating Underwriter*” means _____, the original purchaser of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“*Rule*” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing April 1, 2020, with the report for the 2018-19 Fiscal Year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's Fiscal Year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written general fund with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) a notice to the MSRB, in an electronic format as prescribed by the MSRB.

(c) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements.* Audited financial statements of the City for the preceding fiscal year, prepared in accordance generally accepted accounting principles. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited final statements of the City, the Annual Report shall also include financial and operating data with respect to the City for preceding fiscal year, substantially similar to that provided in the corresponding tables and charts in the Official Statement, as follows:

(i) the principal amount of Bonds outstanding as of June 30 preceding the filing of the Annual Report;

(ii) the balance in each fund under the Indenture as of June 30 preceding the filing of the Annual Report; and

(iii) updates as of June 30 preceding the filing of the Annual Report of the substance of the information contained in following tables in the Official Statement:

(1) City of Tracy Statement of Revenues and Expenditures;

(2) Assessed Value of All Taxable Property;

(3) Property Tax Levies and Collections;

(4) Principal Secured Taxpayers; and

(5) General Fund Revenues by Source.

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public through the MSRB. The City shall clearly identify each such other document so included by reference. If the document included by reference is a final official statement, it must be available from the MSRB.

Section 5. Reporting of Listed Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the 2019 Bonds:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers, or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2019 Bonds, or other material events affecting the tax status of the 2019 Bonds.

(7) Modifications to rights of security holders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the City.
- (13) The consummation of a merger, consolidation, or acquisition involving the City, or the sale of all or substantially all of the assets of the City (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional Fiscal Agent or the change of name of the Fiscal Agent, if material.
- (15) Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material.
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.

(b) Upon the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 Business Days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsection (a)(8) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Fiscal Agent Agreement.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), (a)(14), and (a)(15) of this Section 5 contain the qualifier "if material" and that subparagraph (a)(6) also contains the qualifier "material" with respect to certain notices, determinations or other events affecting the tax status of the 2019 Bonds. The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that it determines the event's occurrence is material for purposes of U.S. federal securities law. Upon occurrence of any of these Listed Events, the City will as soon as possible determine if such event would be material under applicable federal securities law. If such event is determined to be material, the City will cause a notice to be filed as set forth in paragraph (b) above.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers

in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(e) For purposes of Section 5(a)(15) and (16), “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term financial obligation shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City’s obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent will be the City. Any Dissemination Agent may resign by providing 30 days’ written notice to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first annual financial information filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to the undertaking specifying the accounting principles to be followed in preparing financial statements, the annual financial information for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative.

A notice of any amendment made pursuant to this Section 9 shall be filed in the same manner as for a Listed Event under Section 5(c).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the City to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent.

(a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the City, the Bond owners or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and shall be reimbursed for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder.

Section 13. Notices. Any notice or communications to be among any of the parties to this Disclosure Certificate may be given as follows:

*If to the Authority
or the City:*

City of Tracy
333 City Center Plaza
Tracy, California 95376
Attention: Finance Director

Any person may, by written notice to the other persons listed above, designate a different address to which subsequent notices or communications should be sent.

Section 14. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 15. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2020

CITY OF TRACY

By: _____
Karin Schnaider,
Finance Director

AGREED AND ACCEPTED:
Goodwin Consulting Group, Inc.,
as Dissemination Agent

By: _____
Name: _____
Title: _____

APPENDIX F

DTC AND THE BOOK-ENTRY ONLY SYSTEM

The following description of the Depository Trust Company (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

Neither the Authority (the “Issuer”) nor the Trustee (the “Agent”) take any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the securities (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding

company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting

rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. A Beneficial Owner shall give notice to elect to have its Securities purchased or tendered, through its Participant, to the Agent, and shall effect delivery of such Securities by causing the Direct Participant to transfer the Participant's interest in the Securities, on DTC's records, to the Agent. The requirement for physical delivery of Securities in connection with an optional tender or a mandatory purchase will be deemed satisfied when the ownership rights in the Securities are transferred by Direct Participants on DTC's records and followed by a book-entry credit of tendered Securities to the Agent's DTC account.

10. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

11. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

12. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

Jones Hall draft 12-2-19

INDENTURE OF TRUST

Dated as of _____ 1, 2020

between

U.S. BANK, NATIONAL ASSOCIATION,
as Trustee

and the

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY

Authorizing the Issuance of

\$ _____
Tracy Operating Partnership Joint Powers Authority
2020 Lease Revenue Refunding Bonds

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INDENTURE OF TRUST

This INDENTURE OF TRUST (this "**Indenture**"), dated for convenience as of _____ 1, 2020, is between the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the "**Authority**"), and U.S. BANK, NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, with a corporate trust office in Los Angeles, California, being qualified to accept and administer the trusts hereby created (the "**Trustee**").

BACKGROUND:

1. The City of Tracy (the "**City**") and the City of Tracy Community Development Agency (the "**Former Agency**") entered into a Joint Exercise of Powers Agreement, dated as of October 15, 1995 (the "**Authority Agreement**"), establishing the Authority for the purpose, among others, of issuing its bonds to be used to finance and refinance the acquisition, construction and improvement of certain public capital improvements in the City.

2. The Former Agency was duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Community Development Law, being Part 1 of Division 24 (commencing with Section 33000) of the Health and Safety Code of the State of California (the "**Redevelopment Law**"); and

3. A redevelopment plan for the Community Development Project Area in the City was adopted by the City Council of the City in compliance with all requirements of the Redevelopment Law (the "**Redevelopment Project**").

4. Assembly Bill x1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB **1484**"), codified Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (as amended from time to time, the "**Dissolution Act**").

5. Pursuant to Section 34172(a) of the Dissolution Act, the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Dissolution Act, the Successor Agency to the Tracy Community Development Agency has become the successor entity to the Former Agency (the "**Successor Agency**").

6. As a result of the dissolution of the Former Agency, the Successor Agency is a party to the Authority Agreement.

7. The Authority previously entered into an Indenture dated as of October 1, 2007 (the "**2007 Indenture**"), with The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "**Prior Trustee**"), under which the Authority issued the \$2,690,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the "**2007A Bonds**") and the \$1,980,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) (the "**2007B Bonds**," together with the 2007A Bonds, the "**2007 Bonds**").

8. The 2007 Bonds are payable from lease payments (the “**2007 Lease Payments**”) payable by the City to the Authority pursuant to a Property Lease, dated as of October 1, 2007 (the “**2007 Lease**”), by and between the City and the Authority.

9. The Authority assigned its right to receive the 2007 Lease Payments to the Prior Trustee under the 2007 Indenture.

10. The Authority previously entered into an Indenture dated as of December 1, 2008 (the “**2008 Indenture**”), with the Prior Trustee, under which the Authority issued \$19,765,000 aggregate principal amount of 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the “**2008 Bonds**,” together with the 2007 Bonds, the “**Prior Bonds**”).

11. The 2008 Bonds were payable from lease payments (the “**2008 Lease Payments**”) payable by the City to the Authority pursuant to a Property Lease, dated as of December 1, 2008 (the “**2008 Lease**”), by and between the City and the Authority.

12. The Authority assigned its right to receive the 2008 Lease Payments to the Prior Trustee under the 2008 Indenture.

13. In connection with the issuance of the 2008 Bonds, the Former Agency executed that certain Reimbursement Agreement, dated as of December 1, 2008 (the “**2008 Reimbursement Agreement**”), under which the Former Agency agreed to reimburse the City for a portion of the 2008 Lease Payments.

14. The Former Agency’s payments under the 2008 Reimbursement Agreement were intended to defray the costs of the acquisition and construction of the Improvements (as defined in the 2008 Reimbursement Agreement) that are located in or that were found by the City and the Former Agency (pursuant to all applicable requirements of the Redevelopment Law) to be of benefit to the Redevelopment Project.

15. Under the 2008 Reimbursement Agreement, the Former Agency pledged property tax revenues generated in the Redevelopment Project Area (“**Tax Revenues**,” as defined in the 2008 Reimbursement Agreement) as security for its reimbursement obligation.

16. In order to take advantage of prevailing bond market conditions, the City wishes to refinance the Prior Bonds.

17. In order to raise funds for such purpose, the Authority is issuing its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) (the “**Bonds**”) under this Indenture and Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the “**Bond Law**”).

18. To provide funds to prepay the 2007 Lease Payments and redeem the 2007 Bonds, the City is leasing to the Authority certain real property and improvements (the “**2007-Related Leased Property**”) under a Site and Facility Lease (the “**Site and Facility Lease**”), in consideration of the payment by the Authority of an upfront rental payment (the

“2007-Related Site Lease Payment”) that is sufficient to provide funds for the prepayment of the 2007 Lease Payments and the redemption of the 2007 Bonds.

19. The Authority is leasing the 2007-Related Leased Property back to the City under a Lease Agreement (the **“Lease Agreement”**), under which the City is obligated to pay semiannual lease payments as rental for the 2007-Related Leased Property, and the Authority is assigning substantially all of its rights under the Lease Agreement to the Trustee pursuant to an Assignment Agreement between the Authority and the Trustee (the **“Assignment Agreement”**).

20. To provide funds to prepay the 2008 Lease Payments and redeem the 2008 Bonds, the City is leasing to the Authority certain real property and improvements (the **“2008-Related Leased Property”**; together with the 2007-Related Lease Property, the **“Leased Property”**) under an Amended and Restated Sites and Facilities Lease (the **“Amended and Restated Sites and Facilities Lease”**), in consideration of the payment by the Authority of an upfront rental payment (the **“2008-Related Site Lease Payment”**; together with the 2007-Related Site Lease Payment, the **“Site Lease Payments”**) that is sufficient to provide funds for the prepayment of the 2008 Lease Payments and the redemption of the 2008 Bonds.

21. The Authority is leasing the 2008-Related Leased Property back to the City under an Amended and Restated Property Lease (the **“Amended and Restated Property Lease”**), under which the City is obligated to pay semiannual lease payments as rental for the 2008-Related Leased Property, and the Authority is assigning substantially all of its rights under the Amended and Restated Property Lease to the Trustee pursuant to the Assignment Agreement.

22. Section 34177.5(a)(3) of the Dissolution Act authorizes the Successor Agency to amend the 2008 Reimbursement Agreement to provide savings to the Successor Agency, provided that the 2008 Reimbursement Agreement is amended in connection with a refunding of the 2008 Bonds and that the refunding of the 2008 Bonds achieves debt service savings within the parameters set forth in Section 34177.5(a)(3) (the **“Savings Parameters”**).

23. Section 34177.5(a)(3) further provides that the pledge of Tax Revenues set forth in the amendment of the 2008 Reimbursement Agreement shall have the same lien priority as the pledge of Tax Revenues in the 2008 Reimbursement Agreement prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms.

24. An Amendment No. 1 to Reimbursement Agreement between the City and the Successor Agency (the **“Reimbursement Agreement Amendment”**; together with the 2008 Reimbursement Agreement, the **“Reimbursement Agreement”**) was approved by the Successor Agency by Resolution No. 2019-161 on July 16, 2019, the San Joaquin County Oversight Board by Resolution 010 adopted on October 7, 2019 and [the **California Department of Finance by letter dated ____, 20__**].

25. Under the Reimbursement Agreement Amendment, the Successor Agency and the City are amending the 2008 Reimbursement Agreement to provide for a reduction in the payments made by the Successor Agency to the City to reflect the debt service savings achieved by the refunding of the 2008 Bonds.

26. In order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof, premium (if any) and interest thereon, the Authority has authorized the execution and delivery of this Indenture.

27. The Authority has found and determined, and hereby affirms, that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Indenture have been in all respects duly authorized.

A G R E E M E N T :

In order to secure the payment of the principal of and the interest and redemption premium (if any) on all the Outstanding Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the Authority and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Indenture have the respective meanings specified in that Appendix when used in this Indenture.

SECTION 1.02. *Authorization.* Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

SECTION 1.03. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular shall include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and shall be deemed to include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

THE BONDS

SECTION 2.01. *Authorization of Bonds.* The Authority has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now duly empowered, under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

The Authority hereby authorizes the issuance of Bonds in the aggregate principal amount of \$_____ under the Bond Law for the purposes of providing funds to pay the Site Lease Payments to the City and thereby provide funds to prepay the 2007 Lease Payments and the 2008 Lease Payments and redeem the Prior Bonds. The Bonds are authorized and issued under, and are subject to the terms of, this Indenture and the Bond Law. The Bonds are designated the "Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing)."

SECTION 2.02. *Terms of the Bonds.*

(a) Payment Provisions. The Bonds shall be issued in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond has more than one maturity date. The Bonds shall mature on November 1 in each of the years and in the amounts, and bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

<u>Maturity Date</u> <u>(November</u> <u>1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
2020	\$	%
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		

Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or
- (c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds

at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee or by wire upon presentation and surrender thereof at the Office of the Trustee.

SECTION 2.03. *Transfer and Exchange of Bonds.*

(a) Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall require the Owner requesting such transfer to pay any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds shall be surrendered for transfer, the Authority shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee shall require the Owner requesting such exchange to pay any tax or other governmental charge required to be paid with respect to such exchange. The Authority shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

(c) Limitations. The Trustee may refuse to transfer or exchange, under the provisions of this Section 2.03, any Bonds selected by the Trustee for redemption under Article IV, or any Bonds during the period established by the Trustee for the selection of Bonds for redemption.

SECTION 2.04. *Book-Entry System.*

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, the Authority and the Trustee has no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding

sentence, the Authority and the Trustee has no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the Authority elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Authority and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the Authority to make payments of principal, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the Authority of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Authority shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a letter in which the Authority will agree to the Depository's operational arrangements. To the extent required to do so by the Depository, the Trustee shall also execute such representation letter and agree to the Depository's operational arrangements. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Authority or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. In addition to the execution and delivery of such letter, the Authority may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Authority determines to terminate the Depository as such, then the Authority shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Authority and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Authority fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be

required to be registered in the Registration Books in the name of the Nominee, and, upon transfer or exchange, shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

If the Authority determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the Authority may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will issue, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the Authority shall cooperate with the Depository in taking appropriate action (y) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (z) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the Authority's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.05. *Registration Books.* The Trustee will keep or cause to be kept, at the Office of the Trustee, sufficient records for the registration and transfer of ownership of the Bonds, which shall upon reasonable notice as agreed to by the Trustee, be open to inspection during regular business hours by the Authority; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on such records, the ownership of the Bonds as hereinbefore provided.

SECTION 2.06. *Form and Execution of Bonds.* The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, are set forth in Appendix B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The Chair of the Authority shall execute, and the Secretary of the Authority shall attest each Bond. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before the Closing Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Bond may be signed and attested on behalf of the Authority by such persons as at the actual date of the execution of such Bond are the proper officers of the Authority, duly authorized to execute debt instruments on behalf of the Authority, although on the date of such Bond any such person was not an officer of the Authority.

Only those Bonds bearing a certificate of authentication in the form set forth in Appendix B, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is

conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.07. *Bonds Mutilated, Lost, Destroyed or Stolen.* If any Bond is mutilated, the Authority, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. The Trustee shall cancel every mutilated Bond surrendered to it and deliver such mutilated Bond to, or upon the order of, the Authority. If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory and if indemnity satisfactory to the Trustee and the Authority is given, the Authority, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Trustee in connection therewith. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original additional contractual obligation on the part of the Authority whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued under this Indenture.

Notwithstanding any other provision of this Section 2.07, in lieu of delivering a new Bond for which principal has become due for a Bond which has been mutilated, lost, destroyed or stolen, the Trustee may make payment of such Bond in accordance with its terms upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

ISSUANCE OF BONDS; APPLICATION OF PROCEEDS

SECTION 3.01. *Issuance of the Bonds.* At any time after the execution of this Indenture, the Authority may execute and the Trustee shall authenticate and, upon the Written Request of the Authority, deliver the Bonds to the Original Purchaser.

SECTION 3.02. *Application of Proceeds of Sale of Bonds; Transfer of Prior Funds.* On the Closing Date, the Original Purchaser will pay a purchase price for the Bonds in the amount of \$_____, which is equal to the original principal amount of the Bonds (\$_____), [plus/less] a [net] original issue [premium/discount] of \$_____, less an underwriter's discount of \$_____. On the Closing Date, the Trustee shall apply such purchase price on the Closing Date in the following manner:

- (a) the Trustee will deposit \$_____ into the Refunding Fund, and
- (b) the Trustee will deposit the remaining amount, equal to \$_____, into the Costs of Issuance Fund.

The Trustee may establish a temporary fund or account in its records to facilitate such deposits or transfers. The deposits described in paragraphs (a) and (b) represent the full amount of the Site Lease Payments under Section 3 of the Site Leases.

SECTION 3.03. *Establishment and Application of Costs of Issuance Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the Bonds under Section 3.02(b). The Trustee shall disburse amounts in the Costs of Issuance Fund from time to time to pay the Costs of Issuance upon submission of a Written Requisition of the Authority stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. Each such Written Requisition of the Authority shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts. The Trustee may conclusively rely on such Written Requisitions and shall be fully protected in relying thereon. On the 90th calendar day after the Closing Date, or upon the earlier Written Request of the Authority, the Trustee shall transfer all amounts remaining in the Costs of Issuance Fund to the Interest Account and shall thereupon close the Costs of Issuance Fund.

SECTION 3.04. *Establishment and Application of Refunding Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Refunding Fund" into which the Trustee shall deposit a portion of the proceeds of sale of the Bonds under Section 3.02(a).

The Trustee shall immediately disburse amounts in the Refunding Fund as follows:

- (a) \$_____ to the Prior Trustee for deposit in the Revenue Fund established under the 2007 Indenture, according to the following wire instructions:

[to come]

- (b) \$_____ to the Prior Trustee for deposit in the Revenue Fund established under the 2008 Indenture, according to the following wire instructions:

[to come]

Following such transfer, the Trustee shall close the Refunding Fund.

SECTION 3.05. *Validity of Bonds.* The recital contained in the Bonds that the same are issued under the Constitution and laws of the State of California shall be conclusive evidence of their validity and of compliance with the provisions of law in their issuance.

ARTICLE IV

REDEMPTION OF BONDS

SECTION 4.01. *Terms of Redemption.*

(a) Optional Redemption. The Bonds maturing on or before November 1, 20__, are not subject to optional redemption prior to their stated maturity. The Bonds maturing on or after November 1, 20__, are subject to redemption, as a whole or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on November 1, 20__, and on any date thereafter, at a redemption price equal to 100% of the principal amount of Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Authority must give the Trustee at least 10 days' written notice of its intention to redeem Bonds under this subsection (a), and the manner of selecting such Bonds for redemption from among the maturities thereof, in sufficient time for the Trustee to give notice of such redemption in accordance with Section 4.03.

(b) Special Mandatory Redemption From Insurance or Condemnation Proceeds. The Bonds are subject to redemption as a whole, or in part on a pro rata basis among maturities, on any date, from any Net Proceeds required to be used for such purpose as provided in Section 5.07, at a redemption price equal to 100% of the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

SECTION 4.02. *Selection of Bonds for Redemption.* Whenever provision is made in this Indenture for the redemption of less than all of the Bonds of a single maturity, the Trustee shall select the Bonds of that maturity to be redeemed by lot in any manner which the Trustee in its sole discretion deems appropriate. For purposes of such selection, the

Trustee shall treat each Bond as consisting of separate \$5,000 portions and each such portion shall be subject to redemption as if such portion were a separate Bond.

SECTION 4.03. *Notice of Redemption; Rescission.* The Trustee shall mail notice of redemption of the Bonds by first class mail, postage prepaid, not less than 20 nor more than 60 days before any redemption date, to the respective Owners of any Bonds designated for redemption at their addresses appearing on the Registration Books and to one or more Securities Depositories and to the Municipal Securities Rulemaking Board. Each notice of redemption shall state the date of the notice, the redemption date, the place or places of redemption, whether less than all of the Bonds (or all Bonds of a single maturity) are to be redeemed, the CUSIP numbers and (in the event that not all Bonds within a maturity are called for redemption) Bond numbers of the Bonds to be redeemed and the maturity or maturities of the Bonds to be redeemed, and in the case of Bonds to be redeemed in part only, the respective portions of the principal amount thereof to be redeemed. Each such notice shall also state that on the redemption date there will become due and payable on each of said Bonds the redemption price thereof, and that from and after such redemption date interest thereon shall cease to accrue, and shall require that such Bonds be then surrendered to the Trustee. Neither the failure to receive any notice nor any defect therein shall affect the sufficiency of the proceedings for such redemption or the cessation of accrual of interest from and after the redemption date. Notice of redemption of Bonds shall be given by the Trustee, at the expense of the Authority, for and on behalf of the Authority.

Redemption notices may be conditional. The Authority has the right to rescind any notice of the redemption of Bonds under Section 4.01(a) by written notice to the Trustee on or prior to the dated fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The Authority and the Trustee have no liability to the Bond Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

SECTION 4.04. *Partial Redemption of Bonds.* Upon surrender of any Bonds redeemed in part only, the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered.

SECTION 4.05. *Effect of Redemption.* Notice of redemption having been duly given as aforesaid, and moneys for payment of the redemption price of, together with interest accrued to the date fixed for redemption on, including any applicable premium, the Bonds (or portions thereof) so called for redemption being held by the Trustee, on the redemption date designated in such notice, the Bonds (or portions thereof) so called for redemption shall become due and payable, interest on the Bonds so called for redemption shall cease to accrue, said Bonds (or portions thereof) shall cease to be entitled to any benefit or security under this Indenture, and the Owners of said Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof.

All Bonds redeemed under the provisions of this Article shall be canceled by the Trustee upon surrender thereof and destroyed in accordance with the retention policy of the Trustee then in effect.

ARTICLE V

REVENUES; FUNDS AND ACCOUNTS; PAYMENT OF PRINCIPAL AND INTEREST

SECTION 5.01. *Security for the Bonds; Bond Fund.*

(a) Pledge of Revenues and Other Amounts. Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, all of the Revenues and all amounts (including proceeds of the sale of the Bonds) held in any fund or account established under this Indenture are hereby pledged to secure the payment of the principal of and interest and premium (if any) on the Bonds in accordance with their terms and the provisions of this Indenture. Said pledge constitutes a lien on and security interest in the Revenues and such amounts and shall attach, be perfected and be valid and binding from and after the Closing Date, without the need for any physical delivery thereof or further act.

(b) Assignment to Trustee. Under the Assignment Agreement, the Authority has transferred to the Trustee all of the rights of the Authority in the Leases (other than the rights of the Authority under Sections 4.5, 5.10, 7.3 and 8.4 thereof and its rights to give approvals and consents thereunder). The Trustee is entitled to collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee is also entitled to and may, subject to the provisions of Article VIII, take all steps, actions and proceedings which the Trustee determines to be reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Leases.

(c) Deposit of Revenues in Bond Fund. All Revenues shall be promptly deposited by the Trustee upon receipt thereof in a special fund designated as the "Bond Fund" which the Trustee shall establish, maintain and hold in trust; except that all moneys received by the Trustee and required hereunder or under the Leases to be deposited in the Redemption Fund or the Insurance and Condemnation Fund shall be promptly deposited in such funds. All Revenues deposited with the Trustee shall be held, disbursed, allocated and applied by the Trustee only as provided in this Indenture. Any surplus remaining in the Bond Fund, after payment in full of (i) the principal of and interest on the Bonds or provision therefore under Article X, and (ii) any applicable fees and expenses to the Trustee, shall be withdrawn by the Trustee and remitted to the City.

SECTION 5.02. *Allocation of Revenues.* On or before each Interest Payment Date, the Trustee shall transfer from the Bond Fund and deposit into the following respective accounts (each of which the Trustee shall establish and maintain within the Bond Fund), the following amounts in the following order of priority:

- (a) Deposit to Interest Account. The Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to be at least equal to the amount of interest becoming due and payable on such Interest Payment Date on all Bonds then Outstanding.
- (b) Deposit to Principal Account. The Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of the Bonds coming due and payable on such Interest Payment Date.

SECTION 5.03. *Application of Interest Account.* All amounts in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it comes due and payable (including accrued interest on any Bonds purchased or redeemed prior to maturity).

SECTION 5.04. *Application of Principal Account.* All amounts in the Principal Account shall be used and withdrawn by the Trustee solely to pay the principal amount of the Bonds at their respective maturity dates.

SECTION 5.05. *Reserved.*

SECTION 5.06. *Application of Redemption Fund.* The Trustee shall establish and maintain the Redemption Fund, into which the Trustee shall deposit a portion of the Revenues received, in accordance with a Written Request of the Authority, amounts in which shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and premium (if any) of the Bonds to be redeemed under Section 4.01; *provided, however,* that at any time prior to the selection of Bonds for redemption, the Trustee may apply such amounts to the purchase of Bonds at public or private sale, when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as shall be directed under a Written Request of the Authority, except that the purchase price (exclusive of accrued interest) may not exceed the redemption price then applicable to the Bonds. The Trustee shall be entitled to conclusively rely on any Written Request of the Authority received under this Section 5.06, and shall be fully protected in relying thereon.

SECTION 5.07. *Insurance and Condemnation Fund.*

(a) Establishment of Fund. Upon the receipt of proceeds of insurance or eminent domain with respect to the Leased Property, the Trustee shall establish and maintain an Insurance and Condemnation Fund, to be held and applied as hereinafter set forth in this Section 5.07.

(b) Application of Insurance Proceeds. Any Net Proceeds of insurance against accident to or destruction of the Leased Property collected by the City or the Authority in the event of any such accident or destruction shall be paid to the Trustee under Section 6.3 of the Leases and deposited by the Trustee promptly upon receipt thereof in the Insurance and Condemnation Fund. If the City fails to determine and notify the Trustee in writing of its determination, within 90 days following the date of such deposit, to replace, repair, restore, modify or improve the Leased Property which has been damaged or

destroyed, then such Net Proceeds shall be promptly transferred by the Trustee to the Redemption Fund and applied to the redemption of Bonds under Section 4.01(b). Notwithstanding the foregoing sentence, however, if the Leased Property is damaged or destroyed in full, the Net Proceeds of such insurance shall be used by the City to rebuild or replace the Leased Property if such proceeds are not sufficient to redeem Outstanding Bonds equal in aggregate principal amount to the unpaid Lease Payments allocable to the Leased Property. All proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Redemption Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the City, upon receipt of a Written Request of the City which: (i) states with respect to each payment to be made (A) the requisition number, (B) the name and address of the person to whom payment is due, (C) the amount to be paid and (D) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund and has not been the basis of any previous withdrawal; and (ii) specifies in reasonable detail the nature of the obligation. Any balance of the proceeds remaining after such work has been completed as certified by the City under a Written Certificate to the Trustee shall be paid to the City. The Trustee shall be entitled to conclusively rely on any Written Request or Written Certificate received under this subsection (b) of this Section 5.07 and in each case, shall be fully protected in relying thereon.

(c) Application of Eminent Domain Proceeds. If all or any part of the Leased Property is taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Authority shall deposit or cause to be deposited with the Trustee the Net Proceeds therefrom, which the Trustee shall deposit in the Insurance and Condemnation Fund under Section 6.2(b) of the applicable Lease and which shall be applied and disbursed by the Trustee as follows:

- (i) If the City has not given written notice to the Trustee, within 90 days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for the replacement of the Leased Property or such portion thereof, the Trustee shall transfer such Net Proceeds to the Redemption Fund to be applied towards the redemption of the Bonds under Section 4.01(b).
- (ii) If the City has given written notice to the Trustee, within 90 days following the date on which such Net Proceeds are deposited with the Trustee, of its determination that such Net Proceeds are needed for replacement of the Leased Property or such portion thereof, the Trustee shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for such replacement, upon the filing of Written Requisitions of the City as agent for the Authority.

In each case, the Trustee may conclusively rely upon any notice received under this subsection (c)(ii) of this Section and is protected in relying thereon.

(d) Reliance on Independent Advice. In making any such determination whether to repair, replace or rehabilitate the Leased Property under this Section 5.07, the City may obtain, but is not required to obtain, at its expense, the report of an independent engineer

or other independent professional consultant, a copy of which must be filed with the Trustee. The Trustee shall have no duty to review or examine such report. Any such determination by the City is final.

SECTION 5.08. *Investments.* All moneys in any of the funds or accounts established with the Trustee under this Indenture shall be invested by the Trustee solely in Permitted Investments. Such investments shall be directed by the Authority in a Written Request of the Authority filed with the Trustee at least 2 Business Days in advance of the making of such investments. In the absence of any such directions from the Authority, the Trustee shall invest any such moneys in Permitted Investments which constitute money market funds; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a Written Request of the Authority specifying a specific money market fund and, if no such Written Request of the Authority is so received, the Trustee shall hold such moneys uninvested. Permitted Investments purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. To the extent Permitted Investments are registrable, such Permitted Investments must be registered in the name of the Trustee.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the Bond Fund. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee or any of its affiliates may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made under this Section 5.08.

Subject to applicable law, the Trustee may make any investments hereunder through its own bond or investment department or trust investment department, or those of its parent or any affiliate. The Trustee or any of its affiliates may act as sponsor, advisor or manager to the investment provider in connection with any investments made by the Trustee hereunder. The Trustee is hereby authorized, in making or disposing of any investment permitted by this Section, to deal with itself (in its individual capacity) or with any one or more of its affiliates, whether it or such affiliate is acting as an agent of the Trustee or for any third person or is dealing as a principal for its own account. The Trustee may, from time to time, provide the City and the Authority with a list of investments that are available on the Trustee's investment platform, but the Trustee will not give investment advice to the City or the Authority, and the City or the Authority may direct the Trustee to purchase investments that are not included on the list provided by the Trustee. The Trustee shall be entitled to rely conclusively on the Authority's investment direction as to the suitability and legality of the directed investments.

The Trustee shall furnish the Authority periodic cash transaction statements which include detail for all investment transactions effected by the Trustee or brokers selected by the Authority. Upon the Authority's election, such statements will be delivered via the Trustee's Online Trust and Custody service and upon electing such service, paper statements will be provided only upon request. The Authority waives the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, to the extent permitted by law. The Authority further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker.

SECTION 5.09. *Valuation and Disposition of Investments.*

(a) Except as otherwise provided in subsection (b) of this Section, the Authority covenants that all investments of amounts deposited in any fund or account created by or under this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued at the Fair Market Value thereof as such term is defined in subsection (d) below. The Trustee shall have no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the Authority in any Written Request of the Authority.

(b) The investments in certain funds or accounts (or portions thereof) may be subject to a yield restriction under applicable provisions of the Tax Code; the Authority shall inform the Trustee in writing which funds are subject to a yield restriction.

(c) For the purpose of determining the amount in any fund or account established hereunder, the value of Permitted Investments credited to such fund shall be valued by the Trustee at least annually on or before July 15. The Trustee may sell or present for redemption, any Permitted Investment so purchased by the Trustee whenever it is necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any such Permitted Investment.

(d) For purposes of this Section 5.09, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

(e) To the extent of any valuations made by the Trustee hereunder, the Trustee may utilize and rely upon computerized or generally recognized securities pricing services that may be available to it, including those available through its regular accounting system (including brokers and dealers).

ARTICLE VI

COVENANTS OF THE AUTHORITY

SECTION 6.01. *Punctual Payment.* The Authority shall punctually pay or cause to be paid the principal of and interest and premium (if any) on all the Bonds in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of the Revenues and other amounts pledged for such payment as provided in this Indenture.

SECTION 6.02. *Extension of Payment of Bonds.* The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which have not been so extended. Nothing in this Section 6.02 limits the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance does not constitute an extension of maturity of the Bonds.

SECTION 6.03. *Against Encumbrances.* The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, and reserves the right to issue other obligations for such purposes.

SECTION 6.04. *Power to Issue Bonds and Make Pledge and Assignment.* The Authority is duly authorized under law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues and other amounts purported to be pledged and assigned, respectively, under this Indenture and under the Assignment Agreement in the manner and to the extent provided in this Indenture and the Assignment Agreement. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article VIII and to the extent permitted by law, defend, preserve and protect said pledge and assignment of Revenues and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

SECTION 6.05. *Accounting Records.* The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of Bonds and all funds and accounts established under this Indenture. The Trustee shall make such books of record and account available for inspection by the Authority and the City, during business hours, upon reasonable notice, and under reasonable circumstances.

SECTION 6.06. *Limitation on Additional Obligations.* The Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of the Revenues in whole or in part.

SECTION 6.07. *Tax Covenants.*

(a) Private Business Use Limitation. The Authority shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The Authority may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The Authority may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The Authority shall calculate or cause to be calculated all amounts of excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The Authority shall pay when due an amount equal to excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from amounts paid by the City for that purpose under Section 4.5(d) of each Lease. The Authority shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e).

SECTION 6.08. *Enforcement of Leases.* The Trustee shall promptly collect all amounts (to the extent any such amounts are available for collection) due from the City under the Leases. Subject to the provisions of Article VIII, the Trustee may enforce, and take all steps, actions and proceedings which are determined to be reasonably necessary for the enforcement of all of its rights thereunder as assignee of the Authority and for the enforcement of all of the obligations of the City under the Leases.

SECTION 6.09. *Waiver of Laws.* The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force that may affect the covenants and agreements contained in this Indenture or in the Bonds, and all benefit or advantage of any such law or laws is hereby expressly waived by the Authority to the extent permitted by law.

SECTION 6.10. *Further Assurances.* The Authority will make, execute and deliver any and all such further indentures, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.01. *Events of Default.* The following events constitute Events of Default hereunder:

- (a) Failure to pay any installment of the principal of any Bonds when due, whether at maturity as therein expressed, by proceedings for redemption, by acceleration, or otherwise.
- (b) Failure to pay any installment of interest on the Bonds when due.
- (c) Failure by the Authority to observe and perform any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such failure has continued for a period of 30 days after written notice thereof, specifying such failure and requiring the same to be remedied, has been given to the Authority by the Trustee; provided, however, if in the reasonable opinion of the Authority the failure stated in the notice can be corrected, but not within such 30-day period, such failure shall not constitute an Event of Default if the Authority institutes corrective action within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time, which period shall end 180 days after the delivery of such default notice.
- (d) The commencement by the Authority of a voluntary case under Title 11 of the United States Code or any substitute or successor statute.
- (e) The occurrence and continuation of an event of default under and as defined in the Leases.

SECTION 7.02. *Remedies Upon Event of Default.* If any Event of Default occurs, then, and in each and every such case during the continuance of such Event of Default, the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding shall, in each case, upon receipt of indemnification satisfactory to Trustee against the costs, expenses and liabilities to be incurred in connection with such action, upon notice in writing to the Authority, declare the principal of all of the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and shall be immediately due and payable, anything in this Indenture or in the Bonds contained to the contrary notwithstanding.

Any such declaration is subject to the condition that if, at any time after such declaration and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Authority deposits with the Trustee a sum sufficient to pay all the principal of and installments of interest on the Bonds payment of which is overdue, with interest on such overdue principal at the rate borne by the respective Bonds to the extent permitted by law, and the reasonable fees, charges and expenses (including those of its legal counsel, including the allocated costs of internal attorneys) of the Trustee, and any and all other Events of Default actually known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate has been made therefor, then, and in every such case, the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the Authority, the City and the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences and waive such Event of Default; but no such rescission and annulment shall extend to or shall affect any subsequent Event of Default, or shall impair or exhaust any right or power consequent thereon.

Nothing herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Bondholder any plan of reorganization, arrangement, adjustment, or composition affecting the Bonds or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Bondholder in any such proceeding without the approval of the Bondholders so affected.

SECTION 7.03. *Application of Revenues and Other Funds After Default.* If an Event of Default occurs and is continuing, all Revenues and any other funds then held or thereafter received by the Trustee under any of the provisions of this Indenture shall be applied by the Trustee in the following order of priority:

- (a) To the payment of reasonable fees, charges and expenses of the Trustee (including reasonable fees and disbursements of its legal counsel including outside counsel and the allocated costs of internal attorneys) incurred in and about the performance of its powers and duties under this Indenture;
- (b) To the payment of the principal of and interest then due on the Bonds (upon presentation of the Bonds to be paid, and stamping or otherwise noting thereon of the payment if only partially paid, or surrender thereof if fully paid) in accordance with the provisions of this Indenture, as follows:

First: To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference;

Second: To the payment to the persons entitled thereto of the unpaid principal of any Bonds which shall have become due, whether

at maturity or by acceleration or redemption, with interest on the overdue principal at the rate borne by the respective Bonds (to the extent permitted by law), and, if the amount available shall not be sufficient to pay in full all the Bonds, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference; and

SECTION 7.04. *Trustee to Represent Bond Owners.* The Trustee is hereby irrevocably appointed (and the successive respective Owners of the Bonds, by taking and holding the same, shall be conclusively deemed to have so appointed the Trustee) as trustee and true and lawful attorney-in-fact of the Owners of the Bonds for the purpose of exercising and prosecuting on their behalf such rights and remedies as may be available to such Owners under the provisions of the Bonds, this Indenture and applicable provisions of any law. All rights of action under this Indenture or the Bonds may be prosecuted and enforced by the Trustee without the possession of any of the Bonds or the production thereof in any proceeding relating thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in the name of the Trustee for the benefit and protection of all the Owners of such Bonds, subject to the provisions of this Indenture.

SECTION 7.05. *Limitation on Bond Owners' Right to Sue.* Notwithstanding any other provision hereof, no Owner of any Bonds has the right to institute any suit, action or proceeding at law or in equity, for the protection or enforcement of any right or remedy under this Indenture, the Leases or any other applicable law with respect to such Bonds, unless (a) such Owner has given to the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such suit, action or proceeding in its own name; (c) such Owner or Owners have tendered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request; (d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee; and (e) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder or under law; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security of this Indenture or the rights of any other Owners of Bonds, or to enforce any right under the Bonds, this Indenture, the Leases or other applicable law with respect to the Bonds, except in the manner herein provided, and that all proceedings at law or in equity to enforce any such right shall be instituted, had and maintained in the manner herein provided and for the benefit and protection of all Owners of the Outstanding Bonds, subject to the provisions of this Indenture.

SECTION 7.06. *Absolute Obligation of Authority.* Nothing herein or in the Bonds contained affects or impairs the obligation of the Authority, which is absolute and unconditional, to pay the principal of and interest and premium (if any) on the Bonds to

the respective Owners of the Bonds at their respective dates of maturity, or upon acceleration or call for redemption, as herein provided, but only out of the Revenues and other assets herein pledged therefor, or affect or impair the right of such Owners, which is also absolute and unconditional, to enforce such payment by virtue of the contract embodied in the Bonds.

SECTION 7.07. *Termination of Proceedings.* In case any proceedings taken by the Trustee or by any one or more Bond Owners on account of any Event of Default have been discontinued or abandoned for any reason or have been determined adversely to the Trustee or the Bond Owners, then in every such case the Authority, the Trustee and the Bond Owners, subject to any determination in such proceedings, shall be restored to their former positions and rights hereunder, severally and respectively, and all rights, remedies, powers and duties of the Authority, the Trustee and the Bond Owners shall continue as though no such proceedings had been taken.

SECTION 7.08. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee, to the Owners of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

SECTION 7.09. *No Waiver of Default.* No delay or omission of the Trustee or any Owner of the Bonds to exercise any right or power arising upon the occurrence of any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or an acquiescence therein; and every power and remedy given by this Indenture to the Trustee or to the Owners of the Bonds may be exercised from time to time and as often as may be deemed expedient by the Trustee or the Bond Owners.

SECTION 7.10. *Notice to Bond Owners of Default.* Immediately upon becoming aware of the occurrence of an Event of Default, but in no event later than five Business Days following becoming aware of such occurrence, the Trustee shall promptly give written notice thereof by first class mail, postage prepaid, to the Owner of each Outstanding Bond, unless such Event of Default has been cured before the giving of such notice; *provided, however* that except in the case of an Event of Default described in Sections 7.01(a) or 7.01(b), the Trustee may elect not to give such notice to the Bond Owners if and so long as the Trustee in good faith determines that it is in the best interests of the Bond Owners not to give such notice.

ARTICLE VIII

THE TRUSTEE

SECTION 8.01. *Appointment of Trustee.* U.S. Bank, National Association is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this Article VIII, so long as any Bonds are Outstanding.

SECTION 8.02. *Acceptance of Trusts; Removal and Resignation of Trustee.* The Trustee hereby accepts the express trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

- (a) The Trustee shall, prior to an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are expressly and specifically set forth in this Indenture and no implied duties or covenants shall be read into this Indenture against the Trustee. If an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by hereunder, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.
- (b) The Authority may remove the Trustee upon 30 days' prior notice, unless an Event of Default has occurred and is then continuing, and shall remove the Trustee (a) if at any time requested to do so by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (b) if at any time the Trustee ceases to be eligible in accordance with Section 8.02, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation.
- (c) The Trustee may at any time resign by giving written notice of such resignation to the Authority and the City, and by giving the Bond Owners notice of such resignation by mail at the addresses shown on the Registration Books.
- (d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. In the event of the removal or resignation of the Trustee under subsections (b) or (c), respectively, the Authority shall promptly appoint a successor Trustee.

If no successor Trustee has been appointed and accepted appointment within 45 days of giving notice of removal or notice of resignation as aforesaid, the retiring Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture, must signify its acceptance of such appointment by executing and delivering to the Authority, to its predecessor Trustee a written acceptance thereof, and after payment by the Authority of all unpaid fees and expenses of the predecessor Trustee, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Authority or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to the Leased Property held by such predecessor Trustee under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Authority shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Authority shall promptly mail or cause the successor trustee to mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which is then rating the Bonds and to the Bond Owners at the addresses shown on the Registration Books. If the Authority fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the Authority.

- (e) Any Trustee appointed under this Indenture shall be a corporation or association organized and doing business under the laws of any state or the United States of America or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have (or, in the case of a corporation or association that is a member of a bank holding company system, the related bank holding company has) a combined capital and surplus of at least \$50,000,000, and shall be subject to supervision or examination by a federal or state agency, so long as any Bonds are Outstanding. If such corporation or association publishes a report of condition at least annually under law or to the requirements of any supervising or

examining agency above referred to, then for the purpose of this subsection (e), the combined capital and surplus of such corporation or association shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If the Trustee at any time ceases to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

SECTION 8.03. *Merger or Consolidation.* Any bank, national banking association, federal savings association, or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank, national banking association, federal savings association, or trust company resulting from any merger, conversion or consolidation to which it shall be a party or any bank, national banking association, federal savings association, or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank, national banking association, federal savings association, or trust company shall be eligible under subsection (e) of Section 8.02 shall be the successor to such Trustee, without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

SECTION 8.04. *Liability of Trustee.*

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Authority, and the Trustee shall not assume responsibility for the correctness of the same, or make any representations as to the validity or sufficiency of this Indenture, the Bonds or the Leases (including any right to receive moneys thereunder or the value of or title to the premises upon which the Leased Property is located), nor shall the Trustee incur any responsibility in respect thereof, other than as expressly stated herein in connection with the respective duties or obligations of Trustee herein or in the Bonds assigned to or imposed upon it. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee may become the Owner of Bonds with the same rights it would have if it were not Trustee, and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bond Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee is not liable for any error of judgment made by a responsible officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts.

(c) The Trustee is not liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture or assigned to it under the Assignment Agreement.

(d) The Trustee is not liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(e) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder, or any other event which, with the passage of time, the giving of notice, or both, would constitute an Event of Default hereunder unless and until it shall have actual knowledge thereof, or a corporate trust officer shall have received written notice thereof at its Office from the City, the Authority or the Owners of at least 25% in aggregate principal amount of the Outstanding Bonds. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by the Authority or the City of any of the terms, conditions, covenants or agreements herein, under the Leases or the Bonds or of any of the documents executed in connection with the Bonds, or as to the existence of a default or an Event of Default or an event which would, with the giving of notice, the passage of time, or both, constitute an Event of Default. The Trustee is not responsible for the validity, effectiveness or priority of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee shall not be required to ascertain or inquire as to the performance or observance by the City or the Authority of the terms, conditions, covenants or agreements set forth in the Leases, other than the covenants of the City to make Lease Payments to the Trustee when due and to file with the Trustee when due, such reports and certifications as the City is required to file with the Trustee thereunder.

(f) No provision of this Indenture requires the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, receivers or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, receiver or attorney appointed with due care by it hereunder.

(h) The Trustee has no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of the Bond Owners under this Indenture, unless such Owners have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities (including but not limited to fees and expenses of its attorneys), including, without limitations, any liability arising under federal, state or local environmental laws which might be incurred by it in compliance with such request or direction. No permissive power, right or remedy conferred upon the Trustee hereunder shall be construed to impose a duty to exercise such power, right or remedy.

(i) Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of Section 8.02(a), this Section 8.04 and Section 8.05, and shall be applicable to the assignment of any rights under the Leases to the Trustee under the Assignment Agreement.

(j) The Trustee is not accountable to anyone for the subsequent use or application of any moneys (including the proceeds of the Bonds) which are released or withdrawn in accordance with the provisions hereof.

(k) The Trustee makes no representation or warranty, expressed or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose for the

use contemplated by the Authority or the City of the Leased Property. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Leases or this Indenture for the existence, furnishing or use of the Leased Property.

(l) The Trustee has no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

(m) The Trustee is authorized and directed to execute the Assignment Agreement in its capacity as Trustee hereunder.

(n) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the Authority and/or City shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Authority and/or the City whenever a person is to be added or deleted from the listing. If the Authority and/or City elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's reasonable understanding of such Instructions shall be deemed controlling. The Authority and City understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority and City shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Authority, City and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority and/or City. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Authority and City agree: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Authority and City; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

(o) In acting or omitting to act pursuant to the Assignment Agreement, the Leases or the Site Leases, the Trustee shall be entitled to all of the rights, immunities and indemnities accorded to it under this Indenture, including, but not limited to, this Article

VIII. Notwithstanding the effective date of this Indenture or anything to the contrary in this Indenture, the Trustee shall have no liability or responsibility for any act or event relating to this Indenture which occurs prior to the date the Trustee formally executes this Indenture and commences acting as Trustee hereunder.

(p) The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term “force majeure” means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include, but not be limited to, acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

SECTION 8.05. *Right to Rely on Documents.* The Trustee shall be protected and shall incur no liability in acting or refraining from acting in reliance upon any notice, resolution, request, consent, order, certificate, report, opinion, bonds or other paper or document believed by them to be genuine and to have been signed or presented by the proper party or parties. The Trustee is under no duty to make any investigation or inquiry as to any statements contained or matter referred to in any paper or document but may accept and conclusively rely upon the same as conclusive evidence of the truth and accuracy of any such statement or matter and shall be fully protected in relying thereon. The Trustee may consult with counsel, who may be counsel of or to the Authority, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith.

The Trustee may treat the Owners of the Bonds appearing in the Registration Books as the absolute owners of the Bonds for all purposes and the Trustee shall not be affected by any notice to the contrary.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate, Written Request or Written Requisition of the Authority or the City, and such Written Certificate, Written Request or Written Requisition shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture in reliance upon such Written Certificate, Written Request or Written Requisition, and the Trustee shall be fully protected in relying thereon, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

SECTION 8.06. *Preservation and Inspection of Documents.* All documents received by the Trustee under the provisions of this Indenture shall be retained in its respective possession and in accordance with its retention policy then in effect and shall, upon reasonable notice to Trustee, be subject to the inspection of the Authority, the City and any Bond Owner, and their agents and representatives duly authorized in writing, during business hours and under reasonable conditions as agreed to by the Trustee.

SECTION 8.07. *Compensation and Indemnification.* The Authority shall pay to the Trustee from time to time, on demand, the compensation for all services rendered under this Indenture and also all reasonable expenses, advances (including any interest on

advances), charges, legal (including outside counsel and the allocated costs of internal attorneys) and consulting fees and other disbursements, incurred in and about the performance of its powers and duties under this Indenture.

The Authority shall indemnify the Trustee, its officers, directors, employees and agents against any cost, loss, liability, suit, claim, damages, judgment or expense whatsoever (including but not limited to fees and expenses of its attorneys) incurred without negligence or willful misconduct on its part, arising out of or in connection with the acceptance or administration of this trust and this Indenture, the Assignment Agreement, the Site Leases and the Leases, including costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers hereunder or under the Assignment Agreement or the Leases. As security for the performance of the obligations of the Authority under this Section 8.07 and the obligation of the Authority to make Additional Rental Payments to the Trustee, the Trustee shall have a lien prior to the lien of the Bonds upon all property and funds held or collected by the Trustee as such. The rights of the Trustee and the obligations of the Authority under this Section 8.07 shall survive the resignation or removal of the Trustee or the discharge of the Bonds and this Indenture and the Leases. When the Trustee incurs expenses or renders services after the occurrence of an Event of Default, such expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

ARTICLE IX

MODIFICATION OR AMENDMENT HEREOF

SECTION 9.01. *Amendments Permitted.*

(a) Amendments With Bond Owner Consent. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time by Supplemental Indenture, which the Authority and the Trustee may enter into when the written consents of the Owners of a majority in aggregate principal amount of all Bonds then Outstanding are filed with the Trustee. No such modification or amendment may (i) extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the Owner of each Bond so affected, or (ii) reduce the aforesaid percentage of Bonds the consent of the Owners of which is required to effect any such modification or amendment, or permit the creation of any lien on the Revenues and other assets pledged under this Indenture prior to or on a parity with the lien created by this Indenture except as permitted herein, or deprive the Owners of the Bonds of the lien created by this Indenture on such Revenues and other assets (except as expressly provided in this Indenture), without the consent of the Owners of all of the Bonds then Outstanding. It is not necessary for the consent of the Bond Owners to approve the particular form of any Supplemental Indenture, but it is sufficient if such consent approves the substance thereof.

(b) Amendments Without Owner Consent. This Indenture and the rights and obligations of the Authority, of the Trustee and the Owners of the Bonds may also be modified or amended from time to time and at any time by a Supplemental Indenture, which the Authority and the Trustee may enter into without the consent of any Bond Owners, if the Trustee has been furnished an opinion of counsel that the provisions of such Supplemental Indenture shall not materially adversely affect the interests of the Owners of the Bonds, including, without limitation, for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the Authority in this Indenture contained, other covenants and agreements thereafter to be observed, to pledge or assign additional security for the Bonds (or any portion thereof), or to surrender any right or power herein reserved to or conferred upon the Authority;
- (ii) to cure any ambiguity, inconsistency or omission, or to cure or correct any defective provision, contained in this Indenture, or in regard to matters or questions arising under this Indenture, as the Authority deems necessary or desirable, provided that such modification or amendment does not materially adversely affect the interests of the Bond Owners, in the opinion of Bond Counsel filed with the Trustee;
- (iii) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute;
- (iv) to modify, amend or supplement this Indenture in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code; or
- (v) to facilitate the issuance of additional obligations of the City under a Lease Agreement as provided in Section 7.5(b)(5) thereof.

(c) Limitation. The Trustee is not obligated to enter into any Supplemental Indenture authorized by subsections (a) or (b) of this Section 9.01 which materially adversely affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

(d) Bond Counsel Opinion Requirement. Prior to the Trustee entering into any Supplemental Indenture hereunder, the Authority shall deliver to the Trustee an opinion of Bond Counsel stating, in substance, that such Supplemental Indenture has been adopted in compliance with the requirements of this Indenture and that the adoption of such Supplemental Indenture will not, in and of itself, adversely affect the exclusion from gross income for purposes of federal income taxes of interest on the Bonds.

(e) Notice of Amendments. The Authority shall deliver or cause to be delivered a draft of any Supplemental Indenture to each rating agency which then maintains a rating on the Bonds, at least 10 days prior to the effective date of such Supplemental Indenture under this Section 9.01.

SECTION 9.02. *Effect of Supplemental Indenture.* Upon the execution of any Supplemental Indenture under this Article IX, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 9.03. *Endorsement of Bonds; Preparation of New Bonds.* Bonds delivered after the execution of any Supplemental Indenture under this Article may, and if the Authority so determines shall, bear a notation by endorsement or otherwise in form approved by the Authority as to any modification or amendment provided for in such Supplemental Indenture, and, in that case, upon demand on the Owner of any Bonds Outstanding at the time of such execution and presentation of his Bonds for the purpose at the Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation shall be made on such Bonds. If the Supplemental Indenture shall so provide, new Bonds so modified as to conform, in the opinion of the Authority, to any modification or amendment contained in such Supplemental Indenture, shall be prepared and executed by the Authority and authenticated by the Trustee, and upon demand on the Owners of any Bonds then Outstanding shall be exchanged at the Office of the Trustee, without cost to any Bond Owner, for Bonds then Outstanding, upon surrender for cancellation of such Bonds, in equal aggregate principal amount of the same maturity.

SECTION 9.04. *Amendment of Particular Bonds.* The provisions of this Article IX do not prevent any Bond Owner from accepting any amendment as to the particular Bonds held by such Owner.

ARTICLE X

DEFEASANCE

SECTION 10.01. *Discharge of Indenture.* Any or all of the Outstanding Bonds may be paid by the Authority in any of the following ways, provided that the Authority also pays or causes to be paid any other sums payable hereunder by the Authority:

- (a) by paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;
- (b) by depositing with the Trustee, in trust, at or before maturity, money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem such Bonds; or
- (c) by delivering all of such Bonds to the Trustee for cancellation.

If the Authority also pays or causes to be paid all other sums payable hereunder by the Authority, then and in that case, at the election of the Authority (evidenced by a Written Certificate of the Authority, filed with the Trustee, signifying the intention of the Authority to discharge all such indebtedness and this Indenture), and notwithstanding that any of such Bonds shall not have been surrendered for payment, this Indenture and the pledge of Revenues and other assets made under this Indenture with respect to such Bonds and all covenants, agreements and other obligations of the Authority under this Indenture with respect to such Bonds shall cease, terminate, become void and be completely discharged and satisfied, subject to Section 10.02, and except for Section 8.07 hereof, which shall survive. In such event, upon the Written Request of the Authority, the Trustee shall execute and deliver to the Authority all such instruments as may be necessary or desirable to evidence such discharge and satisfaction, and the Trustee shall pay over, transfer, assign or deliver to the City all moneys or securities or other property held by it under this Indenture which are not required for the payment or redemption of any of such Bonds not theretofore surrendered for such payment or redemption. The Trustee is entitled to conclusively rely on any such Written Certificate or Written Request and, in each case, is fully protected in relying thereon.

SECTION 10.02. *Discharge of Liability on Bonds.* Upon the deposit with the Trustee, in trust, at or before maturity, of money or securities in the necessary amount (as provided in Section 10.03) to pay or redeem any Outstanding Bonds (whether upon or prior to the maturity or the redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to maturity, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, then all liability of the Authority in respect of such Bonds shall cease, terminate and be completely discharged, and the Owners thereof shall thereafter be entitled only to payment out of such money or securities deposited with the Trustee as aforesaid for their payment, subject, however, to the provisions of Section 10.04.

The Authority may at any time surrender to the Trustee, for cancellation by the Trustee, any Bonds previously issued and delivered, which the Authority may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

SECTION 10.03. *Deposit of Money or Securities with Trustee.* Whenever in this Indenture it is provided or permitted that there be deposited with or held in trust by the Trustee money or securities in the necessary amount to pay or redeem any Bonds, the money or securities so to be deposited or held may include money or securities held by the Trustee in the funds and accounts established under this Indenture and shall be:

- (a) lawful money of the United States of America in an amount equal to the principal amount of such Bonds and all unpaid interest thereon to maturity, except that, in the case of Bonds which are to be redeemed prior to maturity and in respect of which notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee shall have been made for the giving of such notice, the amount to be deposited or held shall be the principal amount of such Bonds, premium, if any, and all unpaid interest thereon to the redemption date; or

- (b) non-callable Federal Securities, the principal of and interest on which when due will, in the written opinion of an Independent Accountant filed with the City, the Authority and the Trustee, provide money sufficient to pay the principal of and interest and premium (if any) on the Bonds to be paid or redeemed, as such principal, interest and premium become due, provided that in the case of Bonds which are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in Article IV or provision satisfactory to the Trustee has been made for the giving of such notice;

provided, in each case, that (i) the Trustee shall have been irrevocably instructed (by the terms of this Indenture or by Written Request of the Authority) to apply such money to the payment of such principal, interest and premium (if any) with respect to such Bonds, and (ii) the Authority shall have delivered to the Trustee an opinion of Bond Counsel to the effect that such Bonds have been discharged in accordance with this Indenture (which opinion may rely upon and assume the accuracy of the Independent Accountant's opinion referred to above). The Trustee shall be entitled to conclusively rely on such Written Request or opinion and shall be fully protected, in each case, in relying thereon.

SECTION 10.04. *Unclaimed Funds.* Notwithstanding any provisions of this Indenture, any moneys held by the Trustee in trust for the payment of the principal of, or interest on, any Bonds and remaining unclaimed for 2 years after the principal of all of the Bonds has become due and payable (whether at maturity or upon call for redemption or by acceleration as provided in this Indenture), if such moneys were so held at such date, or 2 years after the date of deposit of such moneys if deposited after said date when all of the Bonds became due and payable, shall be repaid (without liability for interest) to the Authority free from the trusts created by this Indenture, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Authority as aforesaid, the Trustee shall (at the cost of the Authority) first mail to the Owners of Bonds which have not yet been paid, at the addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Bonds so payable and not presented and with respect to the provisions relating to the repayment to the Authority of the moneys held for the payment thereof.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. *Liability of Authority Limited to Revenues.* Notwithstanding anything in this Indenture or in the Bonds contained, the Authority is not required to advance any moneys derived from any source other than the Revenues, the Additional Rental Payments and other assets pledged under this Indenture for any of the purposes in this Indenture mentioned, whether for the payment of the principal of or interest on the Bonds or for any other purpose of this Indenture. Nevertheless, the Authority may, but is not required to, advance for any of the purposes hereof any funds of the Authority which may be made available to it for such purposes.

SECTION 11.02. *Limitation of Rights to Parties and Bond Owners.* Nothing in this Indenture or in the Bonds expressed or implied is intended or shall be construed to give to any person other than the Authority, the Trustee, the City and the Owners of the Bonds, any legal or equitable right, remedy or claim under or in respect of this Indenture or any covenant, condition or provision therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Authority, the Trustee, the City and the Owners of the Bonds.

SECTION 11.03. *Funds and Accounts.* Any fund or account required by this Indenture to be established and maintained by the Trustee may be established and maintained in the accounting records of the Trustee, either as a fund or an account, and may, for the purposes of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account; but all such records with respect to all such funds and accounts shall at all times be maintained in accordance with corporate industry standards to the extent practicable, and with due regard for the requirements of Section 6.05 and for the protection of the security of the Bonds and the rights of every Owner thereof. The Trustee may establish such funds and accounts as it deems necessary or appropriate to perform its obligations under this Indenture.

SECTION 11.04. *Waiver of Notice; Requirement of Mailed Notice.* Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver. Whenever in this Indenture any notice is required to be given by mail, such requirement may be satisfied by the deposit of such notice in the United States mail, postage prepaid, by first class mail.

SECTION 11.05. *Destruction of Bonds.* Whenever in this Indenture provision is made for the cancellation by the Trustee, and the delivery to the Authority, of any Bonds, the Trustee shall destroy such Bonds as may be allowed by law and, upon the Authority's request, deliver a certificate of such destruction to the Authority.

SECTION 11.06. *Severability of Invalid Provisions.* If any one or more of the provisions contained in this Indenture or in the Bonds shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Indenture and such invalidity, illegality or unenforceability shall not affect any other provision of this Indenture, and this Indenture shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Authority hereby declares that it would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issuance of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Indenture may be held illegal, invalid or unenforceable.

SECTION 11.07. *Notices.* All notices or communications to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, confirmed by telephone, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may,

by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:*

City of Tracy
333 City Center Plaza
Tracy, California 95376
Attention: Finance Director

If to the Trustee:

U.S. Bank National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attn: Global Corporate Trust Services
Fax: _____

SECTION 11.08. *Evidence of Rights of Bond Owners.* Any request, consent or other instrument required or permitted by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent instruments of substantially similar tenor and shall be signed or executed by such Bond Owners in person or by an agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, or of the holding by any person of Bonds transferable by delivery, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and the Authority if made in the manner provided in this Section 11.08.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgments of deeds, certifying that the person signing such request, consent or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution duly sworn to before such notary public or other officer.

The ownership of Bonds shall be proved by the Registration Books.

Any request, consent, or other instrument or writing of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of every Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in accordance therewith or reliance thereon.

SECTION 11.09. *Disqualified Bonds.* In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are actually known by the Trustee to be owned or held by or for the account of the Authority or the City, or by any other obligor on the Bonds, or by any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds, shall be disregarded and deemed not to be Outstanding for the purpose of any such determination unless all Bonds are so owned or held, in which case such Bonds shall be considered Outstanding for the purpose of such determination.. Bonds so owned which have been pledged in good faith may be regarded as Outstanding for the purposes of this Section if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to vote such Bonds and that the pledgee is not a person directly

or indirectly controlling or controlled by, or under direct or indirect common control with, the Authority or the City or any other obligor on the Bonds. In case of a dispute as to such right, the Trustee shall be entitled to rely upon the advice of counsel in any decision by Trustee and shall be fully protected in relying thereon.

Upon request, the Authority shall certify to the Trustee those Bonds disqualified under this Section 11.09, and the Trustee may conclusively rely on such certifications.

SECTION 11.10. *Money Held for Particular Bonds.* The money held by the Trustee for the payment of the interest, premium, if any, or principal due on any date with respect to particular Bonds (or portions of Bonds in the case of Bonds redeemed in part only) shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Owners of the Bonds entitled thereto, *subject, however*, to the provisions of Section 10.04 but without any liability for interest thereon.

SECTION 11.11. *Waiver of Personal Liability.* No member, officer, agent or employee of the Authority shall be individually or personally liable for the payment of the principal of or interest or premium (if any) on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law or by this Indenture.

SECTION 11.12. *Successor Is Deemed Included in All References to Predecessor.* Whenever in this Indenture either the Authority, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 11.13. *Execution in Several Counterparts.* This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the Authority and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 11.14. *Payment on Non-Business Day.* In the event any payment is required to be made hereunder on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and with the same effect as if made on such preceding non-Business Day.

SECTION 11.15. *Governing Law.* This Indenture shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY has caused this Indenture to be signed in its name by its Treasurer and attested to by its Secretary, and U.S. BANK, NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

**TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY**

By _____
Treasurer/Controller

Attest:

Secretary

U.S. BANK, NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Officer

APPENDIX A

DEFINITIONS

“Additional Rental Payments” means the amounts of additional rental which are payable by the City under Section 4.5 of the Leases or which are otherwise identified as Additional Rental Payments under the Leases.

“Amended and Restated Property Lease” means the Amended and Restated Property Lease, dated as of _____ 1, 2020, between the Authority as lessor and the City, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

“Amended and Restated Sites Lease” means the Amended and Restated Sites and Facilities Leases dated as of _____ 1, 2020, between the City as lessor and the Authority as lessee, as amended from time to time in accordance with its terms.

“Assignment Agreement” means the Assignment Agreement dated as of _____ 1, 2020, between the Authority as assignor and the Trustee as assignee, as originally executed or as thereafter amended.

“Authority” means the Tracy Operating Partnership Joint Powers Authority, a joint exercise of powers authority duly organized and existing under the laws of the State of California.

“Authorized Representative” means: (a) with respect to the Authority, its Chair, Executive Director, Treasurer/Controller, General Counsel or any other person designated as an Authorized Representative of the Authority by a Written Certificate of the Authority signed by its Executive Director and filed with the City and the Trustee; and (b) with respect to the City, its Mayor, City Manager, Finance Director, City Attorney or any other person designated as an Authorized Representative of the City by a Written Certificate of the City signed by its City Manager and filed with the Authority and the Trustee.

“Bond Counsel” means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Tax Code.

“Bond Fund” means the fund by that name established and held by the Trustee under Section 5.01.

“Bond Law” means Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code.

“Bond Year” means each twelve-month period extending from November 2 in one calendar year to November 1 of the succeeding calendar year, both dates inclusive; except that the first Bond Year commences on the Closing Date and extends to and including November 1, 2020.

“Bonds” means the \$ _____ aggregate principal amount of Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) authorized by and at any time Outstanding under this Indenture.

“Business Day” means a day (other than a Saturday or a Sunday) on which banks are not required or authorized to remain closed in the City in which the Office of the Trustee is located.

“City” means the City of Tracy, a general law city and municipal corporation organized and existing under the Constitution and laws of the State of California.

“Closing Date” means _____, 2020, the date of delivery of the Bonds to the Original Purchaser.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds and the refunding of the Prior Bonds, including but not limited to: printing expenses; rating agency fees; filing and recording fees; initial fees, expenses and charges of the Trustee and their respective counsel, including the Trustee’s first annual administrative fee; fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals; fees and charges for preparation, execution and safekeeping of the Bonds; and any other cost, charge or fee in connection with the original issuance of the Bonds and the refunding of the Prior Bonds.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee under Section 3.03.

“Depository” means (a) initially, DTC, and (b) any other Securities Depositories acting as Depository under Section 2.04.

“Depository System Participant” means any participant in the Depository’s book-entry system.

“DTC” means The Depository Trust Company, New York, New York, and its successors and assigns.

“Event of Default” means any of the events specified in Section 7.01.

“Excess Investment Earnings” means an amount required to be rebated to the United States of America under Section 148(f) of the Tax Code due to investment of gross proceeds of the Bonds at a yield in excess of the yield on the Bonds.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

"Fiscal Year" means any twelve-month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve-month period selected and designated by the Authority as its official fiscal year period.

"Indenture" means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture under the provisions hereof.

"Independent Accountant" means any certified public accountant or firm of certified public accountants appointed and paid by the Authority or the City, and who, or each of whom (a) is in fact independent and not under domination of the Authority or the City; (b) does not have any substantial interest, direct or indirect, in the Authority or the City; and (c) is not connected with the Authority or the City as an officer or employee of the Authority or the City but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

"Insurance and Condemnation Fund" means the fund by that name established and held by the Trustee under Section 5.07.

"Interest Account" means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

"Interest Payment Date" means each May 1 and November 1, commencing May 1 1, 2020, so long as any Bonds remain unpaid.

"Leases" means the Lease Agreement and the Amended and Restated Property Lease.

"Lease Agreement" means the Lease Agreement dated as of _____ 1, 2020, between the Authority as lessor and the City as lessee, as originally executed and as it may from time to time be supplemented, modified or amended in accordance with the terms thereof and of this Indenture.

"Lease Payment Date" means, with respect to any Interest Payment Date, the Business Day immediately preceding such Interest Payment Date.

"Lease Payments" means the amounts payable by the City under Section 4.3(a) of the Leases, including any prepayment thereof and including any amounts payable upon a delinquency in the payment thereof.

"Leased Property" means 2007-Related Leased Property and the 2008-Related Leased Property.

"Net Proceeds" means amounts derived from any policy of casualty insurance or title insurance with respect to the Leased Property, or the proceeds of any taking of the Leased Property or any portion thereof in eminent domain proceedings (including sale under threat of such proceedings), to the extent remaining after payment therefrom of all expenses incurred in the collection and administration thereof.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.04(a).

“Office” means the corporate trust office of the Trustee in Los Angeles, California, or such other or additional offices as the Trustee may designate in writing to the Authority from time to time as the corporate trust office for purposes of the Indenture; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange such term means the office or agency of the Trustee at which, at any particular time, its corporate trust agency business is conducted.

“Original Purchaser” means Piper Jaffray & Co, as original purchaser of the Bonds upon their delivery by the Trustee on the Closing Date.

“Outstanding”, when used as of any particular time with reference to Bonds, means all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the Authority shall have been discharged in accordance with Section 10.02, including Bonds (or portions thereof) described in Section 11.09; and (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee under this Indenture.

“Owner”, whenever used herein with respect to a Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

“Permitted Encumbrances” means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may permit to remain unpaid under Article V of the Leases; (b) the Site Leases, the Leases and the Assignment Agreement; (c) any right or claim of any mechanic, laborer, material man, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy with respect to the Leased Property issued as of the Closing Date by Stewart Title Guaranty Company; and (e) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Leased Property for its intended purposes.

“Permitted Investments” means any of the following:

- (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged.
- (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.
- (c) Any direct or indirect obligations of an agency or department of the United States of America whose obligations represent the full faith

and credit of the United States of America, or which are rated A or better by S&P.

- (d) Interest-bearing deposit accounts (including certificates of deposit placed by a third party pursuant to a separate agreement between the Authority and the Trustee), time deposits, bank deposit products, trust funds, trust accounts, interest bearing deposits, overnight bank deposits or interest bearing money market accounts in federal or State chartered savings and loan associations or in federal or State of California banks (including the Trustee or any of its affiliates), provided that: (i) the unsecured obligations of such commercial bank or savings and loan association are rated A or better by S&P; or (ii) such deposits are fully insured by the Federal Deposit Insurance Corporation or secured at all times by collateral described in (a) or (b) above.
- (e) Commercial paper rated "A-1+" or better by S&P.
- (f) Federal funds or bankers acceptances with a maximum term of one year of any bank which an unsecured, uninsured and unguaranteed obligation rating of "A-1+" or better by S&P.
- (g) Money market mutual funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAm or AAm, which funds may include funds for which the Trustee, its affiliates, parent or subsidiaries provide investment advisory, custodial, transfer agency or other management services, and for which they receive and retain a fee for such services. Money market funds permitted under this paragraph shall not include funds with a floating net asset value.
- (h) Obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by S&P, or (b) fully secured as to the payment of principal and interest by Permitted Investments described in clauses (a) or (b).
- (i) Obligations issued by any corporation organized and operating within the United States of America having assets in excess of \$500,000,000, which obligations are rated A or better by S&P.
- (j) Bonds or notes issued by any state or municipality which are rated A or better by S&P.
- (k) Any investment agreement with, or guaranteed by, a financial institution the long-term unsecured obligations or the claims paying ability of which are rated A or better by S&P at the time of initial investment, by the terms of which all amounts invested thereunder are required to be withdrawn and paid to the Trustee in the event either of such ratings at any time falls below A.

- (l) The Local Agency Investment Fund of the State of California, created pursuant to Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

"Principal Account" means the account by that name established and held by the Trustee in the Bond Fund under Section 5.02.

"Prior Trustee" means The Bank of New York Mellon Trust Company, N.A.

"Record Date" means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date, whether or not such day is a Business Day.

"Redemption Fund" means the fund by that name established and held by the Trustee under Section 5.06.

"Refunding Fund" means the fund by that name established and held by the Trustee under Section 3.04.

"Registration Books" means the records maintained by the Trustee under Section 2.05 for the registration and transfer of ownership of the Bonds.

"Revenues" means: (a) all amounts received by the Authority or the Trustee under or with respect to the Leases, including, without limiting the generality of the foregoing, all of the Lease Payments (including both timely and delinquent payments, any late charges, and whether paid from any source), but excluding (i) any amounts described in Section 7.5(b)(v) of the Leases, and (ii) any Additional Rental Payments; and (b) all interest, profits or other income derived from the investment of amounts in any fund or account established under this Indenture.

"Securities Depositories" means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the Authority designates in written notice filed with the Trustee.

"Site and Facility Lease" means the Site and Facility Lease dated as of _____ 1, 2020, between the City as lessor and the Authority, as amended from time to time in accordance with its terms.

"Site Leases" means the Site and Facility Lease and the Amended and Restated Sites and Facilities Lease.

"Site Lease Payments" means (a) the amount of \$_____ which is payable by the Authority to the City on the Closing Date under Section 3 of the Site and Facility Lease and (b) the amount of \$_____ which is payable by the Authority to the City on the Closing Date under Section 3 of the Amended and Restated Sites and Facilities Lease.

"S&P" means S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC business, its successors and assigns.

"Supplemental Indenture" means any indenture hereafter duly authorized and entered into between the Authority and the Trustee, supplementing, modifying or amending this Indenture; but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under said Code.

"Term" means, with reference to the Leases, the time during which the Leases is in effect, as provided in Section 4.2 thereof.

"Trustee" means U.S. Bank, National Association, a national banking association organized and existing under the laws of United States of America, or its successor or successors, as Trustee hereunder as provided in Article VIII.

"2007 Bonds" means the 2007A Bonds and the 2007B Bonds.

"2007A Bonds" means the outstanding Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series A (Fire Station Project) originally issued in the aggregate principal amount of \$2,690,000.

"2007B Bonds" means the outstanding Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) originally issued in the aggregate principal amount of \$1,980,000.

"2007-Related Leased Property" means the real property described in Appendix A to the Lease Agreement, together with all improvements and facilities at any time situated thereon.

"2008 Bonds" means the outstanding Tracy Operating Partnership Joint Powers Authority 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) originally issued in the aggregate principal amount of \$19,765,000.

"2008-Related Leased Property" means the real property described in Appendix A to the Amended and Restated Property Lease, together with all improvements and facilities at any time situated thereon.

"Written Certificate," "Written Request" and "Written Requisition" of the Authority or the City mean, respectively, a written certificate, request or requisition signed in the name of the Authority or the City by its Authorized Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

APPENDIX B

BOND FORM

NO. R-_____

\$_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY

2020 LEASE REVENUE REFUNDING BONDS (2007 AND 2008 REFINANCING)

INTEREST RATE: _____% MATURITY DATE: November 1, _____
ORIGINAL ISSUE DATE: _____, 2020 CUSIP: _____

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: ***

The TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a public body corporate and politic duly organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay to the Registered Owner specified above or registered assigns (the "Registered Owner"), on the Maturity Date specified above (subject to any right of prior redemption hereinafter provided for), the Principal Amount specified above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the 15th day of the month preceding such interest payment date, in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before September 15, 2020, in which event it shall bear interest from the Original Issue Date specified above; *provided, however*, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond, at the Interest Rate per annum specified above, payable semiannually on May 1 and November 1 in each year, commencing November 1, 2020 (the "Interest Payment Dates"), calculated on the basis of a 360-day year composed of twelve 30-day months.

Principal hereof and premium, if any, upon early redemption hereof are payable upon presentation and surrender hereof at the designated corporate trust office of U.S.

Bank, National Association (the "Trust Office"), as trustee (the "Trustee"). Interest hereon is payable by check of the Trustee mailed to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books of the Trustee as of the close of business on the fifteenth day of the month preceding each Interest Payment Date (a "Record Date"), or, upon written request filed with the Trustee as of such Record Date by a registered owner of at least \$1,000,000 in aggregate principal amount of Bonds, by wire transfer in immediately available funds to an account in the United States designated by such registered owner in such written request.

This Bond is not a debt of the City of Tracy (the "City"), the County of San Joaquin, the State of California, or any of its political subdivisions, and neither the City, said County, said State, nor any of its political subdivisions, is liable hereon nor in any event shall this Bond be payable out of any funds or properties of the Authority other than the Revenues.

This Bond is one of a duly authorized issue of bonds of the Authority designated as the "Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing)" (the "Bonds"), in an aggregate principal amount of \$_____, all of like tenor and date (except for such variation, if any, as may be required to designate varying numbers, maturities, interest rates or redemption provisions) and all issued under the provisions of Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code, and under an Indenture of Trust dated as of _____ 1, 2020, between the Authority and the Trustee (the "Indenture") and a resolution of the Authority adopted on _____ 1, 2020, authorizing the issuance of the Bonds. Reference is hereby made to the Indenture (copies of which are on file at the office of the Authority) and all supplements thereto for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Revenues, and the rights thereunder of the owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority thereunder, to all of the provisions of which the Registered Owner of this Bond, by acceptance hereof, assents and agrees.

The Bonds have been issued by the Authority to refinance certain outstanding lease payment obligations of the City and related bonds issued by the Authority. This Bond and the interest and premium, if any, hereon are special obligations of the Authority, payable from the Revenues, and secured by a charge and lien on the Revenues as defined in the Indenture, consisting principally of lease payments made by the City under (1) a Lease Agreement dated as of _____ 1, 2020, between the Authority as lessor and the City as lessee and (2) an Amended and Restated Property Lease dated as of _____ 1, 2020, between the Authority as lessor and the City as lessee (collectively, the "Leases"). As and to the extent set forth in the Indenture, all of the Revenues are exclusively and irrevocably pledged in accordance with the terms hereof and the provisions of the Indenture, to the payment of the principal of and interest and premium (if any) on the Bonds.

The rights and obligations of the Authority and the owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall extend the fixed maturity of any Bonds, or reduce the amount of principal thereof or premium (if any) thereon, or extend the time of payment, or change the method of computing the rate of interest thereon, or extend the time of payment of interest thereon, without the consent of the owner of each Bond so affected.

The Bonds maturing on or before November 1, 20__, are not subject to optional redemption prior to their stated maturity. The Bonds maturing on or after November 1, 20__, are subject to redemption, as a whole or in part at the election of the Authority among maturities on such basis as designated by the Authority and by lot within a maturity, at the option of the Authority, on November 1, 20__, and on any date thereafter, at a redemption price equal to 100% of the principal amount of Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Bonds are subject to redemption as a whole, or in part by lot, on any date, to the extent of any net proceeds of hazard or title insurance with respect to the property which has been leased under the Lease (the "Leased Property") or any portion thereof which are not used to repair or replace the Leased Property pursuant to the Lease, or to the extent of any net proceeds arising from the disposition of the Leased Property or any portion thereof in eminent domain proceedings which the City elects to be used for such purpose pursuant to the Lease, at a redemption price equal to the principal amount thereof plus interest accrued thereon to the date fixed for redemption, without premium.

As provided in the Indenture, notice of redemption will be mailed by the Trustee by first class mail not less than 20 nor more than 60 days prior to the redemption date to the respective owners of any Bonds designated for redemption at their addresses appearing on the registration books of the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption or the cessation of accrual of interest thereon from and after the date fixed for redemption. Notice of any optional redemption of the Bonds may be rescinded under the circumstances set forth in the Indenture, upon notice to the owners of such Bonds.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Trust Office, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer, a new Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. This Bond may be exchanged at the Trust Office for Bonds of the same tenor, aggregate principal amount, interest rate and maturity, of other authorized denominations.

The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Authority or the Trustee for registration of transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co., has an interest herein.

It is hereby certified by the Authority that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time, form and manner as required by the Ordinance and the laws of the State of California and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Ordinance or any laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the certificate of authentication hereon endorsed shall have been manually signed by the Trustee.

IN WITNESS WHEREOF, the Tracy Operating Partnership Joint Powers Authority has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Chair and attested to by the facsimile signature of its Secretary, all as of the Original Issue Date specified above.

**TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY**

By _____
Chair

Attest:

Secretary

SPECIMEN

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Dated:

U.S. BANK, NATIONAL ASSOCIATION,
as Trustee

By _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto _____ whose address and social security or other tax identifying number is _____, the within-mentioned Bond and hereby irrevocably _____ constitute(s) _____ and _____ appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

Jones Hall draft 12-2-19

LEASE AGREEMENT

Dated as of _____ 1, 2020

between the

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY,
as lessor

and the

CITY OF TRACY,
as lessee

Relating to

\$ _____
Tracy Operating Partnership Joint Powers Authority
2020 Lease Revenue Refunding Bonds
(2007 and 2008 Refinancing)

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LEASE AGREEMENT

This LEASE AGREEMENT (this "**Lease**"), dated for convenience as of _____ 1, 2020, is between the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers authority, duly organized and existing under and by virtue of the laws of the State of California, as lessor (the "**Authority**"), and the CITY OF TRACY, a municipal corporation, duly organized and existing under and by virtue of the Constitution and laws of the State of California, as lessee (the "**City**").

B A C K G R O U N D :

1. The Authority previously entered into an Indenture dated as of October 1, 2007 (the "**2007 Indenture**"), with The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "**2007 Trustee**"), under which the Authority issued the \$2,690,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the "**2007A Bonds**") and the \$1,980,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) (the "**2007B Bonds**," together with the 2007A Bonds, the "**2007 Bonds**").

2. The 2007 Bonds are payable from lease payments (the "**2007 Lease Payments**") payable by the City to the Authority pursuant to a Property Lease, dated as of October 1, 2007 (the "**2007 Lease**"), by and between the City and the Authority.

3. The Authority assigned its right to receive the 2007 Lease Payments to the 2007 Trustee under the 2007 Indenture.

4. The Authority wishes to prepay the 2007 Lease Payments and redeem the 2007 Bonds.

5. To that end, the City has leased to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this reference incorporated herein (the "**Leased Property**"), under a Site Lease, dated as of _____, 2020 (the "**Site Lease**"), in consideration of the payment by the Authority of an upfront rental payment (the "Site Lease Payment") which is sufficient to provide funds for the redemption of the 2007 Bonds.

6. The Authority has authorized the issuance of its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the "**Bonds**") under an Indenture of Trust dated as of _____ 1, 2020 (the "**Indenture**"), between the Authority and U.S. Bank, National Association., as trustee (the "**Trustee**"), for the purpose, among other things, of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

7. In order to provide revenues which are sufficient to enable the Authority to pay debt service on the Bonds, the Authority has agreed to lease the Leased Property back to the City under this Lease, and the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property.

8. The lease payments made by the City under this Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement dated as of _____ 1, 2020, between the Authority as assignor and the Trustee as assignee.

9. The City and the Authority have found and determined that all acts and proceedings required by law necessary to make this Lease, when executed by the City and the Authority, the valid, binding and legal obligations of the City and the Authority, and to constitute this Lease a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Lease have been in all respects duly authorized.

A G R E E M E N T :

In consideration of the material covenants contained in this Lease, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease have the respective meanings given them in the Indenture.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular includes the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

SECTION 2.1. *Covenants, Representations and Warranties of the City.* The City makes the following covenants, representations and warranties to the Authority, the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into the Site Lease and this Lease and to carry out and consummate all transactions contemplated hereby, and by proper action the City has duly authorized the execution and delivery of the Site Lease and this Lease.
- (b) Due Execution. The representatives of the City executing the Site Lease and this Lease have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) Valid, Binding and Enforceable Obligations. The Site Lease and this Lease have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of the Site Lease and this Lease, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial condition, assets, properties or operations of the City.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of the Site Lease and this Lease, or the consummation of any transaction therein and herein

contemplated, except as have been obtained or made and as are in full force and effect.

- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Site Lease and this Lease, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Covenants, Representations and Warranties of the Authority.* The Authority makes the following covenants, representations and warranties to the City, the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The Authority is a joint exercise of powers authority duly organized and existing under a joint powers agreement and the laws of the State of California; has power to enter into this Lease, the Site Lease, the Assignment Agreement and the Indenture; is possessed of full power to own and hold, improve and equip real and personal property, and to lease the same; and has duly authorized the execution and delivery of each of the aforesaid agreements and such agreements constitute the legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms.
- (b) Due Execution. The representatives of the Authority executing this Lease, the Site Lease, the Assignment Agreement and the Indenture are fully authorized to execute the same pursuant to official action taken by the governing body of the Authority.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site Lease, the Assignment Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site Lease, the Assignment Agreement and the Indenture, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or

breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement and the Indenture or the financial condition, assets, properties or operations of the Authority.

- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement or the Indenture or the financial conditions, assets, properties or operations of the Authority.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS; SUBSTITUTION AND RELEASE OF PROPERTY

SECTION 3.1. *Deposit of Moneys.* On the Closing Date, the Authority will cause the proceeds of sale of the Bonds to be deposited with the Trustee. The Trustee shall deposit such proceeds in accordance with Section 3.02 of the Indenture.

SECTION 3.2. *Substitution of Property.* The City has the option at any time and from time to time, to substitute other real property (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), upon satisfaction of all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing, as certified in writing by the City.
- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Joaquin County Recorder sufficient memorialization of an amendment hereof that adds the legal description of the Substitute Property to Appendix A and deletes therefrom the legal description of the Former Property, and has filed and caused to be recorded corresponding amendments to the Site Lease and Assignment Agreement.
- (c) The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate hereunder in the Substitute Property, subject only to Permitted Encumbrances, in an amount at least equal to the estimated value thereof.
- (d) The City has certified in writing to the Authority and the Trustee that the Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein, as certified in writing by the City.
- (g) The City has filed with the Authority and the Trustee a written certificate of the City or other written evidence stating that the useful life of the Substitute Property at least extends to November 1, _____, that the estimated value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the substitution, and the fair rental value of the Leased Property, after substitution of the

Substitute Property and release of the Former Property, is at least equal to the Lease Payments thereafter coming due and payable hereunder.

- (h) The City has mailed written notice of such substitution to each rating agency which then maintains a rating on the Bonds.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of any substitution of property under this Section. The Authority and the City will execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Former Property and to cause the Substitute Property to become subject to all of the terms and conditions of the Site Lease, this Lease and the Assignment Agreement.

SECTION 3.3. *Release of Property.* The City has the option at any time and from time to time to release any portion of the Leased Property from this Lease (the “**Released Property**”) provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

- (a) No Event of Default has occurred and is continuing, as certified in writing by the City.
- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Joaquin County Recorder sufficient memorialization of an amendment hereof, the Site Lease and the Assignment Agreement which removes the Released Property from the Site Lease, the Assignment Agreement and this Lease.
- (c) The City has certified in writing to the Authority and the Trustee that the value of the property which remains subject to this Lease following such release is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the release, and the fair rental value of the property which remains subject to this Lease following such release is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has mailed written notice of such release to each rating agency which then maintains a rating on the Bonds.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Released Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Released Property.

ARTICLE IV

LEASE OF LEASED PROPERTY; TERM OF THIS LEASE; LEASE PAYMENTS

SECTION 4.1. *Lease of Leased Property.* The Authority hereby leases the Leased Property to the City and the City hereby leases the Leased Property from the Authority, upon the terms and conditions set forth in this Lease.

SECTION 4.2. *Term.* The Term of this Lease commences on the Closing Date and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than November 1, _____. The provisions of this Section are subject to the provisions of Sections 6.2 and 6.3 relating to the taking in eminent domain, damage and destruction of the Leased Property in whole or in part.

SECTION 4.3. *Lease Payments.*

(a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments in the respective amounts specified in Appendix B attached to this Lease, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Appendix B, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in Appendix B. Any amount held in the Bond Fund, the Interest Account and the Principal Account on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole under Article IX, and amounts required for payment of past due principal or interest on any Bonds not presented for payment) will be credited towards the Lease Payment then required to be paid hereunder. The City is not required to deposit any Lease Payment with the Trustee on any Lease Payment Date if the amounts then held in the Bond Fund, the Interest Account and the Principal Account are at least equal to the Lease Payment then required to be deposited with the Trustee. The Lease Payments payable in any Rental Period are for the use of the Leased Property during that Rental Period.

(b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.2 or 9.3, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under Sections 9.2 or 9.3, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis which corresponds to the principal maturities of the Bonds which are redeemed thereby; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds thereby redeemed under Section 4.01 of the Indenture.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest on any Outstanding Bond.

(d) Fair Rental Value. The aggregate amount of the Lease Payments and Additional Rental Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and are payable by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(e) Assignment. The City understands and agrees that all Lease Payments have been assigned by the Authority to the Trustee in trust, under the Assignment Agreement, for the benefit of the Owners of the Bonds, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees to pay to the Trustee at its Office, all payments payable by the City under this Section and all amounts payable by the City under Article IX.

SECTION 4.4. *Source of Payments; Covenant to Budget and Appropriate*. The Lease Payments are payable from any source of available funds of the City, subject to the provisions of Section 6.3. The City covenants to take all actions required to include the Lease Payments in each of its budgets during the Term of this Lease and to make the necessary appropriations for all Lease Payments and Additional Rental Payments. The foregoing covenant of the City contained constitutes a duty imposed by law and each and every public official of the City is required to take all actions required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

SECTION 4.5. *Additional Rental Payments*. In addition to the Lease Payments, the City shall pay when due the following amounts of Additional Rental Payments in consideration of the lease of the Leased Property by the City from the Authority hereunder:

- (a) all fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Leased Property, when due,
- (b) all reasonable compensation to the Trustee for all services rendered under the Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Indenture,
- (c) the reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Lease or the Indenture,
- (d) amounts coming due and payable as Excess Investment Earnings in accordance with Section 7.6(e), and

- (e) the reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of this Lease or the Indenture, or in connection with the issuance of the Bonds, including but not limited to any and all expenses incurred in connection with the authorization, sale and delivery of the Bonds, or incurred by the Authority in connection with any litigation which may at any time be instituted involving this Lease, the Bonds, the Indenture or any of the other documents contemplated hereby or thereby, or otherwise incurred in connection with the administration of this Lease.

SECTION 4.6. *Quiet Enjoyment.* Throughout the Term of this Lease, the Authority shall provide the City with quiet use and enjoyment of the Leased Property and the City will peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Leased Property as provided in Section 7.2.

SECTION 4.7. *Title.* Upon the termination of this Lease (other than under Section 8.2(b) hereof), all right, title and interest of the Authority in and to the Leased Property transfers to and vests in the City. The Authority shall take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

SECTION 5.1. *Maintenance, Utilities, Taxes and Assessments.* Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property are the responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and will pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Leased Property. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of

years, the City shall pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority notifies the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

SECTION 5.2. *Modification of Leased Property.* The City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of this Lease. Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this Section; except that if any such lien is established and the City first notifies or causes to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

SECTION 5.3. *Liability and Property Damage Insurance.* The City shall maintain or cause to be maintained throughout the Term of this Lease, but only if and to the extent available from reputable insurers at reasonable cost in the reasonable opinion of the City, a standard commercial general liability insurance policy or policies in protection of the Authority, the City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.7, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. The proceeds of such liability insurance must be applied toward extinguishment or satisfaction of the liability with respect to which paid.

SECTION 5.4. *Casualty Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, casualty insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the lesser of (a) 100% of the replacement value of the insured buildings, or (b) 100% of the aggregate principal amount of the Outstanding Bonds. Such insurance must, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake insurance if available at reasonable cost from reputable insurers in the judgment of the City. Such insurance may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance must be applied as provided in Section 6.1.

SECTION 5.5. *Rental Interruption Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Leased Property constituting buildings or other improvements as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum such Lease Payments coming due and payable during any consecutive two Fiscal Years. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, must be paid to the Trustee and deposited in the Bond Fund, to be applied as a credit towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

SECTION 5.6. *Recordation Hereof; Title Insurance.* On or before the Closing Date the City shall, at its expense, (a) cause the Site Lease, the Assignment Agreement and this Lease, or a memorandum hereof or thereof in form and substance approved by Bond Counsel, to be recorded in the office of the San Joaquin County Recorder, and (b) obtain a CLTA title insurance policy insuring the City's leasehold estate hereunder in the Leased Property, subject only to Permitted Encumbrances, in an amount at least equal to the aggregate principal amount of the Bonds. All Net Proceeds received under any such title insurance policy must be deposited with the Trustee in the Bond Fund to be credited towards the prepayment of the remaining Lease Payments under Section 9.3.

SECTION 5.7. *Insurance Net Proceeds; Form of Policies.* Each policy of insurance maintained under Sections 5.4, 5.5 and 5.6 must name the Trustee as loss payee so as to provide that all proceeds thereunder are payable to the Trustee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease. All such policies shall provide that the Trustee is given 30 days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a certificate of the City stating that all policies of insurance required hereunder are then in full force and effect. The Trustee has no responsibility for the sufficiency, adequacy or

amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss.

If any insurance maintained under Section 5.3 is provided in the form of self-insurance, the City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a statement of the risk manager of the City or an independent insurance adviser engaged by the City identifying the extent of such self-insurance and stating the determination that the City maintains sufficient reserves with respect thereto. If any such insurance is provided in the form of self-insurance by the City, the City has no obligation to make any payment with respect to any insured event except from those reserves.

SECTION 5.8. *Installation of City's Personal Property.* The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the City, in which neither the Authority nor the Trustee has any interest, and may be modified or removed by the City at any time, provided that the City must repair all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, so long as no such lien or security interest attaches to any part of the Leased Property.

SECTION 5.9. *Liens.* The City may not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Trustee do not materially and adversely affect the leasehold estate of the City in the Leased Property hereunder. If any such mortgage, pledge, lien, charge, encumbrance or claim does materially and adversely affect the leasehold estate of the City in the Leased Property hereunder, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible; provided that the City is not required to do so prior to the time when such mortgage, pledge, lien, charge, encumbrance or claim actually causes such material adverse effect. The City will reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.10. *Advances.* If the City fails to perform any of its obligations under this Article V, the Authority may (but is not required to) take such action as it deems necessary to cure such failure, including the advancement of money, and the City shall repay all such advances as Additional Rental Payments hereunder, with interest at the rate set forth in Section 4.3(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Trustee, as assignee of the Authority under the Assignment Agreement, has the right to receive all Net Proceeds. As provided in the Indenture, the Trustee will deposit all Net Proceeds in the Insurance and Condemnation Fund to be applied as set forth in Section 5.07 of the Indenture.

SECTION 6.2. *Termination or Abatement Due to Eminent Domain.* If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease thereupon ceases as of the day possession is taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, then:

- (a) this Lease shall continue in full force and effect with respect thereto and does not terminate by virtue of such taking, and the parties waive the benefit of any law to the contrary; and
- (b) the Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease continues in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of hazard insurance, rental interruption insurance or capitalized interest are available to pay Lease Payments which would otherwise be abated under this Section 6.3. It being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

SECTION 7.1. *Disclaimer of Warranties.* THE AUTHORITY AND THE TRUSTEE MAKE NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. The Authority has no liability for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or use of the Leased Property by the City.

SECTION 7.2. *Access to the Leased Property.* The City agrees that the Authority and any Authorized Representative of the Authority, and the Authority's successors or assigns, have the right at all reasonable times to enter upon and to examine and inspect the Leased Property or any part thereof. The City further agrees that the Authority, any Authority Representative and the Authority's successors or assigns may have such rights of access to the Leased Property or any component thereof as reasonably necessary to cause the proper maintenance of the Leased Property if the City fails to perform its obligations hereunder; *provided, however*, that neither the Authority nor any of its assigns has any obligation to cause such proper maintenance.

SECTION 7.3. *Release and Indemnification Covenants.* The City agrees to indemnify the Authority, the Trustee and their respective officers, agents, successors and assigns, against all claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease,
- (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property,
- (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property,

- (e) the acquisition, construction, improvement and equipping of the Leased Property, or the authorization of payment of the costs thereof, or
- (f) the acceptance and performance of the duties of the Trustee under the Indenture, the Assignment Agreement and under this Lease.

No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence under this Lease by the Authority, the Trustee or their respective officers, agents, employees, successors or assigns.

SECTION 7.4. *Assignment and Subleasing by the City.* The City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

- (a) this Lease and the obligation of the City to make Lease Payments hereunder must remain obligations of the City, as certified in writing by the City;
- (b) the City must, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;
- (c) no such sublease by the City may cause the Leased Property to be used for a purpose which is not authorized under the provisions of the laws of the State of California, as certified in writing by the City; and
- (d) the City must furnish to the Authority and the Trustee a written opinion of Bond Counsel stating that such sublease does not cause the interest on the Bonds to become included in gross income for purposes of federal income taxation or to become subject to personal income taxation by the State of California.

SECTION 7.5. *Amendment Hereof.* The Authority and the City may at any time amend or modify any of the provisions of this Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without the consent of the Trustee or any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City contained in this Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;
- (ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, to conform to the original intention of the City and the Authority;

- (iii) to modify, amend or supplement this Lease in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code;
- (iv) to amend the description of the Leased Property to reflect accurately the property originally intended to be included therein, or in connection with any substitution or release of property under Sections 3.2 or 3.3;
- (v) to obligate the City to pay additional amounts of rental for the use and occupancy of the Leased Property, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance or refinance the acquisition or construction of any real or personal property for which the City is authorized to expend funds subject to its control, (B) the City has obtained and filed with the Trustee an appraisal showing that the appraised value of the Leased Property is at least equal to the aggregate principal amount of the Outstanding Bonds and all such other bonds, notes, leases or other obligations, and (C) the City has filed with the Trustee written evidence that the amendments made under this clause (v) will not of themselves cause a reduction or withdrawal of any rating then assigned to the Bonds; or
- (vi) in any other respect whatsoever as the Authority and the City deem necessary or desirable, if in the opinion of Bond Counsel such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds.

No such modification or amendment may (a) extend or have the effect of extending any Lease Payment Date or reducing any Lease Payment or any premium payable upon the prepayment thereof, without the express consent of the Owners of the affected Bonds, or (b) modify any of the rights or obligations of the Trustee without its written assent thereto. If the Trustee's consent to such modification or amendment is required, the Trustee shall be entitled to the same documents as it would be entitled to under Article IX of the Indenture for such type of modification or amendment.

SECTION 7.6. *Tax Covenants.*

(a) Private Business Use Limitation. The City shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The City may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or

had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The City shall calculate or cause to be calculated the Excess Investment Earnings in all respects at the times and in the manner required under the Tax Code. The City shall pay the full amount of Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code. Such payments shall be made by the City from any source of legally available funds of the City, and shall constitute Additional Rental Payments hereunder.

The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e). In order to provide for the administration of this subsection (e), the City may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the City may deem appropriate. The Trustee has no duty or obligation to monitor or enforce compliance by the City of any of the requirements under this subsection (e).

SECTION 7.7. *Continuing Disclosure.* The City shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Lease, failure of the City to comply with such Continuing Disclosure Certificate will not constitute an Event of Default, although any Participating Underwriter (as that term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. *Events of Default Defined.* Any one or more of the following events constitute an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Trustee. If in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time, such period of time not to be longer than 180 days after the delivery of such default notice.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

SECTION 8.2. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein or in the Indenture to the contrary, neither the Authority nor the Trustee may accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder; except that no termination of this Lease may be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise each and every one of the following remedies, subject in all respects to the limitations set forth in Section 8.3.

- (a) Enforcement of Payments Without Termination. If the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Leased Property,

or, if the Authority is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Authority. The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place the Leased Property in storage or other suitable place in the County of San Joaquin for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of the Leased Property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph, and the City further waives the right to any rental obtained by the Authority in excess of the Lease Payments and hereby conveys and releases such excess to the Authority as compensation to the Authority for its services in re-leasing the Leased Property.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Rental Payments. Any surplus received by the Authority from such re-leasing shall be deposited in the Bond

Fund. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease. The City covenants and agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

- (c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

SECTION 8.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it is not necessary to give any notice, other than as expressly required in this Article VIII or by law.

SECTION 8.4. *Agreement to Pay Attorneys' Fees and Expenses.* If the Authority or the City defaults under any of the provisions of this Lease and the nondefaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party; *provided, however*, that the Trustee shall not be required to expend its own funds for any payment described in this Section.

SECTION 8.5. *No Additional Waiver Implied by One Waiver.* If the Authority or the City breaches any agreement in this Lease and thereafter the other party waives the breach, such waiver is limited to the particular breach so waived and does not operate to waive any other breach hereunder.

SECTION 8.6. *Application of Proceeds.* All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Authority or the Trustee as a result of the occurrence of an Event of Default, must be paid to and applied by the Trustee in accordance with Section 7.03 of the Indenture.

SECTION 8.7. *Trustee and Bond Owners to Exercise Rights.* Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Trustee under the Assignment Agreement for the benefit of the Bond

Owners, to which assignment the City hereby consents. The Trustee and the Bond Owners shall exercise such rights and remedies in accordance with the Indenture.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

SECTION 9.1. *Security Deposit.* Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments allocable to the Leased Property in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Indenture, is either:

- (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Appendix B, or
- (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant, (which opinion must be addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due under Section 4.3(a), as the City instructs at the time of said deposit.

If the City makes a security deposit under this Section with respect to all unpaid Lease Payments, and notwithstanding the provisions of Section 4.2, (a) the Term of this Lease will continue, (b) all obligations of the City under this Lease, and all security provided by this Lease for said Lease Payments, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made all of said Lease Payments from such security deposit, and (c) under Section 4.7, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. Said security deposit constitutes a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City has the option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, from any source of legally available funds, on any date on or after _____ 1, 20__, at a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such Interest Payment Date, and together with a prepayment premium equal to the premium (if any) required to be paid on the resulting redemption of Bonds under Section 4.01(a) of the Indenture. Such prepayment price shall be deposited by the Trustee in the Redemption Fund to be applied to the redemption of Bonds under Section 4.01(a) of the Indenture. The City shall give 10 days' written notice to the Trustee of its intention to prepay the Lease Payments under this Section.

SECTION 9.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City shall prepay the principal components of the Lease Payments allocable

to the Leased Property in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Redemption Fund for that purpose under Article VI hereof and Section 5.07 of the Indenture. Such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, will be credited towards the City's obligations under this Section and applied to the corresponding redemption of Bonds under Section 4.01(b) of the Indenture.

SECTION 9.4. *Credit for Amounts on Deposit.* If the principal components of the Lease Payments are prepaid in full under this Article IX, such that the Indenture is discharged by its terms as a result of such prepayment, at the written election of the City filed with the Trustee any or all amounts then on deposit in the Bond Fund (and the accounts therein) will be credited towards the amounts then required to be so prepaid.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *Notices.* Any notice, request, complaint, demand or other communication under this Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:*

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attention: City Manager

If to the Trustee:

U.S. Bank National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attn: Global Corporate Trust Services
Fax: _____

SECTION 10.2. *Binding Effect.* This Lease inures to the benefit of and binds the Authority, the City and their respective successors and assigns.

SECTION 10.3. *Severability.* If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 10.4. *Net-net-net Lease.* This Lease is deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments are an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.5. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

SECTION 10.6. *Further Assurances and Corrective Instruments.* The Authority and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

SECTION 10.7. *Execution in Counterparts.* This Lease may be executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

SECTION 10.8. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.9. *Authority and City Representatives.* Whenever under the provisions of this Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority and for the City by an Authorized Representative thereof, and any party hereto may conclusively rely upon any such approval or request.

SECTION 10.10. *Captions.* The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

IN WITNESS WHEREOF, the Authority and the City have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY, as lessor**

By _____
Treasurer/Controller

Attest:

City Clerk

CITY OF TRACY, as lessee

By _____
Mayor

Attest:

Secretary

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Joaquin, City of Tracy, which is more particularly described as follows:

[TO COME]

APPENDIX B
SCHEDULE OF LEASE PAYMENTS

Lease Payment Date*	Principal Component	Interest Component	Aggregate Lease Payment

* Lease Payment Dates are the Business Day immediately preceding each date listed in the schedule

Jones Hall draft 12-2-19

AMENDED AND RESTATED PROPERTY LEASE

Dated as of _____ 1, 2020

between the

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY,
as lessor

and the

CITY OF TRACY,
as lessee

Relating to

\$ _____
Tracy Operating Partnership Joint Powers Authority
2020 Lease Revenue Refunding Bonds
(2007 and 2008 Refinancing)

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APPENDIX A	DESCRIPTION OF THE LEASED PROPERTY
APPENDIX B	SCHEDULE OF LEASE PAYMENTS

AMENDED AND RESTATED PROPERTY LEASE

This AMENDED AND RESTATED PROPERTY LEASE (this "**Lease**"), dated for convenience as of _____ 1, 2020, is between the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers authority, duly organized and existing under and by virtue of the laws of the State of California, as lessor (the "**Authority**"), and the CITY OF TRACY, a municipal corporation, duly organized and existing under and by virtue of the Constitution and laws of the State of California, as lessee (the "**City**").

B A C K G R O U N D :

1. The Authority previously entered into an Indenture dated as of December 1, 2008 (the "**2008 Indenture**"), with The Bank of New York Mellon Trust Company, N.A., as trustee (the "**2008 Trustee**"), under which the Authority issued \$19,765,000 aggregate principal amount of 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the "**2008 Bonds**").

2. The 2008 Bonds were payable from lease payments (the "**2008 Lease Payments**") payable by the City to the Authority pursuant to a Property Lease, dated as of December 1, 2008 (the "**2008 Lease**"), by and between the City and the Authority. The 2008 Lease was recorded in the San Joaquin County real property records as Document No. ____ on ___, 2008.

3. The Authority assigned its right to receive the 2008 Lease Payments to the 2008 Trustee under the 2008 Indenture.

4. In connection with the issuance of the 2008 Bonds, the Community Development Agency of the City of Tracy (the "**Former Agency**") executed that certain Reimbursement Agreement, dated as of December 1, 2008 (the "**2008 Reimbursement Agreement**"), under which the Former Agency agreed to reimburse the City for a portion of the 2008 Lease Payments.

5. The Former Agency's payments under the 2008 Reimbursement Agreement were intended to defray the costs of the acquisition and construction of the Improvements (as defined in the 2008 Reimbursement Agreement) that are located in or that were found by the City and the Former Agency (pursuant to all applicable requirements of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (as amended, the "**Redevelopment Law**")) to be of benefit to the Redevelopment Project Area (as defined in the 2008 Reimbursement Agreement).

6. Under the 2008 Reimbursement Agreement, the Former Agency pledged property tax revenues generated in the Redevelopment Project Area ("Tax Revenues," as defined in the 2008 Reimbursement Agreement) as security for its reimbursement obligation.

7. Assembly Bill x1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB 1484"), codified Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (as amended from time to time, the "**Dissolution Act**").

8. Pursuant to Section 34172(a) of the Dissolution Act, the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Dissolution Act, the Successor Agency to the Tracy Community Development Agency (the "**Successor Agency**") has become the successor entity to the Former Agency.

9. The Authority wishes to prepay the 2008 Lease Payments and redeem the 2007 Bonds.

10. To that end, the City has leased to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this reference incorporated herein (the "**Leased Property**"), under an Amended and Restated Sites and Facilities Lease, dated as of _____, 2020 (the "**Site Lease**"), in consideration of the payment by the Authority of an upfront rental payment (the "**Site Lease Payment**") which is sufficient to provide funds for the redemption of the 2008 Bonds. The Site Lease amends and restates a Sites and Facilities Lease, dated as of December 1, 2008, which was recorded in the San Joaquin County real property records as Document No. ____ on _____, 2018.

11. The Authority has authorized the issuance of its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the "**Bonds**") under an Indenture of Trust dated as of _____ 1, 2020 (the "**Indenture**"), between the Authority and U.S. Bank, National Association., as trustee (the "**Trustee**"), for the purpose, among other things, of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

12. In order to provide revenues which are sufficient to enable the Authority to pay debt service on the Bonds, the Authority has agreed to lease the Leased Property back to the City under this Lease, and the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property. This Lease amends and restates the 2008 Lease.

13. The Lease Payments made by the City under this Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement dated as of _____ 1, 2020, between the Authority as assignor and the Trustee as assignee.

14. Under authority granted to it by Section 34177.5(a)(3) of the Dissolution Act, the Successor Agency and the City are concurrently herewith amending the 2008 Reimbursement Agreement to provide savings to the Successor Agency and provide for reimbursement of the City for a portion of the Lease Payments hereunder.

15. The City and the Authority have found and determined that all acts and proceedings required by law necessary to make this Lease, when executed by the City and the Authority, the valid, binding and legal obligations of the City and the Authority, and

to constitute this Lease a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Lease have been in all respects duly authorized.

A G R E E M E N T :

In consideration of the material covenants contained in this Lease, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION; AMENDMENT AND RESTATEMENT OF 2008 LEASE

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease have the respective meanings given them in the Indenture.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular includes the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 1.3. *Amendment and Restatement of 2008 Lease.* The City and the Authority hereby amend and restate the Sites and Facilities Lease in its entirety. The terms of this Site Lease supersede and replace the terms of the Sites and Facilities Lease, and the Sites and Facilities Lease shall have no further force or effect.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

SECTION 2.1. *Covenants, Representations and Warranties of the City.* The City makes the following covenants, representations and warranties to the Authority, the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and validly existing under the Constitution and laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into the Site Lease and this Lease and to carry out and consummate all transactions contemplated hereby, and by proper action the City has duly authorized the execution and delivery of the Site Lease and this Lease.
- (b) Due Execution. The representatives of the City executing the Site Lease and this Lease have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) Valid, Binding and Enforceable Obligations. The Site Lease and this Lease have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding obligations of the City enforceable against the City in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of the Site Lease and this Lease, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial condition, assets, properties or operations of the City.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of the Site Lease and this Lease, or the consummation of any transaction therein and herein

contemplated, except as have been obtained or made and as are in full force and effect.

- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of the Site Lease and this Lease, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site Lease and this Lease or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Covenants, Representations and Warranties of the Authority.* The Authority makes the following covenants, representations and warranties to the City, the Trustee as of the date of the execution and delivery of this Lease:

- (a) Due Organization and Existence. The Authority is a joint exercise of powers authority duly organized and existing under a joint powers agreement and the laws of the State of California; has power to enter into this Lease, the Site Lease, the Assignment Agreement and the Indenture; is possessed of full power to own and hold, improve and equip real and personal property, and to lease the same; and has duly authorized the execution and delivery of each of the aforesaid agreements and such agreements constitute the legal, valid and binding obligations of the Authority, enforceable against the Authority in accordance with their respective terms.
- (b) Due Execution. The representatives of the Authority executing this Lease, the Site Lease, the Assignment Agreement and the Indenture are fully authorized to execute the same pursuant to official action taken by the governing body of the Authority.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site Lease, the Assignment Agreement and the Indenture have been duly authorized, executed and delivered by the Authority and constitute the legal, valid and binding agreements of the Authority, enforceable against the Authority in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site Lease, the Assignment Agreement and the Indenture, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or

breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Authority is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Authority, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement and the Indenture or the financial condition, assets, properties or operations of the Authority.

- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Authority, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Authority after reasonable investigation, threatened against or affecting the Authority or the assets, properties or operations of the Authority which, if determined adversely to the Authority or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site Lease, the Assignment Agreement or the Indenture, or upon the financial condition, assets, properties or operations of the Authority, and the Authority is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site Lease, the Assignment Agreement or the Indenture or the financial conditions, assets, properties or operations of the Authority.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS; SUBSTITUTION AND RELEASE OF PROPERTY

SECTION 3.1. *Deposit of Moneys.* On the Closing Date, the Authority will cause the proceeds of sale of the Bonds to be deposited with the Trustee. The Trustee shall deposit such proceeds in accordance with Section 3.02 of the Indenture.

SECTION 3.2. *Substitution of Property.* The City has the option at any time and from time to time, to substitute other real property (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), upon satisfaction of all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing, as certified in writing by the City.
- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Joaquin County Recorder sufficient memorialization of an amendment hereof that adds the legal description of the Substitute Property to Appendix A and deletes therefrom the legal description of the Former Property, and has filed and caused to be recorded corresponding amendments to the Site Lease and Assignment Agreement.
- (c) The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate hereunder in the Substitute Property, subject only to Permitted Encumbrances, in an amount at least equal to the estimated value thereof.
- (d) The City has certified in writing to the Authority and the Trustee that the Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein, as certified in writing by the City.
- (g) The City has filed with the Authority and the Trustee a written certificate of the City or other written evidence stating that the useful life of the Substitute Property at least extends to November 1, _____, that the estimated value of the Leased Property, after substitution of the Substitute Property and release of the Former Property, is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the substitution, and the fair rental value of the Leased Property, after substitution of the

Substitute Property and release of the Former Property, is at least equal to the Lease Payments thereafter coming due and payable hereunder.

- (h) The City has mailed written notice of such substitution to each rating agency which then maintains a rating on the Bonds.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of any substitution of property under this Section. The Authority and the City will execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Former Property and to cause the Substitute Property to become subject to all of the terms and conditions of the Site Lease, this Lease and the Assignment Agreement.

SECTION 3.3. *Release of Property.* The City has the option at any time and from time to time to release any portion of the Leased Property from this Lease (the “**Released Property**”) provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

- (a) No Event of Default has occurred and is continuing, as certified in writing by the City.
- (b) The City has filed with the Authority and the Trustee, and caused to be recorded in the office of the San Joaquin County Recorder sufficient memorialization of an amendment hereof, the Site Lease and the Assignment Agreement which removes the Released Property from the Site Lease, the Assignment Agreement and this Lease.
- (c) The City has certified in writing to the Authority and the Trustee that the value of the property which remains subject to this Lease following such release is at least equal to the principal component of the Lease Payments remaining unpaid at the time of the release, and the fair rental value of the property which remains subject to this Lease following such release is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has mailed written notice of such release to each rating agency which then maintains a rating on the Bonds.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Released Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Authority and the City shall execute, deliver and cause to be recorded all documents required to discharge the Site Lease, this Lease and the Assignment Agreement of record against the Released Property.

ARTICLE IV

LEASE OF LEASED PROPERTY; TERM OF THIS LEASE; LEASE PAYMENTS

SECTION 4.1. *Lease of Leased Property.* The Authority hereby leases the Leased Property to the City and the City hereby leases the Leased Property from the Authority, upon the terms and conditions set forth in this Lease.

SECTION 4.2. *Term.* The Term of this Lease commences on the Closing Date and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than November 1, _____. The provisions of this Section are subject to the provisions of Sections 6.2 and 6.3 relating to the taking in eminent domain, damage and destruction of the Leased Property in whole or in part.

SECTION 4.3. *Lease Payments.*

(a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Authority, its successors and assigns, the Lease Payments in the respective amounts specified in Appendix B attached to this Lease, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Appendix B, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in Appendix B. Any amount held in the Bond Fund, the Interest Account and the Principal Account on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole under Article IX, and amounts required for payment of past due principal or interest on any Bonds not presented for payment) will be credited towards the Lease Payment then required to be paid hereunder. The City is not required to deposit any Lease Payment with the Trustee on any Lease Payment Date if the amounts then held in the Bond Fund, the Interest Account and the Principal Account are at least equal to the Lease Payment then required to be deposited with the Trustee. The Lease Payments payable in any Rental Period are for the use of the Leased Property during that Rental Period.

(b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.2 or 9.3, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under Sections 9.2 or 9.3, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis which corresponds to the principal maturities of the Bonds which are redeemed thereby; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Bonds thereby redeemed under Section 4.01 of the Indenture.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest on any Outstanding Bond.

(d) Fair Rental Value. The aggregate amount of the Lease Payments and Additional Rental Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and are payable by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property, other obligations of the City and the Authority under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(e) Assignment. The City understands and agrees that all Lease Payments have been assigned by the Authority to the Trustee in trust, under the Assignment Agreement, for the benefit of the Owners of the Bonds, and the City hereby assents to such assignment. The Authority hereby directs the City, and the City hereby agrees to pay to the Trustee at its Office, all payments payable by the City under this Section and all amounts payable by the City under Article IX.

SECTION 4.4. *Source of Payments; Covenant to Budget and Appropriate*. The Lease Payments are payable from any source of available funds of the City, subject to the provisions of Section 6.3. The City covenants to take all actions required to include the Lease Payments in each of its budgets during the Term of this Lease and to make the necessary appropriations for all Lease Payments and Additional Rental Payments. The foregoing covenant of the City contained constitutes a duty imposed by law and each and every public official of the City is required to take all actions required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

SECTION 4.5. *Additional Rental Payments*. In addition to the Lease Payments, the City shall pay when due the following amounts of Additional Rental Payments in consideration of the lease of the Leased Property by the City from the Authority hereunder:

- (a) all fees and expenses incurred by the Authority in connection with or by reason of its leasehold estate in the Leased Property, when due,
- (b) all reasonable compensation to the Trustee for all services rendered under the Indenture and for all reasonable expenses, charges, costs, liabilities, legal fees and other disbursements incurred in and about the performance of its powers and duties under the Indenture,
- (c) the reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority or the Trustee to prepare audits, financial statements, reports, opinions or provide such other services required under this Lease or the Indenture,
- (d) amounts coming due and payable as Excess Investment Earnings in accordance with Section 7.6(e), and

- (e) the reasonable out-of-pocket expenses of the Authority in connection with the execution and delivery of this Lease or the Indenture, or in connection with the issuance of the Bonds, including but not limited to any and all expenses incurred in connection with the authorization, sale and delivery of the Bonds, or incurred by the Authority in connection with any litigation which may at any time be instituted involving this Lease, the Bonds, the Indenture or any of the other documents contemplated hereby or thereby, or otherwise incurred in connection with the administration of this Lease.

SECTION 4.6. *Quiet Enjoyment.* Throughout the Term of this Lease, the Authority shall provide the City with quiet use and enjoyment of the Leased Property and the City will peaceably and quietly have and hold and enjoy the Leased Property, without suit, trouble or hindrance from the Authority, except as expressly set forth in this Lease. The Authority will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Authority may lawfully do so. Notwithstanding the foregoing, the Authority has the right to inspect the Leased Property as provided in Section 7.2.

SECTION 4.7. *Title.* Upon the termination of this Lease (other than under Section 8.2(b) hereof), all right, title and interest of the Authority in and to the Leased Property transfers to and vests in the City. The Authority shall take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

SECTION 5.1. *Maintenance, Utilities, Taxes and Assessments.* Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property are the responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and will pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Authority agrees to provide only the Leased Property. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease.

The City shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Authority or the City affecting the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of

years, the City shall pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at its expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Authority notifies the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Authority in the Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Authority with full security against any loss which may result from nonpayment, in form satisfactory to the Authority and the Trustee.

SECTION 5.2. *Modification of Leased Property.* The City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of this Lease. Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The City will not permit any mechanic's or other lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this Section; except that if any such lien is established and the City first notifies or causes to be notified the Authority of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Authority with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Authority. The Authority will cooperate fully in any such contest, upon the request and at the expense of the City.

SECTION 5.3. *Liability and Property Damage Insurance.* The City shall maintain or cause to be maintained throughout the Term of this Lease, but only if and to the extent available from reputable insurers at reasonable cost in the reasonable opinion of the City, a standard commercial general liability insurance policy or policies in protection of the Authority, the City, and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such policy or policies shall provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of self-insurance by the City, subject to the provisions of Section 5.7, or in the form of the participation by the City in a joint powers agency or other program providing pooled insurance. The proceeds of such liability insurance must be applied toward extinguishment or satisfaction of the liability with respect to which paid.

SECTION 5.4. *Casualty Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, casualty insurance against loss or damage to all buildings situated on the Leased Property, in an amount at least equal to the lesser of (a) 100% of the replacement value of the insured buildings, or (b) 100% of the aggregate principal amount of the Outstanding Bonds. Such insurance must, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance, and must include earthquake insurance if available at reasonable cost from reputable insurers in the judgment of the City. Such insurance may be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance must be applied as provided in Section 6.1.

SECTION 5.5. *Rental Interruption Insurance.* The City shall procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any portion of the Leased Property constituting buildings or other improvements as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum such Lease Payments coming due and payable during any consecutive two Fiscal Years. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers agency or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, must be paid to the Trustee and deposited in the Bond Fund, to be applied as a credit towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

SECTION 5.6. *Recordation Hereof; Title Insurance.* On or before the Closing Date the City shall, at its expense, (a) cause the Site Lease, the Assignment Agreement and this Lease, or a memorandum hereof or thereof in form and substance approved by Bond Counsel, to be recorded in the office of the San Joaquin County Recorder, and (b) obtain a CLTA title insurance policy insuring the City's leasehold estate hereunder in the Leased Property, subject only to Permitted Encumbrances, in an amount at least equal to the aggregate principal amount of the Bonds. All Net Proceeds received under any such title insurance policy must be deposited with the Trustee in the Bond Fund to be credited towards the prepayment of the remaining Lease Payments under Section 9.3.

SECTION 5.7. *Insurance Net Proceeds; Form of Policies.* Each policy of insurance maintained under Sections 5.4, 5.5 and 5.6 must name the Trustee as loss payee so as to provide that all proceeds thereunder are payable to the Trustee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease. All such policies shall provide that the Trustee is given 30 days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a certificate of the City stating that all policies of insurance required hereunder are then in full force and effect. The Trustee has no responsibility for the sufficiency, adequacy or

amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss.

If any insurance maintained under Section 5.3 is provided in the form of self-insurance, the City must file with the Trustee annually, within 90 days following the close of each Fiscal Year, a statement of the risk manager of the City or an independent insurance adviser engaged by the City identifying the extent of such self-insurance and stating the determination that the City maintains sufficient reserves with respect thereto. If any such insurance is provided in the form of self-insurance by the City, the City has no obligation to make any payment with respect to any insured event except from those reserves.

SECTION 5.8. *Installation of City's Personal Property.* The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items shall remain the sole property of the City, in which neither the Authority nor the Trustee has any interest, and may be modified or removed by the City at any time, provided that the City must repair all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, so long as no such lien or security interest attaches to any part of the Leased Property.

SECTION 5.9. *Liens.* The City may not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Trustee do not materially and adversely affect the leasehold estate of the City in the Leased Property hereunder. If any such mortgage, pledge, lien, charge, encumbrance or claim does materially and adversely affect the leasehold estate of the City in the Leased Property hereunder, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible; provided that the City is not required to do so prior to the time when such mortgage, pledge, lien, charge, encumbrance or claim actually causes such material adverse effect. The City will reimburse the Authority for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.10. *Advances.* If the City fails to perform any of its obligations under this Article V, the Authority may (but is not required to) take such action as it deems necessary to cure such failure, including the advancement of money, and the City shall repay all such advances as Additional Rental Payments hereunder, with interest at the rate set forth in Section 4.3(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Trustee, as assignee of the Authority under the Assignment Agreement, has the right to receive all Net Proceeds. As provided in the Indenture, the Trustee will deposit all Net Proceeds in the Insurance and Condemnation Fund to be applied as set forth in Section 5.07 of the Indenture.

SECTION 6.2. *Termination or Abatement Due to Eminent Domain.* If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease thereupon ceases as of the day possession is taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, then:

- (a) this Lease shall continue in full force and effect with respect thereto and does not terminate by virtue of such taking, and the parties waive the benefit of any law to the contrary; and
- (b) the Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The Lease Payments are subject to abatement during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The Lease Payments are subject to abatement in an amount determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property not damaged or destroyed. Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease continues in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of hazard insurance, rental interruption insurance, capitalized interest or amounts received from the Successor Agency under the Reimbursement Agreement are available to pay Lease Payments which would otherwise be abated under this Section 6.3. It being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

SECTION 7.1. *Disclaimer of Warranties.* THE AUTHORITY AND THE TRUSTEE MAKE NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE AUTHORITY IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. The Authority has no liability for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease for the existence, furnishing, functioning or use of the Leased Property by the City.

SECTION 7.2. *Access to the Leased Property.* The City agrees that the Authority and any Authorized Representative of the Authority, and the Authority's successors or assigns, have the right at all reasonable times to enter upon and to examine and inspect the Leased Property or any part thereof. The City further agrees that the Authority, any Authority Representative and the Authority's successors or assigns may have such rights of access to the Leased Property or any component thereof as reasonably necessary to cause the proper maintenance of the Leased Property if the City fails to perform its obligations hereunder; *provided, however*, that neither the Authority nor any of its assigns has any obligation to cause such proper maintenance.

SECTION 7.3. *Release and Indemnification Covenants.* The City agrees to indemnify the Authority, the Trustee and their respective officers, agents, successors and assigns, against all claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease,
- (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property,
- (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property,

- (e) the acquisition, construction, improvement and equipping of the Leased Property, or the authorization of payment of the costs thereof, or
- (f) the acceptance and performance of the duties of the Trustee under the Indenture, the Assignment Agreement and under this Lease.

No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence under this Lease by the Authority, the Trustee or their respective officers, agents, employees, successors or assigns.

SECTION 7.4. *Assignment and Subleasing by the City.* The City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

- (a) this Lease and the obligation of the City to make Lease Payments hereunder must remain obligations of the City, as certified in writing by the City;
- (b) the City must, within 30 days after the delivery thereof, furnish or cause to be furnished to the Authority and the Trustee a true and complete copy of such sublease;
- (c) no such sublease by the City may cause the Leased Property to be used for a purpose which is not authorized under the provisions of the laws of the State of California, as certified in writing by the City; and
- (d) the City must furnish to the Authority and the Trustee a written opinion of Bond Counsel stating that such sublease does not cause the interest on the Bonds to become included in gross income for purposes of federal income taxation or to become subject to personal income taxation by the State of California.

SECTION 7.5. *Amendment Hereof.* The Authority and the City may at any time amend or modify any of the provisions of this Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without the consent of the Trustee or any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City contained in this Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;
- (ii) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein, to conform to the original intention of the City and the Authority;

- (iii) to modify, amend or supplement this Lease in such manner as to assure that the interest on the Bonds remains excluded from gross income under the Tax Code;
- (iv) to amend the description of the Leased Property to reflect accurately the property originally intended to be included therein, or in connection with any substitution or release of property under Sections 3.2 or 3.3;
- (v) to obligate the City to pay additional amounts of rental for the use and occupancy of the Leased Property, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance or refinance the acquisition or construction of any real or personal property for which the City is authorized to expend funds subject to its control, (B) the City has obtained and filed with the Trustee an appraisal showing that the appraised value of the Leased Property is at least equal to the aggregate principal amount of the Outstanding Bonds and all such other bonds, notes, leases or other obligations, and (C) the City has filed with the Trustee written evidence that the amendments made under this clause (v) will not of themselves cause a reduction or withdrawal of any rating then assigned to the Bonds; or
- (vi) in any other respect whatsoever as the Authority and the City deem necessary or desirable, if in the opinion of Bond Counsel such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds.

No such modification or amendment may (a) extend or have the effect of extending any Lease Payment Date or reducing any Lease Payment or any premium payable upon the prepayment thereof, without the express consent of the Owners of the affected Bonds, or (b) modify any of the rights or obligations of the Trustee without its written assent thereto. If the Trustee's consent to such modification or amendment is required, the Trustee shall be entitled to the same documents as it would be entitled to under Article IX of the Indenture for such type of modification or amendment.

SECTION 7.6. *Tax Covenants.*

(a) Private Business Use Limitation. The City shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to satisfy the private business tests of Section 141(b) of the Tax Code or the private loan financing test of Section 141(c) of the Tax Code.

(b) Federal Guarantee Prohibition. The City may not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(c) No Arbitrage. The City may not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Bonds or of any other obligations which, if such action had been reasonably expected to have been taken, or

had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Tax Code.

(d) Maintenance of Tax Exemption. The City shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners of the Bonds to the same extent as such interest is permitted to be excluded from gross income under the Tax Code as in effect on the Closing Date.

(e) Rebate of Excess Investment Earnings to United States. The City shall calculate or cause to be calculated the Excess Investment Earnings in all respects at the times and in the manner required under the Tax Code. The City shall pay the full amount of Excess Investment Earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code. Such payments shall be made by the City from any source of legally available funds of the City, and shall constitute Additional Rental Payments hereunder.

The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e). In order to provide for the administration of this subsection (e), the City may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the City may deem appropriate. The Trustee has no duty or obligation to monitor or enforce compliance by the City of any of the requirements under this subsection (e).

SECTION 7.7. *Continuing Disclosure.* The City shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate executed by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms. Notwithstanding any other provision of this Lease, failure of the City to comply with such Continuing Disclosure Certificate will not constitute an Event of Default, although any Participating Underwriter (as that term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. *Events of Default Defined.* Any one or more of the following events constitute an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Authority or the Trustee. If in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time, such period of time not to be longer than 180 days after the delivery of such default notice.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

SECTION 8.2. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Authority may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein or in the Indenture to the contrary, neither the Authority nor the Trustee may accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Authority may exercise any and all rights granted hereunder; except that no termination of this Lease may be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Authority may exercise each and every one of the following remedies, subject in all respects to the limitations set forth in Section 8.3.

- (a) Enforcement of Payments Without Termination. If the Authority does not elect to terminate this Lease in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Authority for any deficiency arising out of the re-leasing of the Leased Property,

or, if the Authority is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Authority or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Authority. The City hereby irrevocably appoints the Authority as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place the Leased Property in storage or other suitable place in the County of San Joaquin for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Authority from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of the Leased Property by the Authority or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Authority to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Authority in effecting such re-leasing shall constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Authority to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City agrees to surrender and quit possession of the Leased Property upon demand of the Authority for the purpose of enabling the Leased Property to be re-let under this paragraph, and the City further waives the right to any rental obtained by the Authority in excess of the Lease Payments and hereby conveys and releases such excess to the Authority as compensation to the Authority for its services in re-leasing the Leased Property.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Authority at its option may terminate this Lease and re-lease all or any portion of the Leased Property. If the Authority terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Authority in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Authority all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Rental Payments. Any surplus received by the Authority from such re-leasing shall be deposited in the Bond

Fund. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Authority shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Authority shall have given written notice to the City of the election on the part of the Authority to terminate this Lease. The City covenants and agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Authority by such written notice.

- (c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Authority may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

SECTION 8.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Authority is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default impairs any such right or power or operates as a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Authority to exercise any remedy reserved to it in this Article VIII it is not necessary to give any notice, other than as expressly required in this Article VIII or by law.

SECTION 8.4. *Agreement to Pay Attorneys' Fees and Expenses.* If the Authority or the City defaults under any of the provisions of this Lease and the nondefaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party; *provided, however*, that the Trustee shall not be required to expend its own funds for any payment described in this Section.

SECTION 8.5. *No Additional Waiver Implied by One Waiver.* If the Authority or the City breaches any agreement in this Lease and thereafter the other party waives the breach, such waiver is limited to the particular breach so waived and does not operate to waive any other breach hereunder.

SECTION 8.6. *Application of Proceeds.* All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Authority or the Trustee as a result of the occurrence of an Event of Default, must be paid to and applied by the Trustee in accordance with Section 7.03 of the Indenture.

SECTION 8.7. *Trustee and Bond Owners to Exercise Rights.* Such rights and remedies as are given to the Authority under this Article VIII have been assigned by the Authority to the Trustee under the Assignment Agreement for the benefit of the Bond

Owners, to which assignment the City hereby consents. The Trustee and the Bond Owners shall exercise such rights and remedies in accordance with the Indenture.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

SECTION 9.1. *Security Deposit.* Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments allocable to the Leased Property in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Indenture, is either:

- (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Appendix B, or
- (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant, (which opinion must be addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due under Section 4.3(a), as the City instructs at the time of said deposit.

If the City makes a security deposit under this Section with respect to all unpaid Lease Payments, and notwithstanding the provisions of Section 4.2, (a) the Term of this Lease will continue, (b) all obligations of the City under this Lease, and all security provided by this Lease for said Lease Payments, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made all of said Lease Payments from such security deposit, and (c) under Section 4.7, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Authority. Said security deposit constitutes a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City has the option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, from any source of legally available funds, on any date on or after _____ 1, 20__, at a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such Interest Payment Date, and together with a prepayment premium equal to the premium (if any) required to be paid on the resulting redemption of Bonds under Section 4.01(a) of the Indenture. Such prepayment price shall be deposited by the Trustee in the Redemption Fund to be applied to the redemption of Bonds under Section 4.01(a) of the Indenture. The City shall give 10 days' written notice to the Trustee of its intention to prepay the Lease Payments under this Section.

SECTION 9.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City shall prepay the principal components of the Lease Payments allocable

to the Leased Property in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Redemption Fund for that purpose under Article VI hereof and Section 5.07 of the Indenture. Such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, will be credited towards the City's obligations under this Section and applied to the corresponding redemption of Bonds under Section 4.01(b) of the Indenture.

SECTION 9.4. *Credit for Amounts on Deposit.* If the principal components of the Lease Payments are prepaid in full under this Article IX, such that the Indenture is discharged by its terms as a result of such prepayment, at the written election of the City filed with the Trustee any or all amounts then on deposit in the Bond Fund (and the accounts therein) will be credited towards the amounts then required to be so prepaid.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *Notices.* Any notice, request, complaint, demand or other communication under this Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Authority, the City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:*

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attention: City Manager

If to the Trustee:

U.S. Bank National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attn: Global Corporate Trust Services
Fax: _____

SECTION 10.2. *Binding Effect.* This Lease inures to the benefit of and binds the Authority, the City and their respective successors and assigns.

SECTION 10.3. *Severability.* If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

SECTION 10.4. *Net-net-net Lease.* This Lease is deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments are an absolute net return to the Authority, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.5. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary.

SECTION 10.6. *Further Assurances and Corrective Instruments.* The Authority and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

SECTION 10.7. *Execution in Counterparts.* This Lease may be executed in several counterparts, each of which is an original and all of which constitute but one and the same instrument.

SECTION 10.8. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.9. *Authority and City Representatives.* Whenever under the provisions of this Lease the approval of the Authority or the City is required, or the Authority or the City is required to take some action at the request of the other, such approval or such request shall be given for the Authority and for the City by an Authorized Representative thereof, and any party hereto may conclusively rely upon any such approval or request.

SECTION 10.10. *Captions.* The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease.

IN WITNESS WHEREOF, the Authority and the City have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY, as lessor**

By _____
Treasurer/Controller

Attest:

City Clerk

CITY OF TRACY, as lessee

By _____
Mayor

Attest:

Secretary

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Joaquin, City of Tracy, which is more particularly described as follows:

[TO COME]

APPENDIX B
SCHEDULE OF LEASE PAYMENTS

Lease Payment Date*	Principal Component	Interest Component	Aggregate Lease Payment

* Lease Payment Dates are the Business Day immediately preceding each date listed in the schedule

Jones Hall draft 12-2-19

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall
A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX UNDER SECTION 11929 OF THE REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITY LEASE

This SITE AND FACILITY LEASE (this “**Site Lease**”), dated for convenience as of _____ 1, 2020, is between the CITY OF TRACY, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessor (the “**City**”), and the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority duly organized and existing under and by virtue of the laws of the State of California, as lessee (the “**Authority**”).

BACKGROUND:

1. The Authority previously entered into an Indenture dated as of October 1, 2007 (the “**2007 Indenture**”), with The Bank of New York Mellon Trust Company, N.A., as successor trustee (the “**2007 Trustee**”), under which the Authority issued the \$2,690,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the “**2007A Bonds**”) and the \$1,980,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) (the “**2007B Bonds**,” together with the 2007A Bonds, the “**2007 Bonds**”).

2. The 2007 Bonds are payable from lease payments (the “**2007 Lease Payments**”) payable by the City to the Authority pursuant to a Property Lease, dated as of October 1, 2007 (the “**2007 Lease**”), by and between the City and the Authority.

3. The Authority assigned its right to receive the 2007 Lease Payments to the 2007 Trustee under the 2007 Indenture.

4. The Authority wishes to prepay the 2007 Lease Payments and redeem the 2007 Bonds.

5. To that end, the City has proposed to lease to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this

reference incorporated herein (the "**Leased Property**"), under this Site Lease, in consideration of the payment by the Authority of an upfront rental payment (the "**Site Lease Payment**") which is sufficient to provide funds for the redemption of the 2007 Bonds.

6. The Authority has authorized the issuance of its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the "**Bonds**") under an Indenture of Trust dated as of _____ 1, 2020 (the "Indenture"), between the Authority and U.S. Bank, National Association., as trustee (the "**Trustee**"), for the purpose, among other things, of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with this Site Lease.

7. In order to provide revenues which are sufficient to enable the Authority to pay debt service on the Bonds, the Authority has agreed to lease the Leased Property back to the City under a Lease Agreement dated as of _____ 1, 2020 (the "**Lease**"), a memorandum of which has been recorded concurrently herewith, under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property thereunder.

8. The lease payments made by the City under the Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement dated as of _____ 1, 2020, between the Authority as assignor and the Trustee as assignee, which has been recorded concurrently herewith.

A G R E E M E N T :

In consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

SECTION 1. *Lease of Property to Authority.* The City hereby leases the Leased Property to the Authority and the Authority hereby leases the Leased Property from the City, on the terms and conditions hereinafter set forth.

SECTION 2. *Term; Possession.* The term of this Site Lease commences on the date of recordation of this Site Lease and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than November 1, _____. The provisions of this Section 2 are subject in all respects to any other provisions of this Site Lease relating to the termination hereof.

SECTION 3. *Rental.* The Authority shall pay to the City as and for rental of the Leased Property hereunder, the sum of \$_____ (the "**Site Lease Payment**"). The Site Lease Payment is due and payable upon the issuance of the Bonds and the execution and delivery hereof, and will be paid from the proceeds of the Bonds. The Authority and the City hereby find and determine that the total amount of the Site Lease Payment does not exceed the fair market value of the leasehold interest in the Leased Property which is conveyed hereunder by the City to the Authority. No other amount of rental is due and payable by the Authority for the use and occupancy of the Leased Property under this Site Lease.

As provided in the Indenture, a portion of the proceeds of the Bonds will be applied to make the Site Lease Payment by depositing the full amount thereof with the Prior Trustee to be

held, invested and administered in accordance with the Escrow Agreement for the purpose of discharging the City's obligations with respect to the 2007 Bonds.

SECTION 4. *Leaseback to City.* The Authority shall lease the Leased Property back to the City under the Lease.

SECTION 5. *Assignments and Subleases.* Unless the City is in default under the Lease, the Authority may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Assignment Agreement and in the Lease, without the prior written consent of the City.

SECTION 6. *Substitution or Release of Property.* If the City exercises its option under Section 3.2 of the Lease to substitute property for the Leased Property in whole or in part, such substitution shall also operate to substitute property for the Leased Property which is leased hereunder. If the City exercises its option under Section 3.3 of the Lease to release a portion of the Leased Property from the Lease, such substitution shall also operate to release such portion of the Leased Property hereunder. The description of the Leased Property which is leased under the Lease shall conform at all times to the description of the Leased Property which is leased hereunder.

SECTION 7. *Right of Entry.* The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 8. *Termination.* The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Leased Property shall remain thereon and title thereto shall vest thereupon in the City for no additional consideration.

SECTION 9. *Default.* If the Authority defaults in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and no such remedy may include termination hereof; *provided, however*, that so long as the Lease remains in effect, the Lease Payments payable by the City under the Lease shall continue to be paid to the Trustee.

SECTION 10. *Quiet Enjoyment.* The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the provisions of the Lease and subject only to Permitted Encumbrances (as that term is defined in the Lease).

SECTION 11. *Waiver of Personal Liability.* All liabilities under this Site Lease on the part of the Authority are solely corporate liabilities of the Authority as a public entity, and the City hereby releases each and every member and officer of the Authority of and from any personal or individual liability under this Site Lease. No member or officer of the Authority or its governing board shall at any time or under any circumstances be individually or personally liable under this Site Lease for anything done or omitted to be done by the Authority hereunder.

SECTION 12. *Taxes.* The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property and any improvements thereon.

SECTION 13. *Eminent Domain.* If the whole or any part of the Leased Property or any improvements thereon is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid Lease Payments payable under the Lease and the balance of the award, if any, shall be paid to the City.

SECTION 14. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 15. *Notices.* Any notice, request, complaint, demand or other communication under this Site Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopy, telex or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

*If to the Authority
or the City:* City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attention: City Manager

If to the Trustee: U.S. Bank National Association
One California Street, Suite 1000
San Francisco, CA 94111
Attn: Global Corporate Trust Services
Fax: _____

SECTION 16. *Amendment of this Site Lease.* The Authority and the City may at any time amend or modify any of the provisions of this Site Lease, but only (a) with the prior written consent of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without the consent of any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to make cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, or in any other respect whatsoever as the Authority and the City may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds;

- (ii) to amend any provision hereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest on the Bonds under the Tax Code, in the opinion of Bond Counsel;
- (iii) to conform to any amendment of the Indenture which is made thereto in accordance with Section 9.01 of the Indenture; or
- (iv) for the purpose of effectuating any substitution or release of property under Section 6.

SECTION 17. *Governing Law.* This Site Lease shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 18. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary under this Site Lease with all rights of a third party beneficiary.

SECTION 19. *Binding Effect.* This Site Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 20. *Section Headings.* All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 21. *Execution in Counterparts.* This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Site Lease may be separately executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

SECTION 22. *Defined Terms.* All capitalized terms used herein and not otherwise defined have the respective meanings given those terms in the Indenture.

IN WITNESS WHEREOF, the City and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF TRACY, as lessor

By _____
Mayor

Attest:

City Clerk

**TRACY OPERATING PARTNERSHIP JOINT POWERS
AUTHORITY, as lessee**

By _____
Treasurer/Controller

Attest:

Secretary

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Joaquin, City of Tracy, which is more particularly described as follows:

[TO COME]

Jones Hall draft 12-2-19

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall
A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX UNDER SECTION 11929 OF THE REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

AMENDED AND RESTATED SITES AND FACILITIES LEASE

This AMENDED AND RESTATED SITES AND FACILITIES LEASE (this “**Site Lease**”), dated for convenience as of _____ 1, 2020, is between the CITY OF TRACY, a general law city and municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessor (the “**City**”), and the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority duly organized and existing under and by virtue of the laws of the State of California, as lessee (the “**Authority**”).

BACKGROUND:

1. The Authority previously entered into an Indenture dated as of December 1, 2008 (the “2008 Indenture”), with The Bank of New York Mellon Trust Company, N.A., as trustee (the “2008 Trustee”), under which the Authority issued \$19,765,000 aggregate principal amount of 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the “**2008 Bonds**”).

2. The 2008 Bonds were payable from lease payments (the “**2008 Lease Payments**”) payable by the City to the Authority pursuant to a Property Lease, dated as of December 1, 2008 (the “**2008 Lease**”), by and between the City and the Authority. The 2008 Lease was recorded in the San Joaquin County real property records as Document No. ____ on ____, 2008.

3. The City had leased the property leased under the 2008 Lease to the Authority pursuant to a Sites and Facilities Lease, dated as of December 1, 2008 (the “**2008 Sites and Facilities Lease**”), which 2008 Sites and Facilities Lease was recorded in the San Joaquin County real property records as Document No. ____ on ____, 2008.

4. The Authority assigned its right to receive the 2008 Lease Payments to the 2008 Trustee under the 2008 Indenture.

5. The Authority wishes to prepay the 2008 Lease Payments and redeem the 2008 Bonds.

6. To that end, the City has proposed to lease to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this reference incorporated herein (the "**Leased Property**"), under this Site Lease, in consideration of the payment by the Authority of an upfront rental payment (the "**Site Lease Payment**") which is sufficient to provide funds for the redemption of the 2008 Bonds.

7. The Authority has authorized the issuance of its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the "**Bonds**") under an Indenture of Trust dated as of _____ 1, 2020 (the "Indenture"), between the Authority and U.S. Bank, National Association., as trustee (the "**Trustee**"), for the purpose, among other things, of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with this Site Lease.

8. In order to provide revenues which are sufficient to enable the Authority to pay debt service on the Bonds, the Authority has agreed to lease the Leased Property back to the City under an Amended and Restated Property Lease dated as of _____ 1, 2020 (the "**Lease**"), a memorandum of which has been recorded concurrently herewith, under which the City has agreed to pay semiannual Lease Payments as the rental for the Leased Property thereunder.

9. The lease payments made by the City under the Lease have been assigned by the Authority to the Trustee for the security of the Bonds under an Assignment Agreement dated as of _____ 1, 2020, between the Authority as assignor and the Trustee as assignee, which has been recorded concurrently herewith.

A G R E E M E N T :

In consideration of the above premises and of the mutual promises and covenants herein contained and for other valuable consideration, the parties hereto do hereby agree as follows:

SECTION 1. *Amendment and Restatement of Sites and Facilities Lease.* The City and the Authority hereby amend and restate the Sites and Facilities Lease in its entirety. The terms of this Site Lease supersede and replace the terms of the Sites and Facilities Lease, and the Sites and Facilities Lease shall have no further force or effect.

SECTION 2. *Lease of Property to Authority.* The City hereby leases the Leased Property to the Authority and the Authority hereby leases the Leased Property from the City, on the terms and conditions hereinafter set forth.

SECTION 3. *Term; Possession.* The term of this Site Lease commences on the date of recordation of this Site Lease and ends on the date on which the Indenture is discharged in accordance with Section 10.03 thereof, but under any circumstances not later than November 1, _____. The provisions of this Section 2 are subject in all respects to any other provisions of this Site Lease relating to the termination hereof.

SECTION 4. *Rental.* The Authority shall pay to the City as and for rental of the Leased Property hereunder, the sum of \$_____ (the "**Site Lease Payment**"). The Site Lease

Payment is due and payable upon the issuance of the Bonds and the execution and delivery hereof, and will be paid from the proceeds of the Bonds. The Authority and the City hereby find and determine that the total amount of the Site Lease Payment does not exceed the fair market value of the leasehold interest in the Leased Property which is conveyed hereunder by the City to the Authority. No other amount of rental is due and payable by the Authority for the use and occupancy of the Leased Property under this Site Lease.

As provided in the Indenture, a portion of the proceeds of the Bonds will be applied to make the Site Lease Payment by depositing the full amount thereof with the Prior Trustee to be held, invested and administered in accordance with the Escrow Agreement for the purpose of discharging the City's obligations with respect to the 2008 Bonds.

SECTION 5. *Leaseback to City.* The Authority shall lease the Leased Property back to the City under the Lease.

SECTION 6. *Assignments and Subleases.* Unless the City is in default under the Lease, the Authority may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Assignment Agreement and in the Lease, without the prior written consent of the City.

SECTION 7. *Substitution or Release of Property.* If the City exercises its option under Section 3.2 of the Lease to substitute property for the Leased Property in whole or in part, such substitution shall also operate to substitute property for the Leased Property which is leased hereunder. If the City exercises its option under Section 3.3 of the Lease to release a portion of the Leased Property from the Lease, such substitution shall also operate to release such portion of the Leased Property hereunder. The description of the Leased Property which is leased under the Lease shall conform at all times to the description of the Leased Property which is leased hereunder.

SECTION 8. *Right of Entry.* The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 9. *Termination.* The Authority agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Leased Property shall remain thereon and title thereto shall vest thereupon in the City for no additional consideration.

SECTION 10. *Default.* If the Authority defaults in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Authority, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and no such remedy may include termination hereof; *provided, however,* that so long as the Lease remains in effect, the Lease Payments payable by the City under the Lease shall continue to be paid to the Trustee.

SECTION 11. *Quiet Enjoyment.* The Authority at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the

provisions of the Lease and subject only to Permitted Encumbrances (as that term is defined in the Lease).

SECTION 12. *Waiver of Personal Liability.* All liabilities under this Site Lease on the part of the Authority are solely corporate liabilities of the Authority as a public entity, and the City hereby releases each and every member and officer of the Authority of and from any personal or individual liability under this Site Lease. No member or officer of the Authority or its governing board shall at any time or under any circumstances be individually or personally liable under this Site Lease for anything done or omitted to be done by the Authority hereunder.

SECTION 13. *Taxes.* The City covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property and any improvements thereon.

SECTION 14. *Eminent Domain.* If the whole or any part of the Leased Property or any improvements thereon is taken by eminent domain proceedings, the interest of the Authority shall be recognized and is hereby determined to be the amount of the then unpaid Lease Payments payable under the Lease and the balance of the award, if any, shall be paid to the City.

SECTION 15. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease shall be affected thereby, and each provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 16. *Notices.* Any notice, request, complaint, demand or other communication under this Site Lease shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by telecopy, telex or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Authority and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

<i>If to the Authority or the City:</i>	City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Attention: City Manager

<i>If to the Trustee:</i>	U.S. Bank National Association One California Street, Suite 1000 San Francisco, CA 94111 Attn: Global Corporate Trust Services Fax: _____

SECTION 17. *Amendment of this Site Lease.* The Authority and the City may at any time amend or modify any of the provisions of this Site Lease, but only (a) with the prior written consent of the Owners of a majority in aggregate principal amount of the Outstanding Bonds; or (b) without

the consent of any of the Bond Owners, but only if such amendment or modification is for any one or more of the following purposes:

- (i) to make cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, or in any other respect whatsoever as the Authority and the City may deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Bonds;
- (ii) to amend any provision hereof relating to the Tax Code, to any extent whatsoever but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest on the Bonds under the Tax Code, in the opinion of Bond Counsel;
- (iii) to conform to any amendment of the Indenture which is made thereto in accordance with Section 9.01 of the Indenture; or
- (iv) for the purpose of effectuating any substitution or release of property under Section 6.

SECTION 18. *Governing Law.* This Site Lease shall be construed in accordance with and governed by the Constitution and laws of the State of California.

SECTION 19. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary under this Site Lease with all rights of a third party beneficiary.

SECTION 20. *Binding Effect.* This Site Lease inures to the benefit of and is binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 21. *Section Headings.* All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 22. *Execution in Counterparts.* This Site Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same lease. It is also agreed that separate counterparts of this Site Lease may be separately executed by the Authority and the City, all with the same force and effect as though the same counterpart had been executed by both the Authority and the City.

SECTION 23. *Defined Terms.* All capitalized terms used herein and not otherwise defined have the respective meanings given those terms in the Indenture.

IN WITNESS WHEREOF, the City and the Authority have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF TRACY, as lessor

By _____
Mayor

Attest:

City Clerk

**TRACY OPERATING PARTNERSHIP JOINT POWERS
AUTHORITY, as lessee**

By _____
Treasurer/Controller

Attest:

Secretary

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Joaquin, City of Tracy, which is more particularly described as follows:

[TO COME]

Jones Hall draft 10-26-19

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this “**Agreement**”), dated for convenience as of _____ 1, 2020, is between the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers authority duly organized and existing under the laws of the State of California (the “**Authority**”), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the “**Trustee**”).

B A C K G R O U N D :

1. The Authority previously caused execution and delivery of its 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the “**2007A Bonds**”) in the aggregate initial principal amount of \$2,690,000 and its 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) in the aggregate initial principal amount of \$1,980,000 (the “**2007B Bonds**,” together with the 2007A Bonds, the “**2007 Bonds**”), pursuant to an Indenture, dated as of October 1, 2007 (the “**2007 Indenture**”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as successor trustee (the “**2007 Trustee**”).

2. The Authority previously caused execution and delivery of its 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the “**2008 Bonds**,” together with the 2007 Bonds, the “**Prior Bonds**”) in the aggregate initial principal amount of \$19,765,000, pursuant to an Indenture, dated as of December 1, 2008 (the “**2008 Indenture**”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the “**2008 Trustee**,” and as 2007 Trustee, the “**Prior Trustee**”).

3. The Authority wishes to refinance its outstanding Prior Bonds.

4. In order to provide funds to refinance the 2007 Bonds, the City has proposed to lease to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this reference incorporated herein (the **"2007-Related Leased Property"**), under a Site and Facility Lease, dated as of the date hereof, between the City and the Authority (the **"Site and Facility Lease"**) in consideration of the payment by the Authority of an upfront rental payment (the **"2007-Related Site Lease Payment"**) which is sufficient to provide funds for the redemption of the 2007 Bonds. The Site and Facility Lease is being recorded concurrently herewith.

5. In order to provide funds to refinance the 2008 Bonds, the City has proposed to lease to the Authority certain real property and improvements, as more particularly described in Appendix A attached hereto and by this reference incorporated herein (the **"2008-Related Leased Property"**; together with the 2007-Related Leased Property, the **"Leased Property"**), under an Amended and Restated Sites and Facilities Lease, dated as of the date hereof, between the City and the Authority (the **"Amended and Restated Sites and Facilities Lease"**) in consideration of the payment by the Authority of an upfront rental payment (the **"2008-Related Site Lease Payment"**; together with the 2007-Related Site Lease Payment, the **"Site Lease Payment"**) which is sufficient to provide funds for the redemption of the 2008 Bonds. The Amended and Restated Sites and Facilities Lease is being recorded concurrently herewith.

6. The Authority has authorized the issuance of its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the **"Bonds"**) under an Indenture of Trust dated as of the date hereof (the **"Indenture"**), between the Authority and the Trustee, for the purpose of providing the funds to enable the Authority to pay the Site Lease Payment to the City in accordance with the Site Lease.

7. In order to provide revenues which are sufficient to enable the Authority to pay debt service on the Bonds, the Authority has agreed (a) to lease the 2007-Related Leased Property back to the City under a Lease Agreement dated as of the date hereof (the **"Lease Agreement"**), a memorandum of which has been recorded concurrently herewith, under which the City has agreed to pay semiannual lease payments (the **"2007-Related Lease Payments"**) as the rental for the 2007-Related Leased Property thereunder, and (b) to lease the 2008-Related Leased Property back to the City under an Amended and Restated Property Lease dated as of the date hereof (the **"Amended and Restated Property Lease"**; together with the Lease Agreement, the **"Leases"**), a memorandum of which has been recorded concurrently herewith, under which the City has agreed to pay semiannual lease payments (the **"2008-Related Lease Payments"**; together with the 2007-Related Lease Payments, the **"Lease Payments"**) as the rental for the 2008-Related Leased Property thereunder.

8. The Authority has requested the Trustee to enter into this Agreement for the purpose of assigning certain of its rights under the Leases to the Trustee for the benefit of the Bond owners.

A G R E E M E N T :

In consideration of the material covenants contained in this Agreement, the parties hereto hereby formally covenant, agree and bind themselves as follows:

SECTION 1. *Defined Terms.* All capitalized terms not otherwise defined herein have the respective meanings given those terms in the Indenture.

SECTION 2. *Assignment.* The Authority hereby assigns to the Trustee, for the benefit of the Owners of all Bonds which are issued and Outstanding under the Indenture, all of the Authority's rights under the Leases (excepting only the Authority's rights under Sections 4.5, 5.10, 7.3 and 8.4 of the Leases and its rights to give consents and approvals under the Leases), including but not limited to:

- (a) the right to receive and collect all of the Lease Payments from the City under the Leases;
- (b) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Leased Property, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Leased Property; and
- (c) the right to exercise such rights and remedies conferred on the Authority under the Leases as may be necessary or convenient (i) to enforce payment of the Lease Payments and any amounts required to be deposited in the Insurance and Condemnation Fund established under Section 5.07 of the Indenture, or (ii) otherwise to protect the interests of the Bond Owners in the event of a default by the City under the Leases.

The Trustee shall administer all of the rights assigned to it by the Authority under this Agreement in accordance with the provisions of the Indenture, for the benefit of the Owners of Bonds. The assignment made under this Section 2 is absolute and irrevocable, and without recourse to the Authority.

SECTION 3. *Acceptance.* The Trustee hereby accepts the assignments made herein for the purpose of securing the payments due under the Leases and Indenture to, and the rights under the Leases and Indenture of, the Owners of the Bonds, all subject to the provisions of the Indenture. The recitals contained herein are those of the Authority and not of the Trustee, and the Trustee assumes no responsibility for the correctness thereof.

SECTION 4. *Conditions.* This Agreement confers no rights and imposes no duties upon the Trustee beyond those expressly provided in the Indenture. The assignment hereunder to the Trustee is solely in its capacity as Trustee under the Indenture, and the Trustee shall have the same rights, protections, immunities and indemnities hereunder as afforded to it under the Indenture.

SECTION 5. *Execution in Counterparts.* This Agreement may be executed in any number of counterparts, each of which is an original and all together constitute one and the same agreement. Separate counterparts of this Agreement may be separately

executed by the Trustee and the Authority, both with the same force and effect as though the same counterpart had been executed by the Trustee and the Authority.

SECTION 6. *Binding Effect.* This Agreement inures to the benefit of and binds the Authority and the Trustee, and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 7. *Governing Law.* This Agreement is governed by the Constitution and laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized officers as of the day and year first written above.

**TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY**

By _____
Treasurer/Controller

Attest:

Secretary

**U.S. BANK, NATIONAL ASSOCIATION, as
*Trustee***

By _____
Authorized Representative

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The Leased Property consists of that certain real property situated in the State of California, County of San Joaquin, City of Fremont, which is more particularly described as follows:

2007-Related Leased Property

[TO COME]

2008-Related Leased Property

[TO COME]

Jones Hall draft 10-26-19

IRREVOCABLE REFUNDING INSTRUCTIONS

\$2,690,000
Tracy Operating Partnership Joint Powers
Authority
2007 Lease Revenue Bonds, Series A
(Fire Station Project)

\$1,980,000
Tracy Operating Partnership Joint Powers
Authority
2007 Lease Revenue Bonds, Series B
(1995 COPs Refunding)

These IRREVOCABLE REFUNDING INSTRUCTIONS (these “**Instructions**”) are dated _____, 2020 and are given by the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority duly organized and existing under the Constitution and laws of the State of California (the “**Authority**”), to THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, acting as trustee for the 2007 Bonds described below (the “**2007 Trustee**”);

R E C I T A L S :

WHEREAS, the Authority previously entered into an Indenture dated as of October 1, 2007 (the “**2007 Indenture**”), with the 2007 Trustee, under which the Authority issued its 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the “**2007A Bonds**”) in the aggregate initial principal amount of \$2,690,000 and its 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) in the aggregate initial principal amount of \$1,980,000 (the “**2007B Bonds**,” together with the 2007A Bonds, the “**2007 Bonds**”); and

WHEREAS, the Authority wishes to refund the outstanding 2007 Bonds, and, to that end, the Authority has agreed to issue its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the “**Refunding Bonds**”) pursuant to an Indenture of Trust, dated as of _____ 1, 2020 (the “**Refunding Bonds Indenture**”), by and between the Authority and U.S. Bank, National Association, as trustee (the “**Refunding Bonds Trustee**”); and

WHEREAS, the Authority wishes to apply a portion of the proceeds of the Refunding Bonds, together with certain other moneys, to redeem the 2007 Bonds on _____, 2020; and

WHEREAS, the Authority wishes to give these Instructions to the 2007 Trustee for the purpose of providing the terms and conditions relating to the deposit and application of moneys to provide for the redemption of the 2007 Bonds;

NOW, THEREFORE, the Authority hereby irrevocably instructs the 2007 Trustee as follows:

Section 1. Available Funds; Deposit into Revenue Fund.

(a) As of the date hereof, the 2007 Trustee holds the following amounts in the funds and accounts established and held by the 2007 Trustee under the 2007 Indenture (the “**Available Amounts**”):

[to come]

(b) Concurrently with delivery of the 2020 Refunding Bonds, the Authority shall cause to be transferred to the 2007 Trustee for deposit into the Revenue Fund, the amount of \$_____ in immediately available funds to be derived from a portion of the proceeds of sale of the 2020 Refunding Bonds.

Section 2. Proceedings for Redemption of 2007 Bonds. The Authority hereby irrevocably elects, and directs the 2007 Trustee, to redeem, on _____, 2020 (the “**Redemption Date**”), the outstanding 2007 Bonds. Pursuant to written direction by the Authority, the 2007 Trustee previously gave notice of the redemption of the 2007 Bonds in the form of Exhibit A in accordance with the provisions of the 2007 Indenture.

Section 3. Application of Funds to Redeem 2007 Bonds. On the Redemption Date, the 2007 Trustee shall apply a total of \$_____, which consists of all of the proceeds of the 2020 Refunding Bonds deposited into the Revenue Fund pursuant to Section 1 and Available Amounts in the amount of \$_____, to redeem the 2007 Bonds on the Redemption Date, at a redemption price equal to 100% of the principal amount thereof plus accrued and unpaid interest to the Redemption Date.

Following redemption of the 2007 Bonds, the 2007 Trustee shall transfer any remaining Available Amounts to the Refunding Bonds Trustee for deposit into the Bond Fund for the Refunding Bonds.

Section 4. Amendment. These Instructions shall be irrevocable by the City. These Instructions may be amended or supplemented by the City, but only if the City shall file with the 2007 Trustee (a) an opinion of nationally recognized bond counsel engaged by the City or the Authority stating that such amendment or supplement will not, of itself, adversely affect the exclusion from gross income of interest on the 2007 Bonds or the Refunding Bonds under federal income tax law, and (b) a certification of an independent accountant or independent financial adviser engaged by the City stating that such amendment or supplement will not affect the sufficiency of funds held hereunder to make the payments required by Section 3.

Section 5. Concerning the 2007 Trustee. The 2007 Trustee shall not be liable for any loss from any investment, reinvestment or liquidation of investment made by it in accordance with the terms of these Instructions.

The 2007 Trustee shall not be liable for the recitals or representations contained in these Instructions and shall not be responsible for the sufficiency of amounts described in Section 2 to pay the redemption price of the 2007 Bonds on the date specified in Section 2.

The rights protections, limitations from liability and indemnities provided to the 2007 Trustee under the 2007 Indenture shall be afforded to the 2007 Trustee in acting pursuant to these Instructions and such provisions of the 2007 Indenture are incorporated by reference herein.

* * * * *

Section 6. Governing Law. These Instructions shall be construed in accordance with and governed by the Constitution and laws of the State of California.

**TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY**

By _____
Treasurer/Controller

ACKNOWLEDGED AND ACCEPTED

CITY OF TRACY

By _____
Mayor

ACKNOWLEDGED AND ACCEPTED

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as 2007 Trustee

By _____
Authorized Officer

EXHIBIT A-1

FORM OF CONDITIONAL NOTICE OF REDEMPTION

\$2,690,000

**Tracy Operating Partnership Joint Powers Authority
2007 Lease Revenue Bonds, Series A
(Fire Station Project)**

NOTICE IS HEREBY GIVEN, by the Tracy Operating Partnership Joint Powers Authority (the "Authority") that all of the outstanding captioned bonds (the "2007A Bonds") have been called for redemption under and within the meaning of the Indenture, dated as of October 1, 2007 (the "2007 Indenture"), on _____, 2020 (the "Redemption Date"), at a redemption price equal to 100% of the par amount of the 2007A Bonds to be redeemed together with accrued interest thereon to the redemption date (the "Redemption Price").

The outstanding 2007A Bonds consist of the following:

<u>Maturity Date</u> <u>(March 1)</u>	<u>Original Principal</u> <u>Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
2031 ^T	\$1,240,000	4.375%	892396AW2
2037 ^T	1,450,000	4.500	892396AX0

^T Term Bond.

The CUSIP number of the 2007A Bonds has been assigned by an independent service and is included in this notice solely for the convenience of the Owners and neither The Bank of New York Mellon Trust Company, N.A., as trustee for the 2007A Bonds (the "2007A Trustee"), the Authority nor the City of Tracy shall be liable for any inaccuracies in such numbers.

Redemption of the 2007A Bonds as described in this notice shall be conditioned upon the receipt by the 2007A Trustee from the Authority of the funds necessary for the proposed redemption on or before the Redemption Date.

Payment of the Redemption Price of the 2007A Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

Interest on the principal amount designated to be prepaid shall cease to accrue on and after the Redemption Date.

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% of the Redemption Price will be withheld if tax identification number is not properly certified.

Dated: _____, 2020

EXHIBIT A-2

FORM OF CONDITIONAL NOTICE OF REDEMPTION

\$1,980,000

**Tracy Operating Partnership Joint Powers Authority
2007 Lease Revenue Bonds, Series B
(1995 COPs Refunding)**

NOTICE IS HEREBY GIVEN, by the Tracy Operating Partnership Joint Powers Authority (the "Authority") that all of the outstanding captioned bonds (the "2007B Bonds") have been called for redemption under and within the meaning of the Indenture, dated as of October 1, 2007 (the "2007 Indenture"), on _____, 2020 (the "Redemption Date"), at a redemption price equal to 100% of the par amount of the 2007B Bonds to be redeemed together with accrued interest thereon to the redemption date (the "Redemption Price").

The outstanding 2007B Bonds consist of the following:

<u>Maturity Date</u> <u>(March 1)</u>	<u>Original Principal</u> <u>Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
2020	\$125,000	4.000%	892396AN2
2031 ^T	265,000	4.200	892396AQ5
2037 ^T	340,000	4.250	892396AR3

^T Term Bond.

The CUSIP number of the 2007B Bonds has been assigned by an independent service and is included in this notice solely for the convenience of the Owners and neither The Bank of New York Mellon Trust Company, N.A., as trustee for the 2007B Bonds (the "2007B Trustee"), the Authority nor the City of Tracy shall be liable for any inaccuracies in such numbers.

Redemption of the 2007B Bonds as described in this notice shall be conditioned upon the receipt by the 2007B Trustee from the Authority of the funds necessary for the proposed redemption on or before the Redemption Date.

Payment of the Redemption Price of the 2007B Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

Interest on the principal amount designated to be prepaid shall cease to accrue on and after the Redemption Date.

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% of the Redemption Price will be withheld if tax identification number is not properly certified.

Dated: _____, 2020

Jones Hall draft 10-26-19

IRREVOCABLE REFUNDING INSTRUCTIONS

\$19,765,000

**Tracy Operating Partnership Joint Powers Authority
2008 Lease Revenue Bonds
(Refunding and Capital Improvement Projects)**

These IRREVOCABLE REFUNDING INSTRUCTIONS (these “**Instructions**”) are dated _____, 2020 and are given by the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority duly organized and existing under the Constitution and laws of the State of California (the “**Authority**”), to THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, acting as trustee for the 2008 Bonds described below (the “**2008 Trustee**”);

R E C I T A L S :

WHEREAS, the Authority previously entered into an Indenture dated as of December 1, 2008 (the “**2008 Indenture**”), with the 2008 Trustee, under which the Authority issued the captioned bonds (the “**2008 Bonds**”); and

WHEREAS, the Authority wishes to refund the outstanding 2008 Bonds, and, to that end, the Authority has agreed to issue its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2008 and 2008 Refinancing) in the aggregate principal amount of \$_____ (the “**Refunding Bonds**”) pursuant to an Indenture of Trust, dated as of _____ 1, 2020 (the “**Refunding Bonds Indenture**”), by and between the Authority and U.S. Bank, National Association, as trustee (the “**Refunding Bonds Trustee**”); and

WHEREAS, the Authority wishes to apply a portion of the proceeds of the Refunding Bonds, together with certain other moneys, to redeem the 2008 Bonds on _____, 2020; and

WHEREAS, the Authority wishes to give these Instructions to the 2008 Trustee for the purpose of providing the terms and conditions relating to the deposit and application of moneys to provide for the redemption of the 2008 Bonds;

NOW, THEREFORE, the Authority hereby irrevocably instructs the 2008 Trustee as follows:

Section 1. Available Funds; Deposit into Revenue Fund.

(a) As of the date hereof, the 2008 Trustee holds the following amounts in the funds and accounts established and held by the 2008 Trustee under the 2008 Indenture (the “**Available Amounts**”):

[to come]

(b) Concurrently with delivery of the 2020 Refunding Bonds, the Authority shall cause to be transferred to the 2008 Trustee for deposit into the Revenue Fund, the amount of \$_____ in immediately available funds to be derived from a portion of the proceeds of sale of the 2020 Refunding Bonds.

Section 2. Proceedings for Redemption of 2008 Bonds. The Authority hereby irrevocably elects, and directs the 2008 Trustee, to redeem, on _____, 2020 (the "**Redemption Date**"), the outstanding 2008 Bonds. Pursuant to written direction by the Authority, the 2008 Trustee previously gave notice of the redemption of the 2008 Bonds in the form of Exhibit A in accordance with the provisions of the 2008 Indenture.

Section 3. Application of Funds to Redeem 2008 Bonds. On the Redemption Date, the 2008 Trustee shall apply a total of \$_____, which consists of all of the proceeds of the 2020 Refunding Bonds deposited into the Revenue Fund pursuant to Section 1 and Available Amounts in the amount of \$_____, to redeem the 2008 Bonds on the Redemption Date, at a redemption price equal to 100% of the principal amount thereof plus accrued and unpaid interest to the Redemption Date.

Following redemption of the 2008 Bonds, the 2008 Trustee shall transfer any remaining Available Amounts to the Refunding Bonds Trustee for deposit into the Bond Fund for the Refunding Bonds.

Section 4. Amendment. These Instructions shall be irrevocable by the City. These Instructions may be amended or supplemented by the City, but only if the City shall file with the 2008 Trustee (a) an opinion of nationally recognized bond counsel engaged by the City or the Authority stating that such amendment or supplement will not, of itself, adversely affect the exclusion from gross income of interest on the 2008 Bonds or the Refunding Bonds under federal income tax law, and (b) a certification of an independent accountant or independent financial adviser engaged by the City stating that such amendment or supplement will not affect the sufficiency of funds held hereunder to make the payments required by Section 3.

Section 5. Concerning the 2008 Trustee. The 2008 Trustee shall not be liable for any loss from any investment, reinvestment or liquidation of investment made by it in accordance with the terms of these Instructions.

The 2008 Trustee shall not be liable for the recitals or representations contained in these Instructions and shall not be responsible for the sufficiency of amounts described in Section 2 to pay the redemption price of the 2008 Bonds on the date specified in Section 2.

The rights protections, limitations from liability and indemnities provided to the 2008 Trustee under the 2008 Indenture shall be afforded to the 2008 Trustee in acting pursuant to these Instructions and such provisions of the 2008 Indenture are incorporated by reference herein.

* * * * *

Section 6. Governing Law. These Instructions shall be construed in accordance with and governed by the Constitution and laws of the State of California.

**TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY**

By _____
Treasurer/Controller

ACKNOWLEDGED AND ACCEPTED

CITY OF TRACY

By _____
Mayor

ACKNOWLEDGED AND ACCEPTED

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., as 2008 Trustee

By _____
Authorized Officer

EXHIBIT A-1

FORM OF CONDITIONAL NOTICE OF REDEMPTION

\$19,765,000

**Tracy Operating Partnership Joint Powers Authority
2008 Lease Revenue Bonds
(Refunding and Capital Improvement Projects)**

NOTICE IS HEREBY GIVEN, by the Tracy Operating Partnership Joint Powers Authority (the "Authority") that all of the outstanding captioned bonds (the "2008 Bonds") have been called for redemption under and within the meaning of the Indenture, dated as of December 1, 2008 (the "2008 Indenture"), on _____, (the "Redemption Date"), at a redemption price equal to 100% of the par amount of the 2008 Bonds to be redeemed together with accrued interest thereon to the redemption date (the "Redemption Price").

The outstanding 2008 Bonds consist of the following:

<u>Maturity Date</u> <u>(October 1)</u>	<u>Original Principal</u> <u>Amount</u>	<u>Interest Rate</u>	<u>CUSIP</u>
2020	\$355,000	5.250%	892396BK7
2021	395,000	5.500	892396BL5
2022	435,000	5.500	892396BM3
2023	480,000	5.750	892396BN1
2028 ^T	3,240,000	6.000	892396BP6
2033 ^T	5,055,000	6.250	892396BQ4
2038 ^T	7,620,000	6.375	892396BR2

^T Term Bond.

The CUSIP number of the 2008 Bonds has been assigned by an independent service and is included in this notice solely for the convenience of the Owners and neither The Bank of New York Mellon Trust Company, N.A., as trustee for the 2008 Bonds (the "2008 Trustee"), the Authority nor the City of Tracy shall be liable for any inaccuracies in such numbers.

Redemption of the 2008 Bonds as described in this notice shall be conditioned upon the receipt by the 2008 Trustee from the Authority of the funds necessary for the proposed redemption on or before the Redemption Date.

Payment of the Redemption Price of the 2008 Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

Interest on the principal amount designated to be prepaid shall cease to accrue on and after the Redemption Date.

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% of the Redemption Price will be withheld if tax identification number is not properly certified.

Dated: _____, 2020

Jones Hall Draft 10-26-19

AMENDMENT NO. 1 TO REIMBURSEMENT AGREEMENT

By and Between the

SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY

and the

CITY OF TRACY,

Dated as of _____, 20__

Relating to

\$_____

**Tracy Operating Partnership Joint Powers Authority
2020 Refunding Lease Revenue Bonds
(2007 and 2008 Refinancing)**

as a result of the refunding of

\$19,765,000

**Tracy Operating Partnership Joint Powers Authority
2008 Lease Revenue Bonds
(Refunding and Capital Improvement Projects)**

AMENDMENT NO. 1 TO REIMBURSEMENT AGREEMENT

This AMENDMENT NO. 1 TO REIMBURSEMENT AGREEMENT (this "Amendment No. 1") is dated as of ____ 1, 2020, by and between the CITY OF TRACY, a municipal corporation organized and existing under the laws of the State of California (the "City"), and the SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY, a public body, corporate and politic, duly organized and existing under the laws of the State of California (the "Successor Agency").

This Amendment No. 1 amends that certain Reimbursement Agreement, dated as of December 1, 2008 (the "2008 Reimbursement Agreement"; as amended by this Amendment No. 1, the "Agreement"), by and between the City and the Community Development Agency of the City of Tracy (the "Former Agency").

WITNESSETH:

WHEREAS, the Former Agency was a public body, corporate and politic, duly established and authorized to transact business and exercise powers under and pursuant to the provisions of the Redevelopment Law (as defined in the 2008 Reimbursement Agreement);

WHEREAS, under the Redevelopment Law, the Redevelopment Plan (as defined in the 2008 Reimbursement Agreement) for the Redevelopment Project (as defined in the 2008 Reimbursement Agreement) was approved and subsequently amended;

WHEREAS, Assembly Bill x1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB 1484"), codified Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (as amended from time to time, the "Dissolution Act");

WHEREAS, pursuant to Section 34172(a) of the Dissolution Act, the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Dissolution Act, the Successor Agency has become the successor entity to the Former Agency;

WHEREAS, prior to the dissolution of the Former Agency, the Former Agency executed the 2008 Reimbursement Agreement, under which the Former Agency agreed to reimburse the City for a portion of the lease payments (the "Lease Payments," as defined in the 2008 Reimbursement Agreement) made by the City pursuant to a Property Lease, dated as of December 1, 2008 (the "Lease," as defined in the 2008 Reimbursement Agreement), between the City and the Tracy Operating Partnership Joint Powers Authority (the "Authority," as defined in the 2008 Reimbursement Agreement);

WHEREAS, the Former Agency's payments under the 2008 Reimbursement Agreement were intended to defray the costs of the acquisition and construction of the Improvements (as defined in the 2008 Reimbursement Agreement) that are located in or that were found by the City and the Former Agency (pursuant to all applicable requirements of the Redevelopment Law) to be of benefit to the Redevelopment Project Area;

WHEREAS, the Authority pledged and assigned the Lease Payments to The Bank of New York Mellon Trust Company, N.A., as trustee under an Indenture, dated as of December 1, 2008, pursuant to which the Authority issued the \$19,765,000 Tracy Operating Partnership Joint Powers Authority 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the "Authority Bonds," as defined in the 2008 Reimbursement Agreement);

WHEREAS, under the 2008 Reimbursement Agreement, the Former Agency pledged property tax revenues generated in the Redevelopment Project Area ("Tax Revenues," as defined in the 2008 Reimbursement Agreement) as security for its reimbursement obligation;

WHEREAS, the 2008 Reimbursement Agreement constitutes an "enforceable obligation" as defined in Section 34171 of the Dissolution Act;

WHEREAS, the Authority is a joint powers authority established by the City and the Former Agency pursuant to a Joint Exercise of Powers Agreement dated as of October 15, 1995 (the "Authority Agreement"); as a result of the dissolution of the Former Agency, the Successor Agency is a party to the Authority Agreement;

WHEREAS, the City has notified the Successor Agency that, under prevailing market conditions, it is possible to refinance the Authority Bonds and generate debt service savings, and has asked (i) the Authority to issue refunding revenue bonds to refund the Authority Bonds and (ii) the Successor Agency to execute this Amendment No. 1 to reflect the refunding of the Authority Bonds;

WHEREAS, the Authority is issuing concurrently herewith its Tracy Operating Partnership Joint Powers Authority 2020 Refunding Lease Revenue Bonds (2007 and 2008 Refinancing) pursuant to an Indenture of Trust, dated as of _____ 1, 2020, by and between the Authority and U.S. Bank, National Association, as trustee;

WHEREAS, also concurrently herewith, the City and the Authority are entering into an Amended and Restated Property Lease, dated as of _____ 1, 2020, that will amend and restate the Lease as defined in the 2008 Reimbursement Agreement and pursuant to which the City will pay lease payments for the use and occupancy of certain real property and improvements;

WHEREAS, Section 34177.5(a)(3) of the Dissolution Act authorizes the Successor Agency to amend the 2008 Reimbursement Agreement to provide savings to the Successor Agency, provided that the 2008 Reimbursement Agreement is amended in connection with a refunding of the 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) and that the refunding of the 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) achieves debt service savings within the parameters set forth in Section 34177.5(a)(3) (the "Savings Parameters");

WHEREAS, Section 34177.5(a)(3) further provides that the pledge set forth in the amendment of the 2008 Reimbursement Agreement shall have the same lien priority as the pledge in the 2008 Reimbursement Agreement prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms;

WHEREAS, the Successor Agency and the City wish to enter into this Amendment No. 1 for the purpose of amending the 2008 Reimbursement Agreement in compliance with Section 34177.5(a)(3);

NOW, THEREFORE, in consideration of their mutual undertakings herein contained, it is agreed by and between the parties hereto as follows:

Section 1. Definitions.

(a) Unless otherwise set forth below, capitalized terms used in the Agreement shall have the meanings given them in the 2008 Reimbursement Agreement.

(b) The following terms defined in the 2008 Reimbursement Agreement are hereby amended as follows:

(i) "Agency" means the Successor Agency to the Tracy Community Development Agency, a public entity duly organized and existing under the Dissolution Act.

(ii) "Authority Bonds" means the Tracy Operating Partnership Joint Powers Authority 2020 Refunding Lease Revenue Bonds (2007 and 2008 Refinancing).

(iii) "Lease" means the Amended and Restated Property Lease, dated as of ____ 1, 2020, by and between the City and the Agency, as originally executed and as it may from time to time be supplemented, modified or amended.

(iv) "Lease Payments" means that portion of amounts payable by the City under the Lease allocable to costs incurred to finance the acquisition and construction of those Improvements which are located in or which are found (pursuant to all applicable requirements of law) to be of benefit to the Redevelopment Project Area, which amount is deemed to be [\$_____] per Fiscal Year (as defined in the Indenture) as of the date of issuance of the Refunding Bonds.¹

(v) "Leased Property" means the real property and improvements leased by the City under the Lease.

(c) The following terms defined in the 2008 Reimbursement Agreement are hereby deleted in their entirety:

(i) Sites

(ii) Facilities

All references to Sites in the Reimbursement Agreement shall hereinafter be deemed to be a reference to Leased Property.

Section 2. *Effective Date.* This Amendment No. 1 shall take effect from and after the date first set forth above.

¹ Preliminary subject to change. This amount will be equal to the amount specified in the 2008 Reimbursement Agreement as reduced to reflect a pro rata share of the savings generated by the refunding of the Authority Bonds.

Section 3. *Execution of Counterparts.* This Amendment No. 1 may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.

Section 4. *Confirmation of 2008 Reimbursement Agreement; Conflict With 2008 Reimbursement Agreement.* All representation, covenants, warranties and other provisions of the 2008 Reimbursement Agreement, unless specifically amended, modified or supplemented by this Amendment No. 1, are hereby confirmed as applicable to this Amendment No. 1. In the event of any conflict between the provisions of this Amendment No. 1 and the 2008 Reimbursement Agreement, the provisions of this Amendment No. 1 shall govern.

Section 5. *Governing Law.* This Agreement shall be construed and governed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the CITY OF TRACY and the SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY have caused this Amendment No. 1 to Reimbursement Agreement to be signed by their respective officers, all as of the day and year first above written.

CITY OF TRACY

By _____
Mayor

Attest:

City Clerk

**SUCCESSOR AGENCY TO THE TRACY
COMMUNITY DEVELOPMENT AGENCY**

By _____
City Manager
City of Tracy

Attest:

City Clerk
City of Tracy

\$ _____
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS

BOND PURCHASE AGREEMENT

_____, 2020

Tracy Operating Partnership Joint Powers Authority
 c/of City of Tracy
 333 Civic Center Plaza
 Tracy, California 95376

City of Tracy
 333 Civic Center Plaza
 Tracy, California 95376

Ladies and Gentlemen:

Piper Jaffray & Co., as underwriter (the “**Underwriter**”), acting not as a fiduciary or agent for you, but on behalf of itself, offers to enter into this Bond Purchase Agreement (this “**Purchase Agreement**”) with the Tracy Operating Partnership Joint Powers Authority (the “**Authority**”) and the City of Tracy, California (the “**City**”), which, upon the acceptance of the Authority and the City, will be binding upon the Authority, the City and the Underwriter. This offer is made subject to acceptance by the Authority and by the City by the execution of this Purchase Agreement and delivery of the same to the Underwriter prior to 11:59 P.M., Pacific Standard Time, on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the Authority and the City at any time prior to the acceptance hereof by the Authority and the City. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture of Trust, dated as of _____ 1, 2020 (the “**Indenture**”), by and between the Authority and U.S. Bank National Association, as trustee (the “**Trustee**”).

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements herein set forth, the Underwriter hereby agrees to purchase from the Authority, and the Authority hereby agrees to issue, sell and deliver to the Underwriter all (but not less than all) of the Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds in the aggregate principal amount of \$ _____ (the “**Bonds**”). The Bonds will be dated as of their date of delivery. Interest on the Bonds shall be payable semiannually on May 1 and November 1 in each year, commencing May 1, 2020 and will mature, bear interest and be subject to redemption prior to maturity as set forth in Exhibit A hereto. The purchase price for the Bonds shall be equal to \$ _____ (being the aggregate principal amount thereof [plus/less] a [net] original issue [premium/discount] of \$ _____, less an underwriter’s discount of \$ _____).

Section 2. The Bonds. The Bonds shall be secured by a pledge of Revenues consisting primarily of Lease Payments (“**Lease Payments**”) to be paid by the City pursuant to: (i) the Lease Agreement dated as of _____ 1, 2020, between the Authority, as lessor, and the City, as lessee (the “**2007-Related Lease**”), concerning the leaseback of certain real property and improvements (the “**2007-Related Leased Property**”) and (ii) the Amended and Restated Property Lease dated as of

_____, 1, 2020, between the Authority, as lessor, and the City, as lessee (the “**Amended and Restated Property Lease**”), concerning the leaseback of certain real property and improvements (the “**2008-Related Leased Property**”). The 2007-Related Lease and the Amended and Restated Property Lease are referred to collectively in this Purchase Agreement as the “**Lease Agreements**,” and the 2007-Related Leased Property and the 2008-Related Leased Property are referred to collectively in this Purchase Agreement as the “**Leased Property**.” The Authority’s right to receive the Lease Payments due under the Lease Agreements and to exercise remedies upon default under such Lease Agreements shall be assigned to the Trustee for the benefit of the owners of the Bonds pursuant to separate Assignment Agreements (the “**Assignment Agreements**”), each by and between the Authority and the Trustee.

The Bonds shall be as described in, and shall be secured under and pursuant to the Indenture substantially in the form previously submitted to the Underwriter with only such changes therein as shall be mutually agreed upon by the Authority, the City and the Underwriter.

The proceeds of the Bonds shall be used (i) to refinance on a current basis three outstanding series of lease revenue bonds previously issued by the Authority the (“**Refunded Bonds**”); and (ii) to pay the costs of issuance of the Bonds.

The Bonds, this Purchase Agreement, the Indenture, the Lease Agreements, the Site Lease, dated as of _____ 1, 2020 (the “**2007-Related Site Lease**”), under which the City will lease the 2007-Related Leased Property to the Authority, the Amended and Restated Site and Facilities Lease, dated as of _____ 1, 2020 (the “**Amended and Restated Site Lease**,” and together with the 2007-Related Site Lease, the “**Site Leases**”), under which the City will lease the 2008-Related Leased Property to the Authority, the Assignment Agreements, and a resolution adopted by the Board of Directors of the Authority on _____, 20__ (the “**Authority Resolution**”) authorizing the issuance of the Bonds and the execution and delivery of the Authority Documents (hereinafter defined) are collectively referred to herein as the “**Authority Documents**.”

This Purchase Agreement, the Continuing Disclosure Certificate, dated as of _____, 2020 (the “**Continuing Disclosure Certificate**”), executed and delivered by the City, the Lease Agreements, the Site Leases and the resolution adopted by the City Council of the City on _____, 20__ (the “**City Resolution**”) authorizing the execution and delivery of the City Documents (hereinafter defined) are collectively referred to herein as the “**City Documents**.”

Section 3. Public Offering and Establishment of Issue Price.

(a) The Underwriter agrees to make an initial public offering of all of the Bonds at the public offering prices (or yields) set forth on Exhibit A attached hereto and incorporated herein by reference. Subsequent to the initial public offering, the Underwriter reserves the right to change the public offering prices (or yields) as the Underwriter deems necessary in connection with the marketing of the Bonds, provided that the Underwriter shall not change the interest rates set forth on Exhibit A. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices. The City and the Authority acknowledge and agree that: (i) the purchase and sale of the Bonds pursuant to this Purchase Agreement is an arm’s-length commercial transaction between the City and the Authority, on one hand, and the Underwriter, on the other; (ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principal and is not acting as a Municipal Advisor (as defined in Section 15B of The Securities Exchange Act of

1934, as amended); (iii) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the City or Authority with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City or Authority on other matters); (iv) the Underwriter has financial and other interests that differ from those of the City and the Authority; and (v) the City and Authority have consulted their own legal, financial and other advisors to the extent they have deemed appropriate.

(b) The Underwriter agrees to assist the City in establishing the issue price of the Bonds and shall execute and deliver to the City at Closing an “issue price” or similar certificate, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit B, with such modifications as may be appropriate or necessary, in the reasonable judgment of the Underwriter, the City and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Bonds. All actions to be taken by the City under this section to establish the issue price of the Bonds may be taken on behalf of the City by CSG Advisors Incorporated (the “**Municipal Advisor**”) and any notice or report to be provided to the City may be provided to the Municipal Advisor.

(c) [Except as otherwise set forth in Exhibit A,] the City will treat the first price at which 10% of each maturity of the Bonds (the “**10% test**”) is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Purchase Agreement, the Underwriter shall report to the City the price or prices at which it has sold to the public each maturity of the Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Bonds, the Underwriter agrees to promptly report to the City the prices at which it sells the unsold Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Bonds of that maturity or until all Bonds of that maturity have been sold to the public.

(d) [The Underwriter confirms that it has offered the Bonds to the public on or before the date of this Purchase Agreement at the offering price or prices (the “**initial offering price**”), or at the corresponding yield or yields, set forth in Exhibit A, except as otherwise set forth therein. Exhibit A also sets forth, identified under the column “Hold the Offering Price Rule Used,” as of the date of this Purchase Agreement, the maturities, if any, of the Bonds for which the 10% test has not been satisfied and for which the City and the Underwriter agree that the restrictions set forth in the next sentence shall apply, which will allow the City to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the “**hold-the-offering-price rule**”). So long as the hold-the-offering-price rule remains applicable to any maturity of the Bonds, the Underwriter will neither offer nor sell unsold Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

(i) the close of the fifth (5th) business day after the sale date; or

(ii) the date on which the Underwriter has sold at least 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public.

The Underwriter shall promptly advise the City when it has sold 10% of that maturity of the Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.]

(e) The Underwriter confirms that any selling group agreement and any retail distribution agreement relating to the initial sale of the Bonds to the public, together with the related pricing wires, contains or will contain language obligating each dealer who is a member of the selling group and each broker-dealer that is a party to such retail distribution agreement, as applicable, to: (1) report the prices at which it sells to the public the unsold Bonds of each maturity allotted to it until it is notified by the Underwriter that either the 10% test has been satisfied as to the Bonds of that maturity or all Bonds of that maturity have been sold to the public; and (2) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Underwriter. The City acknowledges that, in making the representation set forth in this subsection, the Underwriter will rely on: (A) in the event that a selling group has been created in connection with the initial sale of the Bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, if applicable, as set forth in a selling group agreement and the related pricing wires; and (B) in the event that a retail distribution agreement was employed in connection with the initial sale of the Bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, if applicable, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that the Underwriter shall not be liable for the failure of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement, to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the Bonds.

(f) The Underwriter acknowledges that sales of any Bonds to any person that is a related party to the Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) “**public**” means any person other than an underwriter or a related party;

(ii) “**underwriter**” means: (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the public; and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the public);

(iii) a purchaser of any of the Bonds is a “**related party**” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to: (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another); (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another); or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other)[; and

(iv) “**sale date**” means the date of execution of this Purchase Agreement by all parties.]

Section 4. The Official Statement. By its acceptance of this proposal, the Authority and the City ratify, confirm and approve of the use and distribution by the Underwriter prior to the date hereof of the amended and restated preliminary official statement relating to the Bonds dated _____, 2020 (including the cover page, all appendices and all information incorporated therein and any supplements or amendments thereto and as disseminated in its printed physical form or in electronic form in all respects materially consistent with such physical form, the “**Preliminary Official Statement**”) that authorized officers of the City deemed “final” as of its date, for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (“**Rule 15c2-12**”), except for certain information permitted to be omitted therefrom by Rule 15c2-12. The Authority and the City hereby agree to deliver or cause to be delivered to the Underwriter, within seven business days of the date hereof, copies of the final official statement, dated the date hereof, relating to the Bonds (including all information previously permitted to have been omitted by Rule 15c2-12), including the cover page, all appendices, all information incorporated therein and any amendments or supplements as have been approved by the Authority, the City and the Underwriter (the “**Official Statement**”) in such quantity as the Underwriter shall reasonably request to comply with Section (b)(4) of Rule 15c2-12 and the rules of the Municipal Securities Rulemaking Board (the “**MSRB**”).

The Underwriter hereby agrees that it will not request that payment be made by any purchaser of the Bonds prior to delivery by the Underwriter to the purchaser of a copy of the Official Statement. The Underwriter agrees: (i) to provide the Authority and the City with final pricing information on the Bonds on a timely basis; and (ii) to promptly file a copy of the Official Statement, including any supplements prepared by the Authority or the City with the MSRB at <http://emma.msrb.org>. The Authority and the City hereby approve of the use and distribution by the Underwriter of the Preliminary Official Statement in connection with the offer and sale of the Bonds. The Authority and the City will cooperate with the Underwriter in the filing by the Underwriter of the Official Statement with the MSRB.

Section 5. Closing. At [8:30 a.m.], Pacific Standard Time, on _____, 2020, or at such other time or date as the Authority and the Underwriter agree upon (the “**Closing Date**”), the Authority shall deliver or cause to be delivered to the Trustee, the Bonds, in definitive form, registered in the name of Cede & Co., as the nominee of The Depository Trust Company (“DTC”), so that the Bonds may be authenticated by the Trustee and credited to the account specified by the Underwriter under DTC’s FAST procedures. Concurrently with the delivery of the Bonds, the Authority and the City will deliver the documents hereinafter mentioned at the offices of Jones Hall, A Professional Law Corporation, San Francisco, California (“Bond Counsel”), or another place to be mutually agreed upon by the Authority, the City and the Underwriter. The Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof by wire transfer in immediately available funds. This payment for and delivery of the Bonds, together with the delivery of the aforementioned documents, is herein called the “**Closing**.”

The Bonds shall be registered in the name of Cede & Co., as nominee of DTC in denominations of five thousand dollars (\$5,000) or any integral multiple thereof. The Authority and the City acknowledge that the services of DTC will be used initially by the Underwriter in order to permit the issuance of the Bonds in book-entry form, and agree to cooperate fully with the Underwriter in employing such services.

Section 6. Representations, Warranties and Covenants of the Authority. The Authority represents, warrants and covenants to the Underwriter and the City that:

(a) The Authority is a public body, duly organized and existing under the Constitution and laws of the State of California (the “**State**”), including Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “**JPA Act**”) and the Joint Exercise of Powers Agreement, dated as of October 15, 1995 (the “**JPA Agreement**”), between the City and the former City of Tracy Community Development Agency.

(b) The Authority has full legal right, power and authority to adopt or enter into, as the case may be, and to carry out and consummate the transactions on its part contemplated by the Authority Documents.

(c) By all necessary official action, the Authority has duly authorized and approved the Authority Documents, has duly authorized and approved the Preliminary Official Statement, will, by execution thereof, duly authorize and approve the Official Statement, and has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations on its part contained in, the Authority Documents and the consummation by it of all other transactions contemplated by the Authority Documents in connection with the issuance of the Bonds. As of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded. When executed and delivered, and assuming due execution and delivery by the other parties thereto, if applicable, the Authority Documents will constitute the legally valid and binding obligations of the Authority enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors’ rights generally, or by the exercise of judicial discretion and the limitations on legal remedies against joint powers authorities in the State. The Authority has complied, and will at the Closing be in compliance in all material respects, with the terms of the Authority Documents.

(d) The Authority is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of any state or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party which breach or default has or may have a materially adverse effect on the ability of the Authority to perform its obligations under the Authority Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the adoption, execution and delivery of the Authority Documents, if applicable, and compliance with the provisions on the Authority’s part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Authority or under the terms of any such law, regulation or instrument, except as may be provided by the Authority Documents.

(e) All material authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition

precedent to or the absence of which would materially adversely affect the due performance by the Authority of its obligations in connection with the Authority Documents have been duly obtained or, when required for future performance, are expected to be obtained, other than such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds; except as described in or contemplated by the Preliminary Official Statement and the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations under the Authority Documents have been duly obtained.

(f) The Authority hereby agrees that it will notify the other parties hereto if, within the period from the date of this Purchase Agreement to and including the date twenty-five (25) days following the end of the underwriting period (as defined herein), the Authority discovers any pre-existing or subsequent fact or becomes aware of the occurrence of any event, in any such case, which might cause the Official Statement (as the same may have then been supplemented or amended) to contain any untrue statement of a material fact or to omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(g) As of the time of acceptance hereof and the Closing, except as disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental authority, public board or body, pending, with service of process upon the Authority having been accomplished, or threatened in writing to the Authority: (i) in any way questioning the corporate existence of the Authority or the titles of the officers of the Authority to their respective offices; (ii) affecting, contesting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the payment or collection of Lease Payments with respect to the Lease Agreements or any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity of the Bonds or the other Authority Documents or the consummation of the transactions contemplated thereby or hereby, or contesting the exclusion of the interest on the Bonds from taxation or contesting the powers of the Authority or its authority to issue the Bonds; (iii) which would be likely to result in any material adverse change relating to the business, operations or financial condition of the Authority; or (iv) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) To the Authority's knowledge, there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of paragraph 6(g).

(i) The information in the Official Statement set forth under the caption "INTRODUCTION—The Authority" does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(j) The Authority will refrain from taking any action, or permitting any action to be taken, with regard to which the Authority may exercise control, that results in the loss of the tax-exempt status of the interest on the Bonds.

(k) The Authority will refrain from taking any action, or permitting any action to be taken, to reduce the amount of the Lease Payments while the Bonds are Outstanding, and the Authority will collect the Lease Payments in accordance with the Lease Agreements.

(l) Any certificate signed by any officer of the Authority authorized to execute such certificate in connection with the execution, sale and delivery of the Bonds and delivered to the Underwriter shall be deemed a representation and warranty of the Authority to the Underwriter and the City as to the statements made therein but not of the person signing such certificate.

Section 7. Representations, Warranties and Covenants of the City. The City represents, warrants and covenants to the Underwriter and the Authority that:

(a) The City is duly organized and validly existing as a municipal corporation under the Constitution and laws of the State.

(b) The City has full legal right, power and authority to adopt or enter into, as the case may be, and to carry out and consummate the transactions on its part contemplated by the City Documents.

(c) By all necessary official action, the City has duly authorized and approved the City Documents, has duly authorized and approved the Preliminary Official Statement and the Official Statement, and has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations on its part contained in, the City Documents and the consummation by it of all other transactions contemplated by the City Documents in connection with the issuance of the Bonds. As of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded. When executed and delivered, and assuming due execution and delivery by the other parties thereto, if applicable, the City Documents will constitute the legally valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally, or by the exercise of judicial discretion and the limitations on legal remedies against municipal corporations in the State. The City has complied, and will at the Closing be in compliance in all material respects, with the terms of the City Documents.

(d) The City is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation of any state or of the United States, or any agency or instrumentality of either, or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party which breach or default has or may have a materially adverse effect on the ability of the City to perform its obligations under the City Documents, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the adoption, execution and delivery of the City Documents, if applicable, and compliance with the provisions on the City's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture,

bond, note, resolution, agreement or other instrument to which the City is a party nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City or under the terms of any such law, regulation or instrument, except as may be provided by the City Documents.

(e) All material authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the City of its obligations in connection with the City Documents have been duly obtained or, when required for future performance, are expected to be obtained, other than such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds; except as described in or contemplated by the Preliminary Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the City of its obligations under the City Documents have been duly obtained.

(f) The Preliminary Official Statement was as of its date, and the Official Statement is, and at all times subsequent to the date of the Official Statement up to and including the Closing will be, true and correct in all material respects, and the Preliminary Official Statement and the Official Statement do not and will not contain and up to and including the Closing will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading (except that this representation does not include statements in the Official Statement under the caption "UNDERWRITING" and information regarding DTC and its book-entry only system, as to which no view is expressed).

(g) The City will advise the Underwriter promptly of any proposal to amend or supplement the Official Statement. The City will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental authority prohibiting or otherwise affecting the use of the Official Statement in connection with the offering, sale or distribution of the Bonds.

(h) As of the time of acceptance hereof and the Closing, except as disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental authority, public board or body, pending, with service of process upon the City having been accomplished, or threatened in writing to the City: (i) in any way questioning the corporate existence of the City or the titles of the officers of the City to their respective offices; (ii) affecting, contesting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the payment or collection of Lease Payments with respect to the Lease Agreements or of any amounts pledged or to be pledged to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity of the Bonds, or the City Documents or the consummation of the transactions contemplated thereby or hereby, or contesting the exclusion of the interest on the Bonds from taxation, or contesting the powers of the Authority to issue the Bonds; (iii) which would be likely to result in any material adverse change relating to the business, operations or financial condition of the City; and (iv) contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto or

asserting that the Preliminary Official Statement or the Official Statement contained any untrue statement of a material fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(i) To the City's knowledge, there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in clauses (i) through (iv) of paragraph 7(h).

(j) Until the date which is twenty-five (25) days after the "end of the underwriting period" (as hereinafter defined), if any event shall occur of which the City is aware that would cause the Official Statement to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements in the Official Statement, in light of the circumstances under which they were made, not misleading (except that this representation does not include information regarding DTC and its book entry only system, as to which no view is expressed), the City shall forthwith notify the Underwriter of any such event of which it has knowledge and shall cooperate fully in furnishing any information available to it for any supplement to the Official Statement necessary, in the Underwriter's reasonable opinion, so that the statements therein as so supplemented will not be misleading in light of the circumstances existing at such time and the City shall promptly furnish to the Underwriter a reasonable number of copies of such supplement. As used herein, the term "end of the underwriting period" means the later of such time as: (i) the Authority delivers the Bonds to the Underwriter; or (ii) the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public. Unless the Underwriter gives notice to the contrary, the "end of the underwriting period" shall be deemed to be the Closing Date. Any notice delivered pursuant to this provision shall be written notice delivered to the Underwriter at or prior to the Closing Date of the Bonds and shall specify a date (other than the Closing Date) to be deemed the "end of the underwriting period."

(k) Except as disclosed in the Preliminary Official Statement and the Official Statement, the City has not within the last five years failed to comply in any material respect with any continuing disclosure undertakings with regard to Rule 15c2-12, to provide annual reports or notices of material events specified in such rule.

(l) The City will refrain from taking any action, or permitting any action to be taken, with regard to which the City may exercise control, that results in the loss of the tax-exempt status of the interest on the Bonds.

(m) The financial statements relating to the receipts, expenditures and cash balances of the City as of [June 30, 2018] attached as Appendix C to the Official Statement fairly represent the receipts, expenditures and cash balances of the City. Except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, there has not been any materially adverse change in the financial condition of the City or in its operations since [June 30, 2018] and there has been no occurrence, circumstance or combination thereof which is reasonably expected to result in any such materially adverse change.

(n) To the extent required by law, the City will undertake, pursuant to the Continuing Disclosure Certificate and the other City Documents, to provide annual reports and notices of certain events, if material. A description of this undertaking is set forth in Appendix E to the Preliminary Official Statement and will also be set forth in the Official Statement.

(o) Except in connection with the issuance of refunding bonds pursuant to the terms of the Indenture or as permitted under the Lease Agreements due to damage, destruction, or substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof, the City will refrain from taking any action, or permitting any action to be taken, to reduce the amount of the Lease Payments while the Bonds are Outstanding, and the City will pay the Lease Payments in accordance with the Lease Agreements.

(p) Any certificate signed by any officer of the City authorized to execute such certificate in connection with the execution, sale and delivery of the Bonds and delivered to the Underwriter shall be deemed a representation and warranty of the City to the Underwriter and the Authority as to the statements made therein but not of the person signing such certificate.

Section 8. Conditions to the Obligations of the Underwriter. The Underwriter has entered into this Purchase Agreement in reliance upon the representations and warranties of the Authority and the City contained herein. The obligations of the Underwriter to accept delivery of and pay for the Bonds on the Closing Date shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the statements of the officers and other officials of the Authority and of the City, as well as authorized representatives of Bond Counsel and the Trustee made in any Bonds or other documents furnished pursuant to the provisions hereof; to the performance by the Authority and the City of their obligations to be performed hereunder at or prior to the Closing Date; and to the following additional conditions:

(a) The representations, warranties and covenants of the City and the Authority contained herein shall be true and correct at the date hereof and at the time of the Closing, as if made on the Closing Date.

(b) At the time of Closing, the City Documents and the Authority Documents shall be in full force and effect as valid and binding agreements between or among the various parties thereto, and the City Documents, the Authority Documents and the Official Statement shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Underwriter.

(c) At the time of the Closing, no material default shall have occurred or be existing under the City Documents, Authority Documents, or any other agreement or document pursuant to which any of the City's financial obligations were executed and delivered, and the City shall not be in default in the payment of principal or interest with respect to any of its financial obligations, which default would materially adversely impact the ability of the City to pay the Lease Payments.

(d) In recognition of the desire of the Authority, the City and the Underwriter to effect a successful public offering of the Bonds, and in view of the potential adverse impact of any of the following events on such a public offering, this Purchase Agreement shall be subject to termination in the discretion of the Underwriter by notification, in writing, to the Authority and the City prior to delivery of and payment for the Bonds, if at any time prior to such time, regardless of whether any of the following statements of fact were in existence or known of on the date of this Purchase Agreement:

(i) any event shall occur which makes untrue any material statement or results in an omission to state a material fact necessary to make the statements in the Official

Statement, in the light of the circumstances under which they were made, not misleading, which event, in the reasonable opinion of the Underwriter would materially or adversely affect the ability of the Underwriter to market the Bonds; or

(ii) the marketability of the Bonds or the market price thereof, in the opinion of the Underwriter, has been materially adversely affected by an amendment to the Constitution of the United States or by any legislation in or by the Congress of the United States or by the State, or the amendment of legislation pending as of the date of this Purchase Agreement in the Congress of the United States, or the recommendation to Congress or endorsement for passage (by press release, other form of notice or otherwise) of legislation by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or the proposal for consideration of legislation by either such Committee or by any member thereof, or the presentment of legislation for consideration as an option by either such Committee, or by the staff of the Joint Committee on Taxation of the Congress of the United States, or the favorable reporting for passage of legislation to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or any decision of any federal or state court or any ruling or regulation (final, temporary or proposed) or official statement on behalf of the United States Treasury Department, the Internal Revenue Service or other federal or State authority affecting the federal or State tax status of the Authority or the City, or the interest on or with respect to bonds or notes (including the Bonds); or

(iii) any legislation, ordinance, rule or regulation shall be enacted by any governmental body, department or authority of the State, or a decision by any court of competent jurisdiction within the State shall be rendered which materially adversely affects the market price of the Bonds; or

(iv) an order, decree or injunction issued by any court of competent jurisdiction, or order, ruling, regulation (final, temporary or proposed), official statement or other form of notice or communication issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental authority having jurisdiction of the subject matter, to the effect that: (i) obligations of the general character of the Bonds, or the Bonds, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended; or (ii) the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including any or all underlying obligations, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect; or

(v) legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, to the effect that obligations of the general character of the Bonds, or the Bonds are not exempt from registration under or other requirements of the Securities Act of 1933, as amended and as then in effect, or the Securities Exchange Act of 1934, as amended and as then in effect, or that the Indenture is not exempt from qualification under or other requirements of the Trust Indenture Act of 1939, as amended and as then in effect; or

(vi) additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any domestic governmental authority or

by any domestic national securities exchange, which are material to the marketability of the Bonds;
or

(vii) a general banking moratorium shall have been declared by federal, State or New York authorities, or the general suspension of trading on any national securities exchange; or

(viii) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is materially adverse such as to make it, in the sole judgment of the Underwriter, impractical or inadvisable to proceed with the purchase or delivery of the Bonds as contemplated by the Official Statement (exclusive of any amendment or supplement thereto); or

(ix) any rating of the Bonds or the rating of any obligations of the City secured by the City's general fund shall have been downgraded or withdrawn by a national rating service, which, in the opinion of the Underwriter, materially adversely affects the market price of the Bonds; or

(x) the commencement of any action, suit or proceeding described in Section 6(g) or Section 7(h).

(e) at or prior to the Closing, the Underwriter shall receive the following documents, in each case to the reasonable satisfaction in form and substance of the Underwriter:

(i) The Authority Resolution relating to the Bonds and authorizing the execution and delivery of the Bonds and the Authority Documents and the Official Statement signed by an authorized official of the Authority;

(ii) The City Resolution relating to the Bonds and authorizing the execution and delivery of the City Documents and the delivery of the Bonds and the Official Statement signed by an authorized official of the City;

(iii) The City Documents and the Authority Documents duly executed and delivered by the respective parties thereto, with only such amendments, modifications or supplements as may have been agreed to in writing by the Underwriter;

(iv) The approving opinion of Bond Counsel dated the Closing Date and addressed to the Authority and the City, in substantially the form attached as Appendix D to the Official Statement, and a reliance letter thereon addressed to the Underwriter;

(v) A supplemental opinion of Bond Counsel dated the Closing Date and addressed to the Underwriter, to the effect that:

(A) the statements on the cover of the Official Statement and in the Official Statement under the captions "INTRODUCTION," "THE LEASED PROPERTY," "THE BONDS," "SECURITY FOR THE BONDS," and "TAX MATTERS," and in Appendix B—"SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" and Appendix D—"FORM OF OPINION OF BOND COUNSEL," excluding any material that may be treated as included under such captions and appendices by any cross-reference, insofar as such statements expressly summarize provisions of the City Documents, the Authority Documents and

Bond Counsel's final opinion concerning certain federal tax matters relating to the Bonds, are accurate in all material respects as of the Closing Date, provided that Bond Counsel need not express any opinion with respect to any financial or statistical data contained therein or with respect to the book-entry system in which the Bonds are initially delivered;

(B) The Purchase Agreement and the Continuing Disclosure Certificate have been duly authorized, executed and delivered by the City and the Authority, as applicable, and are the valid, legal and binding agreements of the City and the Authority, as applicable, enforceable in accordance with their respective terms, except that the rights and obligations under the Purchase Agreement and the Continuing Disclosure Certificate are subject to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights, to the application of equitable principles if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public agencies in the State, and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein;

(C) The Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended; and

(vi) The Official Statement, executed on behalf of the Authority and the City, and the Preliminary Official Statement;

(vii) Evidence that the ratings on the Bonds are as described in the Official Statement;

(viii) A certificate, dated the Closing Date, signed by a duly authorized officer of the Authority satisfactory in form and substance to the Underwriter to the effect that: (i) the representations, warranties and covenants of the Authority contained in this Purchase Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date by the Authority, and the Authority has complied with, in all material respects, all of the terms and conditions of this Purchase Agreement required to be complied with by the Authority at or prior to the Closing Date; (ii) no event affecting the Authority has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is to be used or which is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; and (iii) the Authority is not, in any material respect, in breach of or default under any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, which would have a material adverse impact on the Authority's ability to perform its obligations under the Authority Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument;

(ix) A certificate, dated the Closing Date, signed by a duly authorized officer of the City satisfactory in form and substance to the Underwriter to the effect that: (i) the representations, warranties and covenants of the City contained in this Purchase Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as if made on the Closing Date by the City, and the City has complied with, in all material respects, all of the terms

and conditions of the Purchase Agreement required to be complied with by the City at or prior to the Closing Date; (ii) no event affecting the City has occurred since the date of the Official Statement which should be disclosed in the Official Statement for the purposes for which it is to be used or which is necessary to disclose therein in order to make the statements and information therein not misleading in any material respect; (iii) the information and statements contained in the Official Statement (other than information in the Official Statement under the caption “UNDERWRITING” and information regarding DTC and its book entry only system) did not as of its date and do not as of the Closing contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading in any material respect; and (iv) the City is not, in any material respect, in breach of or default under any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including but not limited to the Lease) or other instrument to which the City is a party or is otherwise subject, which would have a material adverse impact on the City’s ability to perform its obligations under the City Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument;

(x) An opinion dated the Closing Date and addressed to the Underwriter, of the City Attorney of the City, as Counsel to the Authority, to the effect that:

(A) The Authority is a public body, organized and existing under the Constitution and laws of the State, including the JPA Act and the JPA Agreement;

(B) The Authority Resolution has been duly adopted by the Authority, is in full force and effect and has not been modified, amended, rescinded or repealed since its date of adoption;

(C) Except as otherwise disclosed in the Official Statement, there is no litigation, proceeding, action, suit, or investigation at law or in equity before or by any court, governmental authority or body, pending, with service of process upon the Authority having been accomplished, or threatened in writing against the Authority, challenging the creation, organization or existence of the Authority, or the validity of the Authority Documents or seeking to restrain or enjoin the collection of Lease Payments with respect to the Lease Agreements or the repayment of the Bonds or in any way contesting or affecting the validity of the Authority Documents or contesting the authority of the Authority to enter into or perform its obligations under any of the Authority Documents;

(D) The execution and delivery of the Authority Documents and the issuance of the Bonds and compliance with the provisions thereof, do not and will not in any material respect conflict with or constitute on the part of the Authority a breach of or default under any agreement or other instrument to which the Authority is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the Authority is subject, which breach or default has or may have a material adverse effect on the ability of the Authority to perform its obligations under the Authority Documents; and

(xi) an opinion dated the Closing Date and addressed to the Underwriter, of the City Attorney of the City, to the effect that:

(A) The City is a municipal corporation, corporate and politic, duly organized and existing under the Constitution and laws of the State;

(B) The City Resolution has been duly adopted by the City Council, is in full force and effect and has not been modified, amended, rescinded or repealed since its date of adoption;

(C) Except as otherwise disclosed in the Official Statement, there is no litigation, proceeding, action, suit, or investigation at law or in equity before or by any court, governmental authority or body, pending, with service of process upon the City having been accomplished, or threatened in writing against the City, challenging the creation, organization or existence of the City, or the validity of the City Documents or seeking to restrain or enjoin the payment of the Lease Payments or the repayment of the Bonds or in any way contesting or affecting the validity of the City Documents or contesting the authority of the City to enter into or perform its obligations under any of the City Documents, or which, in any manner, questions the right of the City to pay the Lease Payments under the Lease Agreements;

(D) The execution and delivery of the City Documents and compliance with the provisions thereof, do not and will not in any material respect conflict with or constitute on the part of the City a breach of or default under any agreement or other instrument to which the City is a party or by which it is bound or any existing law, regulation, court order or consent decree to which the City is subject, which breach or default has or may have a material adverse effect on the ability of the City to perform its obligations under the City Documents; and

(xii) An opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, in its capacity as Disclosure Counsel, dated the Closing Date and addressed to the Authority, the City and the Underwriter, to the effect that, no facts have come to attention of Disclosure Counsel that have caused such counsel to believe that the Preliminary Official Statement, as of its date, or the Official Statement, as of its date and as of the Closing Date (except for the following items, which are expressly excluded from the scope of this sentence: any financial, statistical and demographic data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion, and information regarding DTC and its book-entry only system, that is contained or incorporated by reference in the Preliminary Official Statement or the Official Statement and the appendices to the Preliminary Official Statement or the Official Statement) contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(xiii) An opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, counsel to the Underwriter, in form and substance satisfactory to the Underwriter;

(xiv) An opinion of counsel to the Trustee, addressed to the Underwriter and dated the Closing Date, in form and substance satisfactory to the Underwriter and to Bond Counsel;

(xv) A certificate, dated the Closing Date, signed by a duly authorized official of the Trustee in form and substance satisfactory to the Underwriter;

(xvi) The preliminary and final Statement of Sale required to be delivered to the California Debt and Investment Advisory Commission pursuant to Section 53583 of the Government Code and Section 8855(g) of the Government Code;

(xvii) A copy of the executed Blanket Issuer Letter of Representations by and between the Authority and DTC relating to the book-entry system;

(xviii) The tax and nonarbitrage certificate of the Authority and the City in form and substance to the reasonable satisfaction of Bond Counsel and the Underwriter;

(xix) A certificate, dated the date of the Preliminary Official Statement, of the City, as required under Rule 15c2-12;

(xx) A certificate, dated the date of the Preliminary Official Statement, of the Authority, as required under Rule 15c2-12;

(xxi) Certified copies of the JPA Agreement and all amendments thereto and related certificates issued by the Secretary of State of the State;

(xxii) A certified copy of the general resolution of the Trustee authorizing the execution and delivery of certain documents by certain officers of the Trustee, which resolution authorizes the execution and delivery of the Indenture and the authentication and delivery of the Bonds by the Trustee;

(xxiii) A copy of an ALTA or CLTA title insurance policy in an amount equal to the principal amount of the Bonds, insuring the City's leasehold interest in the Leased Property, subject only to permitted encumbrances or such other encumbrances approved in writing by the Underwriter;

(xxiv) The Reimbursement Agreement, dated as of December 1, 2008, by and between the City and the former Community Development Agency of the City of Tracy, as amended by Amendment No. 1 to Reimbursement Agreement, dated as of _____ 1, 2020 (**"Amendment No. 1 to the Reimbursement Agreement"**), by and between the City and the Successor Agency to the Tracy Community Development Agency (the **"Successor Agency"**);

(xxv) The resolution of the Successor Agency, dated _____, 2019, approving Amendment No. 1 to the Reimbursement Agreement, and the resolution of the San Joaquin County Countywide Oversight Board, dated _____, 2019, approving Amendment No. 1 to the Reimbursement Agreement;

(xxvi) The letter from the California Department of Finance, dated _____, 20__, approving the Amendment No. 1 to the Reimbursement Agreement;

(xxvii) Such additional legal opinions, certificates, proceedings, instruments or other documents as Bond Counsel or the Underwriter may reasonably request.

Section 9. Changes in Official Statement. After the Closing, neither the Authority nor the City will adopt any amendment of or supplement to the Official Statement to which the Underwriter shall reasonably object in writing. Within 90 days after the Closing or within 25 days following the “end of the underwriting period” (as defined in Rule 15c2-12), whichever occurs first, if any event relating to or affecting the Bonds, the Trustee, the City or the Authority shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in any material respect in the light of the circumstances existing at the time it is delivered to a purchaser, the Authority will forthwith prepare and furnish to the Underwriter an amendment or supplement that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to purchaser, not misleading. The City and the Authority shall cooperate with the Underwriter in the filing by the Underwriter of such amendment or supplement to the Official Statement with the MSRB. The Underwriter acknowledges that the “end of the underwriting period” will be the Closing Date.

Section 10. Expenses. The Authority or the City will pay or cause to be paid the approved expenses incident to the performance of its obligations hereunder and certain expenses relating to the sale of the Bonds, including, but not limited to (a) the cost of the preparation and printing or other reproduction of the Authority Documents and the City Documents (other than this Purchase Agreement); (b) the fees and disbursements of Bond Counsel, Disclosure Counsel, the Municipal Advisor and any other experts or other consultants retained by the Authority or the City; (c) the costs and fees of the credit rating agencies; (d) the cost of preparing and delivering the definitive Bonds; (e) the cost of providing immediately available funds on the Closing Date; (f) the cost of the printing or other reproduction of the Preliminary Official Statement and Official Statement and any amendment or supplement thereto, including a reasonable number of certified or conformed copies thereof; (g) the Underwriter’s out-of-pocket expenses (included in the expense component of the Underwriter’s discount) incurred by the Underwriter on behalf of the City’s employees which are incidental to implementing this Purchase Agreement; and (h) the fees for counsel to the Underwriter. The Underwriter will pay the expenses of the preparation of this Purchase Agreement, including CDIA fees, CUSIP Services Bureau charges, regulatory fees imposed on new securities issuers and any and all other expenses incurred by the Underwriter in connection with the public offering and distribution of the Bonds.

Section 11. Notices. Any notice or other communication to be given to the Underwriter under this Purchase Agreement may be given by delivering the same in writing to Piper Jaffray & Co, 8880 Cal Center Drive, Suite 400, Sacramento, CA 95826, Attention: Dennis McGuire. All notices or communications hereunder by any party shall be given and served upon each other party. Any notice or communication to be given the Authority under this Purchase Agreement may be given by delivering the same in writing to the Tracy Operating Partnership Joint Powers Authority, c/o City of Tracy, 333 Civic Center Plaza, Tracy, California 95376, Attention: _____. Any notice or communication to be given the City under this Purchase Agreement may be given by delivering the same in writing to the City of Tracy, 333 Civic Center Plaza, Tracy, California 95376, Attention: Finance Director.

Section 12. Parties in Interest. This Purchase Agreement is made solely for the benefit of the Authority, the City and the Underwriter (including the successors or assigns thereof) and no other person shall acquire or have any right hereunder or by virtue hereof. All representations, warranties and agreements of the Authority and the City in this Purchase Agreement shall remain

operative and in full force and effect regardless of any investigation made by or on behalf of the Underwriter and shall survive the delivery of and payment for the Bonds.

Section 13. Severability. In case any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 14. Counterparts. This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 15. Governing Law. This Purchase Agreement shall be governed by and construed in accordance with the laws of the State.

PIPER JAFFRAY & CO.

By: _____
Title: Authorized Officer

Accepted as of the date first stated above:

CITY OF TRACY

By: _____
Its: Finance Director

Time of Execution: _____ a.m./p.m. Pacific Time

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY

By: _____
Its: [Authorized Officer]

Time of Execution: _____ a.m./p.m. Pacific Time

EXHIBIT A

\$ _____

**TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
2020 LEASE REVENUE REFUNDING BONDS**

MATURITY SCHEDULE

<i>Maturity Date (November 1)</i>	<i>Principal Amount</i>	<i>Interest Rate</i>	<i>Yield</i>	<i>Initial Offering Price</i>	<i>10% Test Used</i>	<i>Hold the Offering Price Rule Used</i>

[^T Term Bonds.]

[^C Priced to first optional redemption date of November 1, 20__ at par.]

EXHIBIT B

\$ _____

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY 2020 LEASE REVENUE REFUNDING BONDS

FORM OF ISSUE PRICE CERTIFICATE

The undersigned, on behalf of Piper Jaffray & Co. (the “**PJC**”), hereby certifies as set forth below with respect to the sale and issuance of the above-captioned bonds (the “**Bonds**”).

1. ***Sale of the General Rule Maturities.*** As of the date of this certificate, for each Maturity of the General Rule Maturities, the first price at which at least 10% of such Maturity was sold to the Public is the respective price listed in Schedule A.

2. ***[Initial Offering Price of the Hold-the-Offering-Price Maturities.***

(a) PJC offered the Hold-the-Offering-Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “**Initial Offering Prices**”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this certificate as Schedule B.

(b) As set forth in the Bond Purchase Agreement, dated _____, 2020, by and among PJC, the Issuer and the City of Tracy, PJC has agreed in writing that: (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “**hold-the-offering-price rule**”); and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to such agreement, no Underwriter (as defined below) has offered or sold any Maturity of the Hold-the-Offering-Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.]

3. ***Reserve Fund.***

The establishment of the Reserve Fund in the amount of the Reserve Requirement (as such terms are defined in the Indenture of Trust dated as of _____ 1, 2020, by and between the Issuer and U.S. Bank National Association, as trustee, pursuant to which the Bonds are being issued) was vital to the marketing of the Bonds and reasonably required to assure payment of debt service on the Bonds.

4. ***Defined Terms.***

(a) *General Rule Maturities* means those Maturities of the Bonds listed in Schedule A hereto as the “**General Rule Maturities**.”

(b) *[Hold-the-Offering-Price Maturities]* means those Maturities of the Bonds listed in Schedule A hereto as the “**Hold-the-Offering-Price Maturities**.”

(c) *Holding Period* means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the _____, 2020 (the Sale Date), or (ii) the date on which the Underwriter has sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.]

(d) *Issuer* means the Tracy Operating Partnership Joint Powers Authority.

(e) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(f) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “**related party**” for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) [Sale Date means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is _____, 2020.

(h) *Underwriter* means: (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public; and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).]

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents PJC’s interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the Issuer with respect to certain of the representations set forth in the Tax Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Jones Hall, a Professional Law Corporation, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the Issuer from time to time relating to the Bonds.

PIPER JAFFRAY & CO.

By: _____
Name: _____

Dated: _____, 2020

SCHEDULE A

**SALE PRICES OF THE GENERAL RULE MATURITIES [AND INITIAL OFFERING
PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES]**

(Attached)

[SCHEDULE B
PRICING WIRE OR EQUIVALENT COMMUNICATION
(Attached)]

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall
A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

TERMINATION AGREEMENT

This TERMINATION AGREEMENT (this "**Agreement**") is dated as of _____ 1, 2019, and is by and among the CITY OF TRACY, a municipal corporation and general law city duly organized and existing under the laws of the State of California (the "**City**"), the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers agency, duly organized and existing under and by virtue of the laws of the State of California (the "**Authority**"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as successor trustee (the "**Trustee**").

WITNESSETH:

WHEREAS, in connection with the execution and delivery of (i) the \$2,690,000 initial principal amount Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series A (Fire Station Project), (the "**2007A Bonds**") and (ii) the \$1,980,000 initial principal amount Tracy Operating Partnership Joint Powers Authority 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding), (the "**2007B Bonds**," and together with the 2007A Bonds, the "**2007 Bonds**") the City and the Authority have previously entered into the Property Lease, dated as of October 1, 2007, by and between the Authority and the City (the "**2007 Property Lease**") relating to the real property described in Exhibit A hereto (which Exhibit A is incorporated herein), which 2007 Property Lease was recorded on October 24, 2007 in the official records of the San Joaquin County Recorder as Instrument No. 2007-183188; and

WHEREAS, the Authority assigned certain of its rights under the 2007 Property Lease, including the right to receive lease payments, to the Trustee, as trustee for the 2007 Bonds, the Trustee used certain payments received under the 2007 Property Lease to make payments to the owners of the 2007 Bonds, and such assignment was memorialized in that certain Memorandum of Assignment, dated as of October 1, 2007 (the "**2007 Memorandum**"), between the Authority and the Trustee, which 2007 Memorandum was recorded on October 24, 2007 in the official records of the San Joaquin County Recorder as Instrument No. 2007-183189; and

WHEREAS, the 2007 Bonds have been repaid in full, and as a result, the 2007 Property Lease and the 2007 Memorandum, by their terms, have been discharged;

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Termination.

(a) By virtue of the Authority's payment of all of the 2007 Bonds, (i) all obligations of the City and the Authority under the 2007 Property Lease have ceased and terminated, and (ii) the right of the Trustee to receive lease payments under the 2007 Property Lease has terminated.

(b) In accordance with the foregoing, the 2007 Property Lease and the 2007 Memorandum are hereby terminated and are of no further force or effect.

(c) From and after the date hereof, none of the parties shall have any further rights or obligations under the 2007 Property Lease or the 2007 Memorandum.

Section 2. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

CITY OF TRACY

By: _____
Finance and Administrative Services
Director

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By: _____
Treasurer/Controller

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., *as Trustee*

By: _____
Authorized Officer

(Acknowledgement)

EXHIBIT A

REAL PROPERTY DESCRIPTION

The land referred to herein is situated in the State of California, County of San Joaquin, City of Tracy and is described as follows:

A portion of the southwest quarter of Section 20, Township 2 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

Parcel 1 (One), as shown upon that certain parcel map filed for recorded April 16, 2002, in Book 22 of Parcel Maps at page 70, San Joaquin County Records.

APN: 232-170-19

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall
A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

TERMINATION AGREEMENT

This TERMINATION AGREEMENT (this "**Agreement**") is dated as of _____ 1, 2019, and is by and among the CITY OF TRACY, a municipal corporation and general law city duly organized and existing under the laws of the State of California (the "**City**"), the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint exercise of powers agency, duly organized and existing under and by virtue of the laws of the State of California (the "**Authority**"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "**Trustee**").

WITNESSETH:

WHEREAS, in connection with the execution and delivery of \$19,765,000 initial principal amount Tracy Operating Partnership Joint Powers Authority 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects), (the "**2008 Bonds**") the City and the Authority have previously entered into the Property Lease, dated as of December 1, 2008, by and between the Authority and the City (the "**2008 Property Lease**") relating to the real property described in Exhibit A hereto (which Exhibit A is incorporated herein), which 2008 Property Lease was recorded on December 15, 2008 in the official records of the San Joaquin County Recorder as Instrument No. 2008-192107; and

WHEREAS, the Authority assigned certain of its rights under the 2008 Property Lease, including the right to receive lease payments, to the Trustee, as trustee for the 2008 Bonds, the Trustee used certain payments received under the 2008 Property Lease to make payments to the owners of the 2008 Bonds, and such assignment was memorialized in that certain Memorandum of Indenture, dated as of December 1, 2008 (the "**2008 Memorandum**"), between the Authority and the Trustee, which 2008 Memorandum was recorded on December 15, 2008 in the official records of the San Joaquin County Recorder as Instrument No. 2008-192108; and

WHEREAS, the 2008 Bonds have been repaid in full, and as a result, the 2008 Property Lease and the 2008 Memorandum, by their terms, have been discharged;

NOW, THEREFORE, in consideration of the foregoing and for other consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Termination.

(a) By virtue of the Authority's payment of all of the 2008 Bonds, (i) all obligations of the City and the Authority under the 2008 Property Lease have ceased and terminated, and (ii) the right of the Trustee to receive lease payments under the 2008 Property Lease has terminated.

(b) In accordance with the foregoing, the 2008 Property Lease and the 2008 Memorandum are hereby terminated and are of no further force or effect.

(c) From and after the date hereof, none of the parties shall have any further rights or obligations under the 2008 Property Lease or the 2008 Memorandum.

Section 2. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

CITY OF TRACY

By: _____
Finance and Administrative Services
Director

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By: _____
Treasurer/Controller

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A., *as Trustee*

By: _____
Authorized Officer

(Acknowledgement)

EXHIBIT A

REAL PROPERTY DESCRIPTION

The land referred to herein is situated in the State of California, County of San Joaquin, City of Tracy and is described as follows:

(i) Police Department Headquarters: 1000 Civic Center Drive, Tracy, CA 95376

LOT 3, AS SHOWN AND DELINEATED ON THE PARCEL MAP FILED SEPTEMBER 17, 2008, IN BOOK 25 OF PARCEL MAPS, AT PAGE 11, SAN JOAQUIN COUNTY RECORDS.

APN: 235-190-04 AND 27 PORTION

(ii) Fire Administration Building: 835 Central Ave. Tracy, CA 95376

LOTS 9,10,11, 12,13,14, AND 15, IN BLOCK 19 OF THE CITY OF TRACY, AS PER MAP FILED JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, PAGE 63, SAN JOAQUIN COUNTY RECORDS.

APN: 235-067-01 & 02



GAVIN NEWSOM - GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

December 3, 2019

Ms. Karin Schnaider, Finance Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Dear Ms. Schnaider:

Subject: Approval of Oversight Board Action

The City of Tracy Successor Agency (Agency) notified the California Department of Finance (Finance) of its October 7, 2019 Oversight Board (OB) Resolution on October 17, 2019. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, OB Resolution No. 10 (Resolution), approving Amendment No. 1 to the Reimbursement Agreement of the Agency and making related findings and declarations and taking related actions in connection therewith, is approved.

The Tracy Operating Partners Joint Powers Authority (Authority) issued 2008 Lease Revenue Bonds (2008 Bonds) to acquire and improve the Police Department Headquarters and Fire Administration Building. Under the 2008 Property Lease between the Authority and the City of Tracy (City), the lease payments made by the City are applied to the 2008 Bonds payment. The 2008 Reimbursement Agreement between the City and the former Redevelopment Agency requires the Agency to reimburse a portion of the lease payments made by the City.

Under HSC section 34177.5 (a) (1), the 2008 Reimbursement Agreement is being amended to reflect the proposed refinancing of the 2008 Property Lease and 2008 Bonds. HSC section 34177.5 (a) (1) authorizes the refunding of the Agency's indebtedness obligations provided the refunding provides savings to the Agency. The refunding is expected to achieve savings of approximately \$1,781,200 over the remaining life of the Agency's indebtedness.

Finance's approval is based on the understanding that no indebtedness obligation will be issued unless each indebtedness obligation meets the requirements outlined in HSC section 34177.5 (a). Following the issuance, the Agency's debt service payment obligations for Amendment No. 1 to the Reimbursement Agreement should be placed on the next Recognized Obligation Payment Schedule (ROPS), subject to Finance's review and approval.

To the extent the indebtedness obligation approved for refunding per the OB Resolution is refunded in accordance with HSC section 34177.5 and prior to the next ROPS submission, the Agency may use Redevelopment Property Tax Trust Funds received for payment of the current obligations being refunded. Any indebtedness for which refunding is finalized must be separately identified as a new item on the ROPS. Further, pursuant to HSC section 34186 (a), the Agency is required to report estimated obligations and actual payments. Any unspent funds should be reported as prior period adjustments.

Section 6 of the Resolution states, pursuant to HSC section 34177.5 (f), the Agency is authorized to recover its related costs in connection with the transaction approved hereby, irrespective of whether the 2020 Refunding Bonds are issued. While Finance does not object to this action, any associated costs not satisfied with the refinancing of the Agency's indebtedness obligations and the request for administrative cost allowance must be placed on a subsequent ROPS, subject to Finance's review and approval, before they are considered enforceable obligations.

Please direct inquiries to Joshua Mortimer, Supervisor, or Michael Barr, Lead Analyst, at (916) 322-2985.

Sincerely,



 JENNIFER WHITAKER
Program Budget Manager

cc: Mr. Robert Harmon, Interim Budget Officer, City of Tracy
Mr. Jay Wilverding, County Auditor-Controller, San Joaquin County

RESOLUTION _____

A RESOLUTION APPROVING DOCUMENTS AND ACTIONS RELATING TO THE
REFINANCING OF OUTSTANDING LEASE REVENUE BONDS AND RELATED
LEASE PAYMENT OBLIGATIONS OF THE CITY

RESOLVED, by this City Council (the "Council") of the City of Tracy (the "City"), County of San Joaquin, State of California, that:

WHEREAS, the Tracy Operating Partnership Joint Powers Authority (the "Authority") previously entered into an Indenture dated as of October 1, 2007 (the "2007 Indenture"), with The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "2007 Trustee"), under which the Authority issued the \$2,690,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the "2007A Bonds") and the \$1,980,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) (the "2007B Bonds," together with the 2007A Bonds, the "2007 Bonds"); and

WHEREAS, the 2007 Bonds are payable from lease payments (the "2007 Lease Payments") payable by the City to the Authority pursuant to a Property Lease, dated as of October 1, 2007 (the "2007 Lease"), by and between the City and the Authority; and

WHEREAS, the Authority assigned its right to receive the 2007 Lease Payments to the 2007 Trustee under the 2007 Indenture; and

WHEREAS, the Authority previously entered into an Indenture dated as of December 1, 2008 (the "2008 Indenture"), with The Bank of New York Mellon Trust Company, N.A., as trustee (the "2008 Trustee"), under which the Authority issued \$19,765,000 aggregate principal amount of 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the "2008 Bonds," together with the 2007 Bonds, the "Prior Bonds"); and

WHEREAS, the 2008 Bonds were payable from lease payments (the "2008 Lease Payments") payable by the City to the Authority pursuant to a Property Lease, dated as of December 1, 2008 (the "2008 Lease"), by and between the City and the Authority; and

WHEREAS, the Authority assigned its right to receive the 2008 Lease Payments to the 2008 Trustee under the 2008 Indenture; and

WHEREAS, in connection with the issuance of the 2008 Bonds, the Community Development Agency of the City of Tracy (the "Former Agency") executed that certain Reimbursement Agreement, dated as of December 1, 2008 (the "2008 Reimbursement Agreement"), under which the Former Agency agreed to reimburse the City for a portion of the 2008 Lease Payments; and

WHEREAS, the Former Agency's payments under the 2008 Reimbursement Agreement were intended to defray the costs of the acquisition and construction of the Improvements (as defined in the 2008 Reimbursement Agreement) that are located in or that were found by the City and the Former Agency (pursuant to all applicable requirements of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health

and Safety Code of the State (as amended, the "Redevelopment Law")) to be of benefit to the Redevelopment Project Area (as defined in the 2008 Reimbursement Agreement); and

WHEREAS, under the 2008 Reimbursement Agreement, the Former Agency pledged property tax revenues generated in the Redevelopment Project Area ("Tax Revenues," as defined in the 2008 Reimbursement Agreement) as security for its reimbursement obligation; and

WHEREAS, Assembly Bill x1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB 1484"), codified Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (as amended from time to time, the "Dissolution Act"); and

WHEREAS, pursuant to Section 34172(a) of the Dissolution Act, the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Dissolution Act, the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") has become the successor entity to the Former Agency; and

WHEREAS, in order to take advantage of prevailing bond market conditions, the City wishes to refinance the Prior Bonds; and

WHEREAS, in order to raise funds for such purpose, the Authority will issue and sell its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) (the "Refunding Bonds") under Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"); and

WHEREAS, to that end, to provide funds to prepay the 2007 Lease Payments and redeem the 2007 Bonds, the City has proposed to lease to the Authority certain real property and improvements (the "2007-Related Leased Property") under a Site and Facility Lease (the "Site and Facility Lease"), in consideration of the payment by the Authority of an upfront rental payment (the "2007-Related Site Lease Payment") that is sufficient to provide funds for the prepayment of the 2007 Lease Payments and the redemption of the 2007 Bonds; and

WHEREAS, the Authority proposes to lease the 2007-Related Leased Property back to the City under a Lease Agreement (the "Lease Agreement"), under which the City is obligated to pay semiannual lease payments as rental for the 2007-Related Leased Property, and the Authority will assign substantially all of its rights under the Lease Agreement to U.S. Bank National Association, as trustee for the Refunding Bonds (the "Refunding Bonds Trustee"); and

WHEREAS, to provide funds to prepay the 2008 Lease Payments and redeem the 2008 Bonds, the City has proposed to lease to the Authority certain real property and improvements (the "2008-Related Leased Property"; together with the 2007-Related Lease Property, the "Leased Property") under an Amended and Restated Sites and Facilities Lease (the "Amended and Restated Sites and Facilities Lease"), in consideration of the payment by the Authority of an upfront rental payment (the "2008-Related Site Lease Payment") that is sufficient to provide funds for the prepayment of the 2008 Lease Payments and the redemption of the 2008 Bonds; and

WHEREAS, the Authority proposes to lease the 2008-Related Leased Property back to the City under an Amended and Restated Property Lease (the "Amended and Restated

Property Lease”), under which the City is obligated to pay semiannual lease payments as rental for the 2008-Related Leased Property, and the Authority will assign substantially all of its rights under the Amended and Restated Property Lease to the Refunding Bonds Trustee; and

WHEREAS, Section 34177.5(a)(3) of the Dissolution Act authorizes the Successor Agency to amend the 2008 Reimbursement Agreement to provide savings to the Successor Agency, provided that the 2008 Reimbursement Agreement is amended in connection with a refunding of the 2008 Bonds and that the refunding of the 2008 Bonds achieves debt service savings within the parameters set forth in Section 34177.5(a)(3) (the “Savings Parameters”); and

WHEREAS, Section 34177.5(a)(3) further provides that the pledge of Tax Revenues set forth in the amendment of the 2008 Reimbursement Agreement shall have the same lien priority as the pledge of Tax Revenues in the 2008 Reimbursement Agreement prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms; and

WHEREAS, an Amendment No. 1 to Reimbursement Agreement between the City and the Successor Agency (the “Reimbursement Agreement Amendment”) was approved by the Successor Agency by Resolution No. 2019-161 on July 16, 2019, the San Joaquin County Oversight Board by Resolution 010 adopted on October 7, 2019 and the California Department of Finance by letter dated December 3, 2019; and

WHEREAS, under the Reimbursement Agreement Amendment, the Successor Agency and the City will amend the 2008 Reimbursement Agreement to provide for a reduction in the payments made by the Successor Agency to the City to reflect the debt service savings achieved by the refunding of the 2008 Bonds; and

WHEREAS, in accordance with Government Code Section 5852.1, the Council has obtained and disclosed the information set forth in Appendix A hereto; and

WHEREAS, the Council wishes at this time to approve all proceedings to which it is a party relating to the issuance and sale of the Refunding Bonds and the refinancing of the Prior Bonds;

NOW, THEREFORE, be it resolved as follows:

SECTION 1. Issuance of Refunding Bonds. The Council hereby approves the issuance of the Refunding Bonds by the Authority under the Bond Law in the maximum principal amount of \$25,000,000, for the purpose of providing funds to refinance the Prior Bonds.

SECTION 2. Approval of Related Financing Agreements. The Council hereby approves each of the following agreements required for the issuance and sale of the Refunding Bonds, the prepayment of the 2007 Lease Payments and the 2008 Lease Payments, and the refunding of the Prior Bonds, in substantially the respective forms on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the Mayor, the City Manager or the Finance Director (each, an “Authorized Officer”), subject to approval as to form by the City Attorney; execution of the agreements by an Authorized Officer shall be conclusive evidence of the approval of any such changes or additions. An Authorized Officer is hereby authorized and directed for and on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest, the final form of each such agreement, as follows:

- Site and Facility Lease,

- Lease Agreement,
- Amended and Restated Sites and Facilities Lease,
- Amended and Restated Property Lease,
- Amendment No. 1 to Reimbursement Agreement, and
- Continuing Disclosure Certificate, to be executed by the City for the purpose of providing continuing disclosure to owners of the Refunding Bonds.
- Bond Purchase Agreement, among the City, the Authority and Piper Jaffray & Co. (the "Underwriter").

SECTION 3. Official Statement. The Council hereby approves the preliminary Official Statement describing the Refunding Bonds in substantially the form on file with the City Clerk. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to the preliminary Official Statement and to execute an appropriate certificate stating the Authorized Officer's determination that the preliminary Official Statement (together with any changes therein or additions thereto) has been deemed nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. Distribution of the preliminary Official Statement by the Underwriter (as defined below) is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by the Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The Council hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed on behalf of the City by an Authorized Officer.

SECTION 4. Official Actions. The Mayor, the Finance Director, the City Attorney, the City Clerk and all other officers of the City are each authorized and directed on behalf of the City to make any and all leases, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance or termination, warrants and other documents, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution, including any agreements required to purchase a debt service reserve fund insurance policy or a municipal bond insurance policy, and any amendments of the documents related to the Prior Bonds that are necessary to accomplish the proposed refinancing. An Authorized Officer may revise the identity of the Leased Property as necessary in order to accomplish the purposes of this Resolution. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

SECTION 5. Approval of Professional Services. The Council hereby appoints the firm of CSG Advisors Incorporated as municipal advisor to the City in connection with the issuance of the Refunding Bonds and an Authorized Officer is authorized to execute an agreement with said firm in substantially the form of the agreement on file with the City Clerk. The Council hereby appoints the firm of Jones Hall, A Professional Law Corporation, as bond counsel and disclosure counsel to the City in connection with the issuance of the Refunding Bonds, and an

Authorized Officer or the City Attorney is authorized to execute an agreement with said firm in substantially the form of the agreement on file with the City Clerk.

SECTION 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 17th day of December, 2019.

AYES: COUNCIL MEMBER:

NOES: COUNCIL MEMBER:

ABSENT: COUNCIL MEMBER:

ABSTAIN: COUNCIL MEMBER:

MAYOR

ATTEST:

CITY CLERK

APPENDIX A

Government Code Section 5852.1 Disclosure

The good faith estimates set forth herein are provided with respect to the Refunding Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by CSG Advisors Incorporated, the City's Municipal Advisor in consultation with Piper Jaffray & Co., Underwriter of the Refunding Bonds.

(A) True Interest Cost of the Refunding Bonds: 2.69%

(B) Finance Charge of the Refunding Bonds (Sum of all fees/charges paid to third parties):
\$348,000

(C) Net Proceeds to be Received (net of finance charges, reserves and capitalized interest, if any: \$21,539,000_

(D) Total Payment Amount Through Maturity: \$27,987,000 (exclusive of the Successor Agency's reimbursement of the City under the Reimbursement Agreement Amendment)

The foregoing estimates constitute good faith estimates only. The principal amount of the Refunding Bonds, the true interest cost of the Refunding Bonds, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Refunding Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Refunding Bonds sold being different from the estimated amount used for purposes of such estimates, (c) the actual amortization of the Refunding Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Refunding Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (1) alterations in the City's financing plan, or a combination of such factors. The actual date of sale of the Refunding Bonds and the actual principal amount of Refunding Bonds sold will be determined by the City based on the timing of the need for proceeds of the Refunding Bonds and other factors. The actual interest rates borne by the Refunding Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Refunding Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the City.

RESOLUTION _____

RESOLUTION OF THE TRACY OPERATING PARTNERSHIP JOINT
POWERS AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF LEASE
REVENUE BONDS TO REFINANCE OUTSTANDING LEASE REVENUE BONDS,
RATIFYING AND APPROVING A DEBT MANAGEMENT POLICY, AND APPROVING
RELATED DOCUMENTS AND OFFICIAL ACTIONS

RESOLVED, by this Board of Directors (the "Board") of the Tracy Operating Partnership Joint Powers Authority (the "Authority"), that:

WHEREAS, the City of Tracy (the "City") and the City of Tracy Community Development Agency (the "Former Agency") entered into a Joint Exercise of Powers Agreement, dated as of October 15, 1995 (the "Authority Agreement"), establishing the Authority for the purpose, among others, of issuing its bonds to be used to finance and refinance the acquisition, construction and improvement of certain public capital improvements in the City; and

WHEREAS, the Authority previously entered into an Indenture dated as of October 1, 2007 (the "2007 Indenture"), with The Bank of New York Mellon Trust Company, N.A., as successor trustee (the "2007 Trustee"), under which the Authority issued the \$2,690,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series A (Fire Station Project) (the "2007A Bonds") and the \$1,980,000 aggregate principal amount of 2007 Lease Revenue Bonds, Series B (1995 COPs Refunding) (the "2007B Bonds," together with the 2007A Bonds, the "2007 Bonds"); and

WHEREAS, the 2007 Bonds are payable from lease payments (the "2007 Lease Payments") payable by the City of Tracy (the "City") to the Authority pursuant to a Property Lease, dated as of October 1, 2007 (the "2007 Lease"), by and between the City and the Authority; and

WHEREAS, the Authority assigned its right to receive the 2007 Lease Payments to the 2007 Trustee under the 2007 Indenture; and

WHEREAS, the Authority previously entered into an Indenture dated as of December 1, 2008 (the "2008 Indenture"), with The Bank of New York Mellon Trust Company, N.A., as trustee (the "2008 Trustee"), under which the Authority issued \$19,765,000 aggregate principal amount of 2008 Lease Revenue Bonds (Refunding and Capital Improvement Projects) (the "2008 Bonds," together with the 2007 Bonds, the "Prior Bonds"); and

WHEREAS, the 2008 Bonds were payable from lease payments (the "2008 Lease Payments") payable by the City to the Authority pursuant to a Property Lease, dated as of December 1, 2008 (the "2008 Lease"), by and between the City and the Authority; and

WHEREAS, the Authority assigned its right to receive the 2008 Lease Payments to the 2008 Trustee under the 2008 Indenture; and

WHEREAS, in connection with the issuance of the 2008 Bonds, the Community Development Agency of the City of Tracy (the "Former Agency") executed that certain Reimbursement Agreement, dated as of December 1, 2008 (the "2008 Reimbursement Agreement"), under which the Former Agency agreed to reimburse the City for a portion of the 2008 Lease Payments; and

WHEREAS, the Former Agency's payments under the 2008 Reimbursement Agreement were intended to defray the costs of the acquisition and construction of the Improvements (as defined in the 2008 Reimbursement Agreement) that are located in or that were found by the City and the Former Agency (pursuant to all applicable requirements of the Community Redevelopment Law of the State of California, constituting Part 1 of Division 24 of the Health and Safety Code of the State (as amended, the "Redevelopment Law")) to be of benefit to the Redevelopment Project Area (as defined in the 2008 Reimbursement Agreement); and

WHEREAS, under the 2008 Reimbursement Agreement, the Former Agency pledged property tax revenues generated in the Redevelopment Project Area ("Tax Revenues," as defined in the 2008 Reimbursement Agreement) as security for its reimbursement obligation; and

WHEREAS, Assembly Bill x1 26, effective June 29, 2011, together with AB 1484, effective June 27, 2012 ("AB 1484"), codified Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the California Health and Safety Code (as amended from time to time, the "Dissolution Act"); and

WHEREAS, pursuant to Section 34172(a) of the Dissolution Act, the Former Agency has been dissolved and no longer exists as a public body, corporate and politic, and pursuant to Section 34173 of the Dissolution Act, the Successor Agency to the Tracy Community Development Agency (the "Successor Agency") has become the successor entity to the Former Agency; and

WHEREAS, as a result of the dissolution of the Former Agency, the Successor Agency is a party to the Authority Agreement; and

WHEREAS, in order to take advantage of prevailing bond market conditions, the City wishes to refinance the Prior Bonds; and

WHEREAS, in order to raise funds for such purpose, the City has asked the Authority to issue and sell its Tracy Operating Partnership Joint Powers Authority 2020 Lease Revenue Refunding Bonds (2007 and 2008 Refinancing) (the "Refunding Bonds") under Article 4 of Chapter 5, Division 7, Title 1 of the Government Code of the State of California, commencing with Section 6584 of said Code (the "Bond Law"); and

WHEREAS, to that end, to provide funds to prepay the 2007 Lease Payments and redeem the 2007 Bonds, the City has proposed to lease to the Authority certain real property and improvements (the "2007-Related Leased Property") under a Site and Facility Lease (the "Site and Facility Lease"), in consideration of the payment by the Authority of an upfront rental payment (the "2007-Related Site Lease Payment") that is sufficient to provide funds for the prepayment of the 2007 Lease Payments and the redemption of the 2007 Bonds; and

WHEREAS, the Authority proposes to lease the 2007-Related Leased Property back to the City under a Lease Agreement (the "Lease Agreement"), under which the City is obligated to pay semiannual lease payments as rental for the 2007-Related Leased Property, and the Authority will assign substantially all of its rights under the Lease Agreement to U.S. Bank National Association, as trustee for the Refunding Bonds (the "Refunding Bonds Trustee"); and

WHEREAS, to provide funds to prepay the 2008 Lease Payments and redeem the 2008 Bonds, the City has proposed to lease to the Authority certain real property and improvements (the "2008-Related Leased Property" together with the 2007-Related Lease Property, the "Leased

Property”) under an Amended and Restated Sites and Facilities Lease (the “Amended and Restated Sites and Facilities Lease”), in consideration of the payment by the Authority of an upfront rental payment (the “2008-Related Site Lease Payment”) that is sufficient to provide funds for the prepayment of the 2008 Lease Payments and the redemption of the 2008 Bonds; and

WHEREAS, the Authority proposes to lease the 2008-Related Leased Property back to the City under an Amended and Restated Property Lease (the “Amended and Restated Property Lease”), under which the City is obligated to pay semiannual lease payments as rental for the 2008-Related Leased Property, and the Authority will assign substantially all of its rights under the Amended and Restated Property Lease to the Refunding Bonds Trustee; and

WHEREAS, Section 34177.5(a)(3) of the Dissolution Act authorizes the Successor Agency to amend the 2008 Reimbursement Agreement to provide savings to the Successor Agency, provided that the 2008 Reimbursement Agreement is amended in connection with a refunding of the 2008 Bonds and that the refunding of the 2008 Bonds achieves debt service savings within the parameters set forth in Section 34177.5(a)(3) (the “Savings Parameters”); and

WHEREAS, Section 34177.5(a)(3) further provides that the pledge of Tax Revenues set forth in the amendment of the 2008 Reimbursement Agreement shall have the same lien priority as the pledge of Tax Revenues in the 2008 Reimbursement Agreement prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms; and

WHEREAS, an Amendment No. 1 to Reimbursement Agreement between the City and the Successor Agency (the “Reimbursement Agreement Amendment”) was approved by the Successor Agency by Resolution No. 2019-161 on July 16, 2019 and the San Joaquin County Oversight Board by Resolution 010 adopted on October 7, 2019 and the California Department of Finance by letter dated December 3, 2019; and

WHEREAS, under the Reimbursement Agreement Amendment, the Successor Agency and the City will amend the 2008 Reimbursement Agreement to provide for a reduction in the payments made by the Successor Agency to the City to reflect the debt service savings achieved by the refunding of the 2008 Bonds; and

WHEREAS, in accordance with Government Code Section 5852.1, the Board has obtained and disclosed the information set forth in Appendix A hereto; and

WHEREAS, the Authority wishes at this time to approve all proceedings to which it is a party relating to the issuance and sale of the Refunding Bonds and assist the City in the prepayment of the 2007 Lease Payments and the 2008 Lease Payments and the refunding of the Prior Bonds; and

WHEREAS, pursuant to Senate Bill 1029 (“SB 1029”), which was signed by the California Governor on September 12, 2016, the City of Tracy adopted a debt management policy (the “Debt Management Policy”) pursuant to Resolution No. 2017-058, adopted on March 1, 2017, and the Authority wishes at this time to ratify and approve the Debt Management Policy;

NOW, THEREFORE, IT IS HEREBY ORDERED AND DETERMINED AS FOLLOWS:

SECTION 1. Issuance of Refunding Bonds. The Authority hereby authorizes the issuance of the Refunding Bonds under the Bond Law in the maximum principal amount of \$25,000,000,

for the purpose of providing funds to refinance the Prior Bonds. The Refunding Bonds shall be issued under the Bond Law and the Indenture of Trust that is approved below.

SECTION 2. Approval of Related Financing Agreements. The Authority hereby approves each of the following agreements required for the issuance and sale of the Refunding Bonds and the refinancing of the Prior Bonds, in substantially the respective forms on file with the Secretary together with any changes therein or additions thereto deemed advisable by the Chair, Executive Director or Treasurer/Controller (each, an "Authorized Officer"), subject to approval as to form by the Authority Counsel; execution of the agreements by an Authorized Officer shall be conclusive evidence of the approval of any such changes or additions. An Authorized Officer is hereby authorized and directed for and on behalf of the Authority to execute, and the Secretary is hereby authorized and directed to attest, the final form of each such agreement, as follows:

- Indenture of Trust, between the Authority and Refunding Bonds Trustee setting forth the terms and provisions relating to the Refunding Bonds.
- Site and Facility Lease,
- Lease Agreement,
- Amended and Restated Sites and Facilities Lease;
- Amended and Restated Property Lease,
- Assignment Agreement, between the Authority and the Trustee, whereby the Authority assigns certain of its rights under the Lease Agreement and the Amended and Restated Property Lease to the Refunding Bonds Trustee for the benefit of the Refunding Bond owners.

SECTION 3. Official Statement. The Authority hereby approves the preliminary Official Statement describing the Refunding Bonds in substantially the form on file with the Secretary. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to said preliminary Official Statement and to execute an appropriate certificate stating the Authorized Officer's determination that the preliminary Official Statement (together with any changes therein or additions thereto) has been deemed nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. Distribution of the preliminary Official Statement by the Underwriter is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by the Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The Authority hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed on behalf of the Authority by an Authorized Officer.

SECTION 4. Approval of Debt Management Policy. The Authority hereby approves and incorporates the City's Debt Management Policy and confirms that the issuance of the Bonds is consistent with the Debt Management Policy.

SECTION 5. Sale of the Refunding Bonds; Bond Purchase Agreement. The Bond Purchase Agreement, among the City, the Authority and Piper Jaffray & Co. (the "Underwriter"), in substantially the form on file with the Secretary of the Board and made a part hereof as though

set forth in full herein, is hereby approved by the Board. An Authorized Officer is hereby authorized and directed to execute and deliver the Bond Purchase Agreement in such form, together with such changes, insertions and omissions that are approved by an Authorized Officer and that are in accordance with the provisions of this Resolution, such execution to be conclusive evidence of such approval; subject to the requirement that the Underwriter's discount on the purchase of the Refunding Bonds may not exceed 0.750% of the par amount of the Refunding Bonds and the true interest cost may not exceed 5.00%. Board hereby approves the negotiated sale of the Refunding Bonds to the Underwriter pursuant to such Bond Purchase Agreement; the negotiated sale may be on a forward basis, as determined by an Authorized Officer.

This Board hereby finds that sale of the Refunding Bonds to the Underwriter at a negotiated sale pursuant to the Bond Purchase Agreement will result in a lower overall cost than would be achieved by selling the Refunding Bonds at a public sale utilizing competitive bidding.

SECTION 6. Official Actions. The Chair, the Executive Director, the Treasurer/Controller, the Authority Counsel, the Secretary and all other officers of the Authority are each authorized and directed on behalf of the Authority to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance and other documents, which they or any of them deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution, including any agreements required to purchase a debt service reserve fund insurance policy or a municipal bond insurance policy, and any amendments of the documents related to the Prior Bonds that are necessary to accomplish the proposed refinancing. An Authorized Officer may revise the agreements and documents approved under this Resolution as necessary in order to fund a debt service reserve with proceeds from the Refunding Bonds. An Authorized Officer may revise the identity of the Leased Property as necessary in order to accomplish the purposes of this Resolution. Whenever in this resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf if such officer is absent or unavailable.

SECTION 7. Debt Management Policy. The Authority hereby approves and adopts the Debt Management Policy as the debt management policy of the Authority.

SECTION 8. Effective Date. This Resolution shall take effect immediately upon its passage and adoption.

* * * * *

The foregoing Resolution _____, was passed and adopted by the Board of Directors of the Tracy Operating Partnership Joint Powers Authority at a regular meeting held on the 17th day of December, 2019, by the following vote:

AYES: DIRECTORS:

NOES: DIRECTORS:

ABSENT: DIRECTORS:

ABSTAIN: DIRECTORS:

CHAIR

ATTEST:

SECRETARY

APPENDIX A

Government Code Section 5852.1 Disclosure

The good faith estimates set forth herein are provided with respect to the Refunding Bonds in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the Authority by CSG Advisors Incorporated, the Authority's Municipal Advisor in consultation with Piper Jaffray & Co., Underwriter of the Refunding Bonds.

(A) True Interest Cost of the Refunding Bonds: 2.69%

(B) Finance Charge of the Refunding Bonds (Sum of all fees/charges paid to third parties):
\$348,000

(C) Net Proceeds to be Received (net of finance charges, reserves and capitalized interest, if any): \$21,539,000

(D) Total Payment Amount Through Maturity: \$27,987,000 (exclusive of the Successor Agency's reimbursement of the City under the Reimbursement Agreement Amendment)

The foregoing estimates constitute good faith estimates only. The principal amount of the Refunding Bonds, the true interest cost of the Refunding Bonds, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the Refunding Bonds being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Refunding Bonds sold being different from the estimated amount used for purposes of such estimates, (c) the actual amortization of the Refunding Bonds being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the Refunding Bonds being different than those estimated for purposes of such estimates, (e) other market conditions, or (1) alterations in the Authority's financing plan, or a combination of such factors. The actual date of sale of the Refunding Bonds and the actual principal amount of Refunding Bonds sold will be determined by the Authority based on the timing of the need for proceeds of the Refunding Bonds and other factors. The actual interest rates borne by the Refunding Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Refunding Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the Authority.

AGENDA ITEM 3.B

REQUEST

PUBLIC HEARING TO INTRODUCE AN ORDINANCE AMENDING THE I-205 CORRIDOR SPECIFIC PLAN, APPENDIX A, TABLE A-2, PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES, TO ALLOW BREWERIES, WINERIES, AND DISTILLERIES

EXECUTIVE SUMMARY

This agenda item involves introduction of an ordinance to amend the I-205 Corridor Specific Plan, Appendix A, Table A-2, Permitted and Conditionally Permitted Uses, to allow breweries, wineries, and distilleries.

DISCUSSION

This agenda item is part of the City's ongoing effort to continue to broaden the range of allowable land uses in the I-205 Corridor Specific Plan area, given that the area is mostly built-out and the character of the development is well-established, and that new uses have emerged over time or become increasingly popular, such as craft breweries.

Table A-2 of the I-205 Corridor Specific Plan identifies the permitted and conditionally permitted commercial and industrial uses for each land use designation within the I-205 Corridor Specific Plan Area. Breweries, wineries, and distilleries fit within the classification of "Manufacturing & Processing," which is principally permitted in areas designated Light Industrial (LI) and conditionally permitted in areas designated Service Commercial (SC).

The City has received an application (SPA19-0005) to amend the I-205 Corridor Specific Plan to allow craft breweries in the Northgate Village Shopping Center, which is designated General Commercial 2 (GC2). In order to allow a craft brewery in a retail shopping center, staff recommends that a minimum of 30% of the tenant space be dedicated to a taproom, tasting room, or restaurant because these uses would be consistent with a retail center and the GC2 zoning. This requirement would ensure that the taproom, tasting room, or restaurant would be more than an accessory use and would also prevent a large-scale manufacturing plant from locating in the GC2 zone. By contrast, when craft breweries locate in industrial zones, such as Morgan Territory Brewing, the taproom is limited to a small portion of the tenant space and permitted only as an accessory use.

The craft brewery proposing to locate at Northgate Village Shopping Center, named Bay Boys Brewing, is intending to locate in an approximately 9,000 square foot tenant space with a taproom of approximately 4,000 square feet (44%). According to the applicant, the taproom would likely include space for various games, such as corn hole and pool tables. The applicant mentioned that having a large portion of the floor area as a taproom was very desirable for the business. Staff informed the applicant that if they desire to have entertainment activities, such as live music, disc jockeys, dancing,

karaoke, comedy shows or live performances after 11:00 p.m. it would require a conditional use permit (CUP). The applicant is not planning for entertainment to occur past 11:00 p.m., but has stated they will apply for a CUP if their business plans change.

A redline version of the proposed amendment to the I-205 Corridor Specific Plan, Table A-2, related to breweries, wineries, and distilleries is included as Attachment A. The new use category would read as follows:

Breweries, Wineries, and/or Distilleries – with a taproom, tasting room, and/or restaurant comprising a minimum of 30% of the tenant space

The proposed amendment includes wineries and distilleries along with breweries because the uses are very similar. The proposed terminology was left simply to “breweries, wineries, and distilleries” rather than attempting to define and limit the use to “craft breweries, craft wineries, and craft distilleries” because such definitions may inadvertently exclude certain businesses that are essentially the same from a zoning standpoint.

The proposed amendment would permit this new use category in all of the commercially designated areas of the I-205 Corridor Specific Plan, including Commercial Center (CC), General Commercial (GC), Service Commercial (SC), Freeway Commercial (FC), and General Commercial 2 (GC2), which are the same areas permitted for restaurants and bars. The new use category would operate similar to restaurants and bars and be compatible with the other uses permitted in these commercially designated areas.

Planning Commission Discussion

The Planning Commission held a public hearing to discuss this proposed amendment to the I-205 Corridor Specific Plan on November 6, 2019. The Planning Commission recommended that the City Council introduce and adopt an ordinance amending the I-205 Corridor Specific Plan, Appendix A, Table A-2, Permitted and Conditionally Permitted Commercial and Industrial Uses, related to breweries, wineries, and distilleries, Application Number SPA19-0005.

Environmental Document

The proposed amendment is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 California Code of Regulations, §15061(b).)

STRATEGIC PLAN

This agenda is not related to the City's Strategic Plans.

FISCAL IMPACT

The applicant paid the City Council adopted application processing fees, which is a component of the Development Services operating budget.

RECOMMENDATION

Staff and Planning Commission recommend that the City Council introduce and waive the first reading of an Ordinance to amend the I-205 Corridor Specific Plan, Appendix A, Table A-2, Permitted and Conditionally Permitted Commercial and Industrial Uses, related to breweries, wineries, and distilleries, Application Number SPA19-0005, as shown in Attachment B.

Prepared by: Scott Claar, Senior Planner

Reviewed by: Bill Dean, Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

- Attachment A – Red-line version of proposed amendment to I-205 Corridor Specific Plan, Table A-2, related to breweries, wineries, and distilleries
- Attachment B – Ordinance recommended by Staff and Planning Commission to amend the I-205 Corridor Specific Plan, Appendix A, Table A-2, Permitted and Conditionally Permitted Commercial and Industrial Uses, related to breweries, wineries, and distilleries

TABLE A-2

PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES¹

	CC	GC	SC	FC	LI	GC2
Business Services e.g., reproduction, delivery, repair services			P		C	P
Breweries, Wineries, and/or Distilleries – with a taproom, tasting room, and/or restaurant comprising a minimum of 30% of the tenant space	P	P	P	P		P
Day Care Centers e.g., community care facilities	P	P	P		C	P
Eating and/or drinking establishments (with or without entertainment ²), without serving alcohol and providing entertainment ² after 11:00 p.m.	P	P	P	P		P
Eating and/or drinking establishments that serve alcohol and provide entertainment ² after 11:00 p.m.	C	C	C	C		C
Equipment Rental and Sales			P		C	
Gas & Service Stations	C	C	C	P	C	C
Hydrocarbon Resource Extraction	C	C	C	C	C	C
Lodging e.g., hotels, motels	C	P		P		P
Manufacturing & Processing			C		P	
Mini Storage			P		P	
Offices e.g., Medical, dental, business, professional, banks, financial services	P	P	P	C	C	P
Outdoor Sales or Display of Merchandise e.g., lumber yards, nurseries, etc.		C	C		C	C
Park & Ride or Off-site Parking Facilities	C	C	C	C	C	C
Personal Services e.g., nail, hair, tanning salons	P	P				P
Places of Assembly e.g., places of worship, private clubs and related uses	C	C	C		C	P
Public Street & Utilities	P	P	P	P	P	P
Recreational Uses e.g., miniature golf, bowling alley, instructional or educational performing arts, gymnastics, etc.	P	C	P			P
Residential Uses	See Table A-1					
Retail and Consumer Services e.g., building materials and hardware stores, garden center, clothing and shoe stores, department stores, drug stores and grocery stores	P	P	P			P
Schools e.g., public, private, trade, vocational, etc.	C	P	C		C	P
Temporary Uses as Permitted in TMC Sec. 10.08.4240	TUP	TUP	TUP	TUP	TUP	TUP
Vehicle Sales, Service, & Rental		C	C			C
Warehouse & Distribution			C		P	

Notes:

1. Accessory uses shall be allowed as provided in the Tracy Municipal Code.
2. "Entertainment" means such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE I-205 CORRIDOR SPECIFIC PLAN, APPENDIX A, TABLE A-2, PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES, TO ALLOW BREWERIES, WINERIES, AND DISTILLERIES, APPLICATION NUMBER SPA19-0005

WHEREAS, Table A-2 of the I-205 Corridor Specific Plan identifies the permitted and conditionally permitted commercial and industrial uses for each land use designation within the I-205 Corridor Specific Plan Area, and

WHEREAS, Breweries, wineries, and distilleries fit within the classification of “Manufacturing & Processing”, which is principally permitted in areas designated Light Industrial (LI) and conditionally permitted in areas designated Service Commercial (SC), and

WHEREAS, The City has received an application to amend the I-205 Corridor Specific Plan to add a new use category to Table A-2 related to breweries, wineries, and distilleries, and

WHEREAS, The new use category is shown as “Breweries, wineries, and/or distilleries – with a taproom, tasting room, and/or restaurant comprising a minimum of 30% of the tenant space”, and

WHEREAS, The proposed amendment would permit this new use category in all of the commercially designated areas of the I-205 Corridor Specific Plan, including Commercial Center (CC), General Commercial (GC), Service Commercial (SC), Freeway Commercial (FC), and General Commercial 2 (GC2), which are the same areas permitted for restaurants and bars, and

WHEREAS, The proposed amendment to the I-205 Corridor Specific Plan is consistent with the General Plan, and

WHEREAS, The proposed amendment is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b).), and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on November 6, 2019, and recommended that the City Council introduce and adopt an ordinance amending the I-205 Corridor Specific Plan, Appendix A, Table A-2, Permitted and Conditionally Permitted Commercial and Industrial Uses, related to breweries, wineries, and/or distilleries, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on December 17, 2019;

The Tracy City Council does ordain as follows:

SECTION 1: Table A-2, Permitted and Conditionally Permitted Commercial and Industrial Uses, of Appendix A, of the I-205 Corridor Specific Plan is hereby amended to

Ordinance _____

establish a new use category related to breweries, wineries, and distilleries, as shown in Exhibit 1, attached.

SECTION 2: This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 3: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council held on the 17th day of December 2019, and finally adopted on the _____ day of January 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

TABLE A-2

PERMITTED AND CONDITIONALLY PERMITTED COMMERCIAL AND INDUSTRIAL USES¹

	CC	GC	SC	FC	LI	GC2
Business Services e.g., reproduction, delivery, repair services			P		C	P
Breweries, Wineries, and/or Distilleries – with a taproom, tasting room, and/or restaurant comprising a minimum of 30% of the tenant space	P	P	P	P		P
Day Care Centers e.g., community care facilities	P	P	P		C	P
Eating and/or drinking establishments (with or without entertainment ²), without serving alcohol and providing entertainment ² after 11:00 p.m.	P	P	P	P		P
Eating and/or drinking establishments that serve alcohol and provide entertainment ² after 11:00 p.m.	C	C	C	C		C
Equipment Rental and Sales			P		C	
Gas & Service Stations	C	C	C	P	C	C
Hydrocarbon Resource Extraction	C	C	C	C	C	C
Lodging e.g., hotels, motels	C	P		P		P
Manufacturing & Processing			C		P	
Mini Storage			P		P	
Offices e.g., Medical, dental, business, professional, banks, financial services	P	P	P	C	C	P
Outdoor Sales or Display of Merchandise e.g., lumber yards, nurseries, etc.		C	C		C	C
Park & Ride or Off-site Parking Facilities	C	C	C	C	C	C
Personal Services e.g., nail, hair, tanning salons	P	P				P
Places of Assembly e.g., places of worship, private clubs and related uses	C	C	C		C	P
Public Street & Utilities	P	P	P	P	P	P
Recreational Uses e.g., miniature golf, bowling alley, instructional or educational performing arts, gymnastics, etc.	P	C	P			P
Residential Uses	See Table A-1					
Retail and Consumer Services e.g., building materials and hardware stores, garden center, clothing and shoe stores, department stores, drug stores and grocery stores	P	P	P			P
Schools e.g., public, private, trade, vocational, etc.	C	P	C		C	P
Temporary Uses as Permitted in TMC Sec. 10.08.4240	TUP	TUP	TUP	TUP	TUP	TUP
Vehicle Sales, Service, & Rental		C	C			C
Warehouse & Distribution			C		P	

Notes:

1. Accessory uses shall be allowed as provided in the Tracy Municipal Code.
2. "Entertainment" means such uses as live music, disc jockeys, dancing, karaoke, comedy shows, modeling, or live performances.

AGENDA ITEM 3.C

REQUEST

PUBLIC HEARING TO INTRODUCE AN ORDINANCE AMENDING THE CENTRAL BUSINESS DISTRICT ZONE TO PERMIT HIGH DENSITY RESIDENTIAL USES, INCLUDING SINGLE-FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND MULTI-FAMILY DWELLINGS, AND APPROVAL OF A DEVELOPMENT REVIEW PERMIT TO CONSTRUCT A FIVE-UNIT RESIDENTIAL PROJECT, CONSISTING OF TWO SINGLE-FAMILY DWELLINGS AND A TRIPLEX LOCATED AT 21, 25, AND 29 E. EIGHTH STREET

EXECUTIVE SUMMARY

This agenda item involves introduction of an ordinance to amend the Central Business District (CBD) Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, and approval of a Development Review Permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex located at 21, 25, and 29 E. Eighth Street (Project).

DISCUSSION

For this agenda item, the City Council will be asked to consider the following actions:

- Introduction and adoption of an ordinance amending the Central Business District (CBD) Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, Application Number ZA17-0003
- Approval of a Development Review Permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex located at 21, 25, and 29 E. Eighth Street, Application Number D16-0036

Amendment to CBD Zone

In the CBD Zone, multi-family dwellings are conditionally permitted, which means that a Conditional Use Permit is required. Single-family dwellings and two-family dwellings are not permitted in the CBD Zone.

An application was submitted to amend the CBD Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings. The proposed amendment to the CBD Zone includes the following components:

- Single-family dwellings, two-family dwellings, and multi-family dwellings shall be permitted in the CBD Zone, except that there shall be no residential uses on the ground floor of buildings with elevations that face the following:
 - o Central Avenue between 11th Street and 6th Street
 - o 10th Street between Central Avenue and A Street
 - o Front Street Plaza at 6th Street, excluding the eastern 110 feet of the block, which faces a parking island within the 6th Street public right-of-way because

this portion of the block is already developed with existing residential development.

- Density: There shall be at least 700 square feet of net lot area and no more than 2,500 square feet of net lot area for each dwelling unit in the CBD Zone.
- The minimum floor area for a single-family dwelling shall be 500 square feet.
- Any new residential development in the CBD Zone shall be subject to development review, including any new single-family dwellings, two-family dwellings, or multi-family dwellings, regardless of the number of units.

A red-line version of the proposed amendment to the CBD Zone is included as Attachment A.

The General Plan states that residential development is strongly encouraged in the Downtown and allowed at a density of 15 to 50 units per gross acre (page 2-26 of the General Plan Land Use Element). The proposed amendment to the CBD Zone is consistent with the General Plan.

Development Review Permit

An application was submitted for a Development Review Permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex on an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Application Number D16-0036 (Attachment B – Site Plan, Elevations, and Landscape Plan).

The subject property includes three existing lots with one house on each of the two end lots. The middle lot is vacant. A house was previously demolished on the middle lot, due to the structure's poor condition. The proposed Project includes demolishing the remaining two houses, due to numerous issues with the condition of the structures and the encroachment of the western dwelling unit and its utilities onto the adjacent neighboring property to the west.

The proposed density is approximately one dwelling unit per 1,977 square feet of net lot area or calculated as 22 units per net acre (17 units per gross acre). The proposed single-family dwellings are two-story structures each consisting of approximately 1,660 square feet of living space. The proposed triplex is also a two-story structure with the unit sizes ranging from approximately 825 square feet to 912 square feet of living space. The Project is proposed as five rental units on a single lot. The three existing lots would be merged into one lot prior to issuance of a building permit.

The subject property is located in the CBD Zone and has a General Plan land use designation of Downtown. The Project is consistent with the General Plan and the proposed amendment to the CBD Zone, including the permitted uses and density requirements.

The subject property has frontage on E. Eighth Street and access from the rear on Garner Alley. The Project includes a one-car garage for each of the five dwelling units and a total of four additional uncovered parking spaces on the property. To satisfy the minimum off-street parking requirements, the Project is proposing to utilize the CBD Zone Parking-in-Lieu Fee Pilot Program of \$0, which was extended to October 6, 2025 by City Council Resolution No. 2019-160. In other residential zones by contrast, the two single-family dwellings would each require a two-car garage and the triplex would require two parking spaces per unit with one of the two being covered, and an additional space marked as guest. The main difference from what would otherwise be required and the proposed Project is that the single-family dwellings would each require a two-car garage rather than a one-car garage.

The building architecture includes an attractive design featuring a high-level of detailing and articulation on all four sides of each building, a well-designed gable roof with variation and multiple gable elements to create visual interest and appeal, use of multiple building materials, including wood siding and brick, variation in the building façade depth, ample use of windows, bay windows, front porches, driveway pavers, and an overall design character and architectural details that are inspired by and complement the residential architecture that exists in the surrounding neighborhood. The proposed architecture is consistent with the City's Design Goals and Standards,

Planning Commission Discussion

The Planning Commission held a public hearing to discuss this proposed amendment to the I-205 Corridor Specific Plan on November 6, 2019. The Planning Commission recommended that the City Council introduce and adopt an ordinance amending the CBD Zone (Application Number ZA17-0003) and approve the Development Review Permit (Application Number D16-0036).

Environmental Document

The proposed ordinance amending the CBD Zone is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 California Code of Regulations, §15061(b).)

The five-unit residential project has been determined to be categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15332 because the Project is characterized as in-fill development and (1) is consistent with the General Plan designation of Downtown and all applicable General Plan policies, as well as consistent with the amended Central Business District (CBD) Zone and with all applicable zoning regulations, (2) occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, (3) has no value as habitat for endangered, rare or threatened species, (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (5) can be adequately served by all required utilities and public services. Therefore, no further environmental review is necessary.

STRATEGIC PLAN

This agenda item is not related to the City's Strategic Plans.

FISCAL IMPACT

The applicant paid the City Council adopted application processing fees, which is a component of the Development Services operating budget.

RECOMMENDATION

Staff and Planning Commission recommend that City Council take the following actions:

1. Introduce and waive the first reading of an ordinance amending Article 18, Central Business District (CBD) Zone, of Chapter 10.08 of the Tracy Municipal Code to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, Application Number ZA17-0003, as shown in Attachment C, and
2. Approve a Development Review Permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex located at 21, 25, and 29 E. Eighth Street, Application Number D16-0036, as shown in Attachment D.

Prepared by: Scott Claar, Senior Planner

Reviewed by: Bill Dean, Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Red-line version of the proposed amendment to the CBD Zone

Attachment B – Site Plan, Elevations, and Landscape Plan (*Oversized*)

Attachment C – Ordinance recommended by Staff and Planning Commission to amend the CBD Zone, Application Number ZA17-0003

Attachment A

Article 18. - Central Business District Zone (CBD)

10.08.2360 - Purpose (CBD).

The Central Business District (CBD) Zone is to provide areas in which the forces of cumulative attraction or the need for comparison shopping may take place.

(Prior code § 10-2.1800)

10.08.2370 - Descriptive regulations (CBD).

In the CBD Zone, the following specified regulations shall govern, unless otherwise provided in this chapter:

- (a) The CBD Zone is to provide an area in which pedestrian-oriented establishments may locate and the forces of cumulative attraction or the need for comparison shopping may take place.
- (b) The CBD Zone is to provide commercial business, service, and office facilities for the convenience of residents of the entire City.
- (c) The CBD Zone is to provide the retail core and cultural focus for the City.

(d) The CBD Zone is to provide high density residential in close proximity to Downtown businesses and public gathering spaces.

(Prior code § 10-2.1801)

10.08.2380 - Permitted uses (CBD).

- (a) In the CBD Zone, only general business, commercial, wholesale, high density residential, and governmental activities, which are included in the following use groups, shall be permitted without conditional approval:

Group 1	Minor public service uses;
Group 4	Temporary buildings and uses;
<u>Groups 21, 22, 23, 24</u>	<u>Single-family dwellings, two-family dwellings, and multi-family dwellings, except that there shall be no residential uses on the ground floor of buildings with elevations that face the following:</u> <u>(1) Central Avenue between 11th Street and 6th Street,</u> <u>(2) 10th Street between Central Avenue and A Street, or</u> <u>(3) Front Street Plaza at 6th Street, excluding the eastern 110 feet of the block which faces a parking island within the 6th Street public right-of-way;</u>

Attachment A

Group 29	Accessory uses, including signs;
Group 40	Travelers' living accommodations, except for uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 41	Business offices and professional offices and laboratories;
Group 42	Retail trade establishments; except veterinary clinics;
Group 43	Consumer service and retail trade establishments, except for uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; and
Group 54	Small recycling collection facilities.

- (b) In the CBD Zone, general business, commercial, wholesale, and governmental activities which are included in the following use groups shall be permitted only with conditional approval:

Group 2	Local public service and utility installations;
Group 10	Crop and tree farming;
▼	▼
▼	▼
Group 29	Accessory uses;
Group 30	Places of public assembly such as educational, cultural, institutional, religious, and recreational uses serving local residential areas, excluding uses that are classified within Use Group No. 48;

Deleted: Group 23

Deleted: Multi-family uses;

Deleted: Group 24

Deleted: High density multi-family uses and apartment hotels;

Attachment A

Group 31	Educational, cultural, institutional, and recreational uses;
Group 32	Educational, cultural, institutional, and recreational uses with special site or locational requirements;
Group 40	Traveler's living accommodations, except trailer parks and uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 43	Consumer service and retail trade, subsection (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 44	Consumer service and retail trade establishments; and
Group 45	General consumer and business services, miscellaneous repairs, and catering services only.

(Ord. 1050 § 6, 2003; Ord. 1004 § 3, 1999; prior code § 10-2.1802)

(Ord. No. 1177, § 10, 1-15-2013)

10.08.2390 - Building site area (CBD).

There shall be no building site area requirements in the CBD Zone.

(Prior code § 10-2.1803)

10.08.2400 - Lot area (CBD).

There shall be no lot requirements in the CBD Zone.

(Prior code § 10-2.1804)

10.08.2405 - Density (CBD).

There shall be at least 700 square feet of net lot area and no more than 2,500 square feet of net lot area for each dwelling unit in the CBD Zone.

10.08.2410 - Yard areas (CBD).

Attachment A

There shall be no yard area requirements in the CBD Zone, except adjacent to residential zones, in which case a fifteen-foot front yard shall be provided.

(Prior code § 10-2.1805) 10.08.2410

10.08.2420 - Height (CBD).

There shall be no height requirements in the CBD Zone.

(Prior code § 10-2.1806)

10.08.2430 - Permissible lot coverage (CBD).

There shall be no lot coverage requirements in the CBD Zone.

(Prior code § 10-2.1807)

10.08.2440 - Floor area (CBD).

There shall be no floor area requirements in the CBD Zone, except that the minimum floor area for a single-family dwelling shall be 500 square feet.

Deleted: .

(Prior code § 10-2.1808)

10.08.2450 - Off-street parking (CBD).

See Article 26 of this chapter. A twenty (20%) percent reduction in the required parking area, as required by the provisions of Article 26 of this chapter, will be permitted if seventy (70%) percent of this area is used for pedestrian-oriented open space (mall). Developers interested in receiving such reduction shall submit plans for pedestrian-oriented open space to the Commission for approval prior to review by the Community Development Director. A five (5%) percent reduction in required parking area will be permitted if one or more property owners provide public rest areas and direct telephone communication for public transit riders.

(Prior code § 10-2.1809)

10.08.2460 - Usable open space (CBD).

(See Section 10.08.2450 of this article.)

(Prior code § 10-2.1810)

10.08.2470 - Loading and unloading space (CBD).

Loading and unloading areas in the CBD Zone shall be indicated and provided for at the rear of the buildings or upon adjoining alleys.

Attachment A

(Prior code § 10-2.1811)

10.08.2480 - Development review (CBD).

All uses requiring a building permit shall obtain development review compliance, except as provided for in Article 30 of this chapter and the CEQA Guidelines adopted by the City, prior to being established in the CBD Zone. Additionally, any new residential development in the CBD Zone shall be subject to development review, including any new single-family dwellings, two-family dwellings, or multi-family dwellings, regardless of the number of units.

(Prior code § 10-2.1812)

Attachment B – Site Plan, Elevations, and
Landscape Plan

Oversized Attachment - Available upon request

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING ARTICLE 18, CENTRAL BUSINESS DISTRICT (CBD) ZONE, OF CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE TO PERMIT HIGH DENSITY RESIDENTIAL USES, INCLUDING SINGLE-FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND MULTI-FAMILY DWELLINGS, APPLICATION NUMBER ZA17-0003

WHEREAS, Article 18, Central Business District (CBD) Zone, of Chapter 10.08 of the Tracy Municipal Code establishes the permitted uses, conditionally permitted uses, and development standards of the CBD Zone, and

WHEREAS, Multi-family dwellings are conditionally permitted in the CBD Zone, and

WHEREAS, Single-family dwellings and two-family dwellings are not permitted in the CBD Zone, and

WHEREAS, The General Plan states that residential development is strongly encouraged in the Downtown and allowed at a density of 15 to 50 units per gross acre (Downtown, page 2-26 of the General Plan Land Use Element), and

WHEREAS, The City has received an application to amend the CBD Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, and

WHEREAS, The proposed amendment to the CBD Zone is consistent with the General Plan, and

WHEREAS, The proposed amendment is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b).), and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on November 6, 2019, and recommended that the City Council introduce and adopt an ordinance amending Article 18, Central Business District (CBD) Zone, of Chapter 10.08 of the Tracy Municipal Code to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on December 17, 2019;

The Tracy City Council does ordains as follows:

SECTION 1: Article 18, Central Business District (CBD) Zone, of Chapter 10.08 of the Tracy Municipal Code is hereby amended to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings, as shown in Exhibit 1, attached.

Ordinance _____

SECTION 2: This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 3: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council held on the _____ day of December, 2019, and finally adopted on the _____ day of January, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Article 18. - Central Business District Zone (CBD)

10.08.2360 - Purpose (CBD).

The Central Business District (CBD) Zone is to provide areas in which the forces of cumulative attraction or the need for comparison shopping may take place.

(Prior code § 10-2.1800)

10.08.2370 - Descriptive regulations (CBD).

In the CBD Zone, the following specified regulations shall govern, unless otherwise provided in this chapter:

- (a) The CBD Zone is to provide an area in which pedestrian-oriented establishments may locate and the forces of cumulative attraction or the need for comparison shopping may take place.
- (b) The CBD Zone is to provide commercial business, service, and office facilities for the convenience of residents of the entire City.
- (c) The CBD Zone is to provide the retail core and cultural focus for the City.
- (d) The CBD Zone is to provide high density residential in close proximity to Downtown businesses and public gathering spaces.

(Prior code § 10-2.1801)

10.08.2380 - Permitted uses (CBD).

- (a) In the CBD Zone, only general business, commercial, wholesale, high density residential, and governmental activities, which are included in the following use groups, shall be permitted without conditional approval:

Group 1	Minor public service uses;
Group 4	Temporary buildings and uses;
Groups 21, 22, 23, 24	Single-family dwellings, two-family dwellings, and multi-family dwellings, except that there shall be no residential uses on the ground floor of buildings with elevations that face the following: (1) Central Avenue between 11th Street and 6th Street, (2) 10th Street between Central Avenue and A Street, or (3) Front Street Plaza at 6th Street, excluding the eastern 110 feet of the block which faces a parking island within the 6th Street public right-of-way;

Group 29	Accessory uses, including signs;
Group 40	Travelers' living accommodations, except for uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 41	Business offices and professional offices and laboratories;
Group 42	Retail trade establishments; except veterinary clinics;
Group 43	Consumer service and retail trade establishments, except for uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.; and
Group 54	Small recycling collection facilities.

- (b) In the CBD Zone, general business, commercial, wholesale, and governmental activities which are included in the following use groups shall be permitted only with conditional approval:

Group 2	Local public service and utility installations;
Group 10	Crop and tree farming;
Group 29	Accessory uses;
Group 30	Places of public assembly such as educational, cultural, institutional, religious, and recreational uses serving local residential areas, excluding uses that are classified within Use Group No. 48;

Group 31	Educational, cultural, institutional, and recreational uses;
Group 32	Educational, cultural, institutional, and recreational uses with special site or locational requirements;
Group 40	Traveler's living accommodations, except trailer parks and uses listed as (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 43	Consumer service and retail trade, subsection (c-2), Eating and/or drinking establishment that serves alcohol and provides entertainment after 11:00 p.m.;
Group 44	Consumer service and retail trade establishments; and
Group 45	General consumer and business services, miscellaneous repairs, and catering services only.

(Ord. 1050 § 6, 2003; Ord. 1004 § 3, 1999; prior code § 10-2.1802)

(Ord. No. 1177, § 10, 1-15-2013)

10.08.2390 - Building site area (CBD).

There shall be no building site area requirements in the CBD Zone.

(Prior code § 10-2.1803)

10.08.2400 - Lot area (CBD).

There shall be no lot requirements in the CBD Zone.

(Prior code § 10-2.1804)

10.08.2405 - Density (CBD).

There shall be at least 700 square feet of net lot area and no more than 2,500 square feet of net lot area for each dwelling unit in the CBD Zone.

10.08.2410 - Yard areas (CBD).

There shall be no yard area requirements in the CBD Zone, except adjacent to residential zones, in which case a fifteen-foot front yard shall be provided.

(Prior code § 10-2.1805) 10.08.2410

10.08.2420 - Height (CBD).

There shall be no height requirements in the CBD Zone.

(Prior code § 10-2.1806)

10.08.2430 - Permissible lot coverage (CBD).

There shall be no lot coverage requirements in the CBD Zone.

(Prior code § 10-2.1807)

10.08.2440 - Floor area (CBD).

There shall be no floor area requirements in the CBD Zone, except that the minimum floor area for a single-family dwelling shall be 500 square feet.

(Prior code § 10-2.1808)

10.08.2450 - Off-street parking (CBD).

See Article 26 of this chapter. A twenty (20%) percent reduction in the required parking area, as required by the provisions of Article 26 of this chapter, will be permitted if seventy (70%) percent of this area is used for pedestrian-oriented open space (mall). Developers interested in receiving such reduction shall submit plans for pedestrian-oriented open space to the Commission for approval prior to review by the Community Development Director. A five (5%) percent reduction in required parking area will be permitted if one or more property owners provide public rest areas and direct telephone communication for public transit riders.

(Prior code § 10-2.1809)

10.08.2460 - Usable open space (CBD).

(See Section 10.08.2450 of this article.)

(Prior code § 10-2.1810)

10.08.2470 - Loading and unloading space (CBD).

Loading and unloading areas in the CBD Zone shall be indicated and provided for at the rear of the buildings or upon adjoining alleys.

(Prior code § 10-2.1811)

10.08.2480 - Development review (CBD).

All uses requiring a building permit shall obtain development review compliance, except as provided for in Article 30 of this chapter and the CEQA Guidelines adopted by the City, prior to being established in the CBD Zone. Additionally, any new residential development in the CBD Zone shall be subject to development review, including any new single-family dwellings, two-family dwellings, or multi-family dwellings, regardless of the number of units.

(Prior code § 10-2.1812)

RESOLUTION 2019-_____

APPROVING A DEVELOPMENT REVIEW PERMIT TO CONSTRUCT A FIVE-UNIT RESIDENTIAL PROJECT, CONSISTING OF TWO SINGLE-FAMILY DWELLINGS AND A TRIPLEX ON AN APPROXIMATELY 9,885 SQUARE-FOOT SITE LOCATED AT 21, 25, AND 29 E. EIGHTH STREET

WHEREAS, An application was submitted for a Development Review Permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex on an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Application Number D16-0036, and

WHEREAS, The subject property is located in the Central Business District (CBD) Zone and has a General Plan land use designation of Downtown, and

WHEREAS, The Project is consistent with the General Plan and the amended CBD Zone, including the permitted uses and density requirements, and

WHEREAS, The Project includes a one-car garage parking space for each dwelling unit and a total of four additional uncovered parking spaces on the property, and

WHEREAS, To satisfy the minimum off-street parking requirements, the project is utilizing the CBD Zone Parking-in-Lieu Fee Pilot Program of \$0, which was extended to October 6, 2025 by City Council Resolution No. 2019-160, and

WHEREAS, The Project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 because the Project is characterized as in-fill development and (1) is consistent with the General Plan designation of Downtown and all applicable General Plan policies, as well as consistent with the amended Central Business District (CBD) Zone and with all applicable zoning regulations, (2) occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, (3) has no value as habitat for endangered, rare or threatened species, (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (5) can be adequately served by all required utilities and public services, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the Project on November 6, 2019 and recommended that the City Council approve the Development Review Permit (Application Number D16-0036), and

WHEREAS, The City Council conducted a public hearing to review and consider the Project on December 17, 2019;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a Development Review Permit to construct the five-unit residential project, consisting of two single-family dwellings and a triplex on an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Application Number D16-0036, subject to the conditions of approval contained in Exhibit 1 and based on the following findings:

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy because the building architecture includes an attractive design featuring a high-level of detailing and articulation on all four sides of each building, a well-designed gable roof with variation and multiple gable elements to create visual interest and appeal, use of multiple building materials, including wood siding and brick, variation in the building façade depth, ample use of windows, bay windows, front porches, driveway pavers, and an overall design character and architectural details that are inspired by and complement the residential architecture that exists in the surrounding neighborhood.
2. The proposal conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, applicable Infrastructure Master Plans, and other City regulations.
3. The effective date of this Development Review Permit (Application Number D16-0036) shall be effective only upon the effective date of the ordinance amending the Central Business District (CBD) Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings (Application Number ZA17-0003).

* * * * *

The foregoing Resolution 2019-_____ was adopted by the City Council on the 17th day of December 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

City of Tracy
Development Review
Conditions of Approval
Five-Unit Residential Project at 21, 25, and 29 E. Eighth Street
Application Number D16-0036
December 17, 2019

These Conditions of Approval shall apply to the Development Review permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex on an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Assessor's Parcel Numbers 235-161-15, -16, and -17, Application Number D16-0036 (hereinafter "Project"), proposed by Mark Watrous-Heyliger (hereinafter "Applicant").

A. Definitions.

The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
3. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, the Development Services Director, or the City Engineer, to perform the duties set forth herein.
4. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth herein.
5. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
6. "Conditions of Approval" means these conditions of approval applicable to the Development Review permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex on an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Assessor's Parcel Numbers 235-161-15, -16, and -17, Application Number D16-0036.
7. "Property" means the subject property of the Development Review permit to construct a five-unit residential project, consisting of two single-family dwellings and a triplex on

an approximately 9,885 square-foot site located at 21, 25, and 29 E. Eighth Street, Assessor's Parcel Numbers 235-161-15, -16, and -17, Application Number D16-0036.

B. Planning Division Conditions of Approval

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City Regulations.
3. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] ("Exactions") and imposed on this Project by these Conditions of Approval) shall commence on the date of the conditional approval of this Project. If the Developer fails to file a protest of the Exactions within this 90-day period, complying with all of the requirements of Government Code Section 66020, the Developer will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the City.
4. Except as modified herein, the project shall be developed in substantial compliance with the plans received by the Development Services Department on October 30, 2019, to the satisfaction of the Development Services Director.
5. The effective date of this Development Review Permit (Application Number D16-0036) shall be effective only upon the effective date of the ordinance amending the Central Business District (CBD) Zone to permit high density residential uses, including single-family dwellings, two-family dwellings, and multi-family dwellings (Application Number ZA17-0003).
6. Prior to the issuance of a building permit, a lot line adjustment merging the subject property into one lot shall be approved by the City Engineer and recorded at the San Joaquin County Recorder's Office, to the satisfaction of the Development Services Director.
7. Prior to the issuance of a building permit, the developer shall submit a detailed landscape and irrigation plan consistent with City landscape and irrigation standards,

including, but not limited to Tracy Municipal Code Section 10.08.3560, the City's Design Goals and Standards, the City's Water Efficient Landscape Ordinance, and all other applicable City regulations, to the satisfaction of the Development Services Director.

8. Prior to the issuance of a building permit, an Agreement for the Maintenance of Landscape and Irrigation Improvements, installed in compliance with the plans referenced in Condition of Approval Number B.7., above, shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the landscape and irrigation improvements, or \$2.50 per square foot of landscape area.
9. Prior to issuance of a building permit, the construction documents shall comply with California Building Standards Commission (Cal Green Code Emergency Standards; Title 24, Part 11) regarding landscaping and irrigation water efficiency to the satisfaction of the Utilities Director.
10. Prior to issuance of a building permit, the Developer shall comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District (APCD), to the satisfaction of the APCD.
11. All PG&E transformers, phone company boxes, Fire Department connections, back flow prevention devices, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, or painted to match the adjacent building or landscaping, to the satisfaction of the Development Services Director.
12. All vents, gutters, downspouts, flashing, electrical conduit, etc. shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior, to the satisfaction of the Development Services Director.
13. Prior to the issuance of a building permit, the developer shall comply with all applicable Stormwater Quality Regulations and the Water Efficient Landscape Ordinance, to the satisfaction of the Water Resources Division of the Utilities Department.
14. Prior to issuance of a building permit, the Developer shall provide plans to show that where landscape planters are parallel and adjacent to the side of a vehicular parking space, a 12-inch wide concrete curb shall be provided to allow for pedestrian access to vehicles without damage to landscape areas.
15. Prior to issuance of a building permit, the Developer shall comply with all requirements of the California Fire Code, to the satisfaction of the South County Fire Authority, including but not limited to the following:

- a. Prior to issuance of a building permit, the Developer shall provide civil plans demonstrating that the location of the fire sprinkler supply line and riser locations are acceptable to the South County Fire Authority.
 - b. Prior to issuance of a building permit, the Developer shall provide plans that demonstrate adequate sprinklers, to the satisfaction of the South County Fire Authority.
 - c. Prior to final inspection, the Developer shall provide signage and paint red curb stating "No Parking Fire Lane" at the access and rolled curbing, to the satisfaction of the South County Fire Authority.
16. Prior to issuance of a building permit, the Developer shall submit plans that comply with all requirements of the California Building Code, to the satisfaction of the Chief Building Official.

C. Engineering Division Conditions of Approval

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/reports prepared for the Project listed as follows:

- 1) NONE

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. The City will not accept a Grading Permit application for the Project until Developer provides all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the project's limits.

- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), septic system(s), and leech field(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site), including the Grading and Drainage Plans, shall be prepared in accordance with the City's Subdivision Ordinance (TMC Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.
- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management

Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

- C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level, and other information as requested by the City Engineer.
- C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

Minor Retaining along Project Perimeter – Developer shall use reinforced or engineered masonry blocks for retaining soil along the Project boundary and adjacent property(s) when the grade differential exceeds 12-inches. Developer will include construction details for these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical). Slope easements may be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

Slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading and Drainage Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).
- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.
- C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others. Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans.
- C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Encroachment Permit

All construction activity involving public improvements will require an approved encroachment permit. Any construction activity involving public improvements without an approved encroachment permit is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. The City will not start processing any encroachment permit application until the Developer provides all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.5.1. Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.
- C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.

The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot.

- C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

- C.5.1.g. Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the

Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.

After improvement acceptance, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

All water connections shall conform to City Standard Detail No. 403/404 with a continuous copper connection. Any design deviations

shall be processed through Section 1.05-1.07 of the 2008 Design Standards.

C.5.1.h. Fire Hydrants – Location and construction details of fire service line including the private fire hydrant(s) that are to serve the Project shall be approved by the Fire Marshal. Prior to the approval of the Improvement Plans by the City Engineer, the Developer shall obtain written approval from the Fire Marshal, for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed or planned to serve the Project. Hydrants shall be privately owned and maintained and shall be painted red.

C.5.1.i. Streets – All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City. On-site streets shall be privately owned and maintained.

The Project's utility connections, Developer shall use existing utility stubs. If the stubs are not present or additional utility connections are required, the pavement restoration shall conform to C.8.1 of these Conditions.

Developer shall remove all existing driveways not proposed to be used by the project.

C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and

encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.5.5. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.5.6. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.5.7. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.
- C.5.8. RESERVED
- C.5.9. Off-site Public Improvements - Prior to the Developer commencing construction of off-site public improvements, Developer, if required, shall possess a fully executed Encroachment Permit. Developer shall also complete all of the following requirements to the satisfaction of the City Engineer:

Developer has received City signed improvement plans.

Developer has paid all required processing fees including plan check and inspection fees.

Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.
- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.
- C.6.3 Developer obtains the demolition permits for the existing structures.
- C.6.4 Developer completes the documents to file a lot merger to create one (1) resultant parcel.

C.7 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Developer demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public

facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.
- C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.
- C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2008 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 If water is required for the project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare and submit a map depicting the location of the water meter on a 8.5-inch X 11-inch sheet to Finance Department.
- C.8.5 Project Entrance As stipulated by Section 5.17 of the 2008 Design Standards, a PCC valley gutter is prohibited in the City's right-of-way.
- C.8.6 If required, Developer shall design or purchase and then construct or install a storm water treatment device and shall be located entirely within private property. Said installation shall be in a manner that does not impose any additional downstream maintenance burdens to the City. Said design and construction methods shall be to the satisfaction of the City Engineer.
- C.8.7 Sidewalks to Right-of-Way Developer shall construct sidewalks that connect the private in-tract sidewalks to the sidewalks in the right-of-way. These sidewalks' grade, alignment, etc. shall be in a way that does not create excessively narrow areas that prevent the survival of plants. This condition shall be performed to City standards and to the satisfaction of the City.
- C.8.10 Developer may use the existing utility stubs and can replace the existing utility boxes with traffic rated utility boxes.

AGENDA ITEM 3.D

REQUEST**PROVIDE DIRECTION ON FY 2019/20 STRATEGIC PRIORITIES AND APPROVE COUNCIL WORKSHOP REPORT AS OCTOBER 2, 2019 SPECIAL MEETING MINUTES**EXECUTIVE SUMMARY

On October 2, 2019, the Tracy City Council held a Special Meeting at the Grand Theater in downtown Tracy to discuss strategic planning priorities as part of its annual goal setting process. More specifically, the workshop was an opportunity for Council to agree on norms, clarify roles, and set priorities for the coming year. Rod Gould and Nancy Hetrick of Management Partners facilitated the workshop. The City Manager also provided an update on the state of the organization and city finances. The attached Special Meeting Council Strategic Priorities Workshop report summarizes the workshop discussion, activities, and outcomes.

DISCUSSION

As a group, the Council performed a dot prioritization exercise to identify priorities for FY 2019/20 and agreed its top tier priorities were to ensure (1) short and long term financial sustainability and inform the public about the City's fiscal challenges, and (2) facilitate the construction of a Measure V amenity (See Table 1). They also noted that completing and implementing the Council Code of Conduct policy was critical. The Code of Conduct policy was subsequently adopted via resolution on October 15, 2019.

Table 1 – Top Tier Priorities

Top Tier Priorities	Dots
Plan to get financial house in order and educate the public	All
Measure V – get something in the ground	All
Adopt a Code of Conduct	All

Councilmembers were also asked to identify their top organizational priorities. The results of the dot voting exercise are summarized in Table 2 below.

Table 2 – Organizational Priorities

Organizational Priorities	Dots
Valley Link/infrastructure/traffic	5
Economic Development (targeted)	3
Transit-oriented development (TOD)	2
Homelessness strategy	2
Crime prevention plan (hold study session)	1
Governance; clarify role of commissions	1
Cannabis regulation	1
Complete the Emergency Preparedness Plan	0
Youth programs	0
Labor agreements	0
Workforce/affordable housing	0

Based on Council discussion and direction at the October 2, 2019 workshop, the Council majority (3 or more) identified the following priorities for FY 2019/20:

- Ensure Short and Long Term Financial Sustainability
- Enhance Public Awareness around City Finances and other Civic Matters
- Facilitate the Completion of Measure V Amenities
- Continue to Support Valley Link
- Facilitate Infrastructure Projects to Improve Citywide Traffic Conditions
- Encourage the Development of Good Governance Policies

Based on Council direction provided by the workshop, staff developed a draft workplan for Council discussion and consideration. Table 3 reflects the Council's top strategic priorities and goals, and suggested objectives to be accomplished over the next fiscal year. Historically, Council goals and objectives have been organized under the following categories: Quality of Life; Economic Development; Public Safety; and Governance. Please note that some priorities will be listed under more than one category.

Additionally, while not identified by a majority of Council as a top priority, Transit Oriented Development (TOD), Homelessness Strategic Planning, and Cannabis Regulations were included as these projects are currently underway and are expected to be completed in FY 2019/20.

Table 3 – Draft Strategic Priorities Workplan

	Council Strategic Priorities and Objectives	
Quality of Life	Goal 1:	Facilitate the Completion of Measure V Amenities
	<i>Objective 1:</i>	<i>Implement Council Direction to Partner with Developer (Surland) to Develop Conceptual Design Plan Reflecting Key Aquatic Elements not to Exceed \$65 Million</i>
	<i>Objective 2:</i>	<i>Provide Update to Council Regarding Measure V Project Priorities and Develop a Implementation Plan</i>
	Goal 2:	Facilitate Infrastructure Projects to Improve Citywide Traffic Conditions
	<i>Objective 1:</i>	<i>Pursue Grant Funding to Accelerate Roadway Infrastructure Projects (e.g. EDA, BUILD, INFRA)</i>
	<i>Objective 2:</i>	<i>Work with San Joaquin County and CalTrans to Modify Regional Traffic Signals to Improve Commuter Flow for Tracy Residents</i>
	<i>Objective 3:</i>	<i>Consolidate Finance and Implementation Plan (FIP) Areas to Advance Funding for Priority Roadway Infrastructure Projects</i>

Quality of Life (con't)	Goal 3: Develop a Homelessness Strategic Plan <i>Objective 1: Work with Residents, Local Businesses, and Social/Community Service Partners to Identify Strategic Initiatives to Address Homelessness in Tracy</i> <i>Objective 2: Explore Opportunities to Provide Temporary and/or Permanent Housing for Homeless in Tracy</i> <i>Objective 3: Facilitate Partnerships and Implement Strategies to Enhance Resources to Proactively Address Citywide Encampments</i>
Economic Development	Goal 1: Continue to Support Valley Link <i>Objective 1: Work with Regional Rail Authority and Area Partners to Expand Support for Transportation Initiatives</i> <i>Objective 2: Continue to Prioritize Valley Link Within the Local, State and Federal Lobbying Efforts</i> Goal 2: Develop and Implement Cannabis Regulations <i>Objective 1: Establish Application and Permit Process</i> <i>Objective 2: Facilitate Partnerships with Cannabis Businesses</i> <i>Objective 3: Accept Applications in Spring 2020</i> Goal 3: Continue to Advance Transit Oriented Development Opportunities <i>Objective 1: Work with Downtown Property Owners and Other Stakeholders to Develop a Transit Oriented Development District</i> <i>Objective 2: Work with Valley Link and Other Stakeholders to Develop the Downtown Station</i> <i>Objective 3: Identify Other Key Opportunity Sites to Facilitate Development of TOD Plan, Upon Adoption</i> Goal 4: Attract Businesses in Targeted Industries that Meet the Needs and Desires of the Community <i>Objective 1: Issue Community Retail & Entertainment Survey to Determine the Needs and Desires of the Community</i> <i>Objective 2: Implement Marketing Campaign to Target Specific Businesses & Industries that provide Head-of-Household Jobs</i> <i>Objective 3: Collaborate with Statewide, Regional, and Local Economic Development Organizations to Promote Tracy for Corporate Business Expansion</i>

Economic Development (con't)	<i>Objective 4: Attend Industry Conferences and Tradeshows to Augment Marketing Campaign to reach Targeted Businesses & Industries</i>
Public Safety	Goal 1: Support Efforts to Enhance Citywide Traffic Conditions <i>Objective 1: Identify Trends to Inform Traffic Management Approach and Resource Allocation</i> <i>Objective 2: Coordinate Multi-Department/Stakeholder Team to Address Issues (e.g. PD, Engineering, TUSD, CHP)</i> <i>Objective 3: Implement a System to Solicit Community Feedback and Assess Effectiveness of Police Response of the Response and Recommend Adjustments as Necessary</i> Goal 2: Develop a Homelessness Strategic Plan <i>Objective 1: Work with Residents, Local Businesses, and Social/Community Service Partners to Identify Strategic Initiatives to Address Public Health and Safety Issues</i> <i>Objective 2: Facilitate Public Safety and Community Partnerships to Proactively Address Citywide Encampments</i> <i>Objective 3: Identify and Pursue Resources to Enhance Our Response to Homelessness-related Issues</i>
Governance	Goal 1: Enhance Public Awareness Around City Finances and Other Civic Matters <i>Objective 1: Expand Resident Police Academy to Include Civic Matters, Including City Finances</i> <i>Objective 2: Partner with the Chamber of Commerce to Enhance Civics Presentation on City Finances</i> <i>Objective 3: Update Website Navigation to Enhance User Experience and Information Accessibility, and Incorporate Social Media Outreach Efforts</i> Goal 2: Encourage the Development of Good Governance Policies <i>Objective 1: Adopt and Implement Council Code of Conduct Policy</i> <i>Objective 2: Adopt and Implement Revised Council Protocols and Procedures</i> <i>Objective 3: Develop and Adopt a Council Vacancy Policy</i> Goal 3: Ensure Short and Long Term Financial Sustainability <i>Objective 1: Develop Cost Containment and Revenue Enhancement Strategies for Consideration as part of the FY 2020/21 Budget Development Process</i>

Governance (con't)	<i>Objective 2: Develop a Policy Requiring a Fiscal Analysis for Proposed Annexations</i> <i>Objective 3: Develop and Implement a Performance Measures Program to Inform Policy Development and Operational Decision Making</i>

The draft strategic priorities workplan will be updated to reflect any additional input and/or feedback provided by Council. Council will be able to adjust the workplan during the fiscal year with the understanding that the addition of new priorities would significantly delay or result in the elimination of other projects. Staff will commit to reporting on progress toward Council priorities quarterly.

FISCAL IMPACT

There is no fiscal impact associated with the approval of a Council strategic priorities workplan.

RECOMMENDATION

It is recommended that Council provide direction regarding the draft FY 2019/20 Strategic Priorities and approve the attached workshop report as the October 2, 2019 Special Meeting minutes.

Prepared/Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS

October 2, 2019 Special Meeting Council Strategic Priorities Workshop Report



City of Tracy

City Council Workshop on October 2, 2019

**Management
Partners**



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Workshop Report

The Tracy City Council held a Special Meeting on October 2, 2019 at the Grand Theater in downtown Tracy. The workshop was an opportunity for Council to agree on norms, clarify roles, and set priorities for the coming year. Rod Gould and Nancy Hetrick of Management Partners facilitated the workshop.

Workshop Objectives and Agenda

Objectives

- Council agreement on norms for working together and working with staff on behalf of the community
- Clarify roles and enhanced trust
- Discuss opportunities and challenges on the horizon for the City of Tracy
- Set priorities for the coming year

Agenda

- Welcome and Public Comment
- Agenda Review
- Learn More About Councilmembers' Service to Tracy
- Discuss Council Norms
- Reflect on City Achievements and Contributing Factors
- Clarify Governance Roles
- Identify Opportunities and Challenges for Tracy
- Hear City Manager Update
- Brainstorm and Discuss Priorities for FY 2019-20
- Review Agreements and Commitments and Wrap Up

Participants

Councilmembers

**Mayor
Robert Rickman**



**Vice Mayor
Nancy Young**



**Councilmember
Dan Arriola**



**Councilmember
Rhodesia Ransom**



**Councilmember
Veronica Vargas**



City Staff

- Jenny Haruyama, City Manager
- Leticia Ramirez, Interim City Attorney
- Members of the Executive Team (afternoon only)

Workshop Ground Rules. At the start of the workshop, the facilitators suggested several ground rules to help the group have a successful workshop.

- Seek consensus
- Listen to understand
- Participate
- Stay focused
- Assume good intent
- Speak up if we need a course correction

Bike Rack. The facilitators explained that items that were brought up but would not receive immediate attention would be added to a “bike rack.” It was used as a placeholder for later discussions during the session. Bike rack items were ultimately incorporated into the list of priorities presented later in this report.

Workshop Preparation. In preparation for the workshop, Rod Gould conducted individual interviews with each Council member, and discussed the workshop with the City Manager. An agenda and PowerPoint presentation were prepared.

Learn More About Councilmembers’ Service to Tracy

To set the stage for a productive workshop, Council members shared their experiences related to their service to Tracy. Council members responded to the following prompts:

- What propelled you to serve on the City Council?
- What do you hope to accomplish through your service on the City Council?
- What about your service on the City Council do you find most satisfying?
- What legacy would you like to leave the community?

A variety of themes emerged and are summarized below.

- Grew up in Tracy and want to give back; “this is home”
- Pride in community
- Desire to represent under-served communities
- Add a new voice to the table and have a seat at the table to address issues that affect generations (now and in the future)
- Amplify the voices of those not heard
- Bring diversity to the Council
- Service
- To get things done; generate meaningful results – be a part of the solution
- Connect neighborhoods
- Address issues related to transportation, design, connections
- Address cleanliness of the community
- Ensure equity of service (e.g., amenities for the poor, more services for senior, youth, Measure V)
- Connect to BART
- Putting Tracy first

Discuss Council Norms

The facilitators provided materials on high-performing councils and examples of council norms in advance of the workshop to inform the discussion. The group discussed the common elements and norms from the materials and how some could be incorporated into Tracy's governance culture.

First, Council members reflected on an article entitled, "**Attributes of Exceptional Councils**" (*Institute for Local Government*). Notes from that discussion are provided below.

- Need a framework to get things done so we can disagree agreeably, within a process with specific roles
- Sense of team/partnership is critical to getting results
- Work together without hierarchy
- Take time to develop a team and invest time to build the team
- Ensure effectiveness of both staff and Council (lowest common denominator will prevail) – respect and trust are essential
- Basic respect on and off the dais fosters trust for the success of the team
 - o Trust the process will be fair
 - o We know/stay in our lanes
- City manager honors and carries out the will of the whole Council
- Continual learning is critically important and enables continual professional development
 - o Find a means for supporting professional development (help for future Council members)
 - o Learn from others (best practices; new approaches)

Next, Council members reflected on an article entitled, "**A Key Ingredient for Success: An Effective City Council/City Manager Relationship**" (by Kevin Duggan, ICMA West Coast Regional Director, ICMA). Notes from that discussion are presented below.

- Performance management
 - o Use data to balance emotion
 - o Be intentionally performance-based
 - o Use facts to make decisions
- Trust professional staff (City Manager/City Attorney)
 - o "Feel free to disagree with me"
 - o City Manager provides technical information to inform decision making
 - o Be open to new information to inform the best path forward

- o “Disagreement” does not equal “attack”
- Working through personal/political disagreements should not occur at the dais – seek information/discussion privately.
 - o Build trust
 - o Resolve issues and ask questions early on – be honest/frank
- Listen to all voices; you may disagree, but let others be heard (“I can live with it”)
- Ensure the public is informed about how recommendations are developed (focus extra time on the big/controversial items)
- Avoid win/lose dead ends, find common ground, work together
- Communicate council decisions without negative tone. Ok to be in disagreement. Share differing opinions with phrases like, “The Council decided...”, “I still believe...”, and “I hope to get there.”
- Desire to be informed and to collaborate
- Ensure everyone is provided the same information; Council reports are provided as a means to do this
- For sensitive issues, begin by presenting options for discussion (some issues may not need/benefit from this approach)

Council Agreements

Council members agreed on the following norms to guide and hold themselves accountable to each other.

- Do not take ourselves so seriously
- Assume positive intentions
- Disagree agreeably
- Support continual learning
- Stop personal attacks
- Stay objective and focus on the issue (use data to balance emotion)
- Ask questions of the City Manager early on
- Be clear and consistent on time limits and public input
 - o Clarify and hold to time limits
 - o Must be on the agenda for public comment
 - o Exercise finesse regarding public personal attacks; request respect and focus on the issue/topic
- City Council/City Manager briefings are valued
 - o Technical briefings including staff are OK, but don’t sacrifice all one-on-one time
- Staff requests must to go through the City Manager for now (until we build trust)
- Solicit City Attorney guidance early – she is available for questions/input

The Council also discussed adding norms and values as an Attachment A to code of conduct.

Reflect on City Achievements and Contributing Factors

Prior to the Council workshop, staff prepared a list of recent City accomplishments. This was provided to Council to use as a resource as they contemplated what has made them successful in the past.

Clarify Governance Roles

The facilitators reviewed the roles of the key players in local government: Council, Mayor, City Manager, City Attorney, City Treasurer, staff, commissions, committees, and boards. A summary of the information presented is in Table 1.

Table 1. Governance Roles Overview

Position(s)	Role
City Council	• Sets policy and overall direction • Keeps in touch with community concerns
Individual Council members	• Do what is in the best long-term interest of the community • Respect the chain of command • Work through the City Manager (or department heads with copy to City Manager) • Meet with the City Manager on a regular basis
Mayor	• Run the Council meetings • Serve as chief representative of the City • Meet with the City Manager regularly to discuss issues collaboratively • Work with the City Manager to anticipate future issues and plan the City's response • Carry out all of the roles listed for Council members
City Manager	• Implement Council policy • Handle day-to-day operations • Offer policy advice • Manage staff • Serve as chief executive officer of the municipal organization • Guide and develop staff and create a productive organization culture • Provide advice to the City Council • Help make the Council productive and successful and help each member of Council to succeed • Help staff achieve the Council's goals
City Attorney	• Represent the whole organization, not individual Council members or members of the public • Provide clear and accurate legal advice on a myriad of complex laws • Be fair and impartial • Provide full disclosure • Use candor and diplomacy

Break

The group took a break for lunch, during which, Executive Staff joined for the afternoon session.

Identify Opportunities and Challenges for Tracy

The facilitator framed the discussion by posing the following questions to the group:

- What are Tracy's significant opportunities in the next year?
- What are Tracy's major challenges in the next year?
- What would you like to see change in Tracy in the next four years?

Opportunities

Council members identified the following significant *opportunities for the next year*.

- Transit-Oriented Development (TOD)/Valley Link
- Crime prevention
- Equitable distribution of resources
- Disaster preparedness/safety plan
- Addressing homelessness
- Targeted recruitment of businesses
- Workforce education
- Focus on Measure V
- Affordable housing, housing policy
- Supportive youth
- Modern infrastructure
- Traffic calming
- Restoring trust
- Fiscal stability, balanced budget
- Civic engagement
- Revisit/clarify role of commissions
- Amenities – revisit and build
- Citizens academy
- Infrastructure
- Honest dialogue
- Economic development attraction

Challenges

Council members identified the following *challenges for the next year*.

- Election year
- Council turnover
- Finances – limitations
- Negotiations
- Communications
- Realism – limited staff capacity and financial resources

Looking Ahead

Council members identified the following *changes they would like to see in Tracy in the next four years*.

- Get amenities built (Measure V)
- Culture change – team trust
- Higher performing City (pride)(data)(metrics)
- Stronger finances
- Plans are implemented
- Succession plan for facilities
- Succession plan for people
- Grow our own
- Organization development
- Speedier development approval process; permit streamlining

City Manager Update

City Manager Jenny Haruyama provided an update on the state of the organization. The slides used in her presentation can be found in the attachment.

Brainstorm and Discuss Priorities for FY 2019-20

As a group, Council brainstormed priorities for the coming year. Before brainstorming, Council members all agreed that “Getting the financial house in order” and “Getting a Measure V amenity in the ground” must be a top priority. They added the code of conduct approval and implementation to the short list of top tier priorities.

Table 2. Top Tier Priorities

Top Tier Priorities	Dots
Plan to get financial house in order and educate the public	All
Measure V – get something in the ground	All
Adopt a Code of Conduct	All

Organizational priorities were written up on a flipchart and each councilmember was given three dots to allocate to their top three organizational priorities. The results of the dot voting exercise are summarized below in Table 3.

Table 3. Organizational Priorities

Organizational Priorities	Dots
Valley Link/infrastructure/traffic	5
Economic Development (targeted)	3
Transit-oriented development (TOD)	2
Homelessness strategy	2
Crime prevention plan (hold study session)	1
Governance; clarify role of commissions	1
Cannabis regulation	1
Complete the Emergency Preparedness Plan	0
Youth programs	0
Labor agreements	0
Workforce/affordable housing	0

The City Manager explained that staff will return with a work plan based on the full set of strategic priorities identified for the coming year, with timeframes consistent with staffing and budgetary resources for Council adoption at an upcoming City Council meeting.

Council will be able to adjust the work plan during the fiscal year with the understanding that the addition of new priorities and projects will require delaying or dropping others. Staff will commit to reporting on progress toward Council priorities quarterly.

Review Agreements and Commitments and Wrap Up

City staff was invited to make clarifying comments and the group reviewed the commitments made as a result of the day's workshop. The facilitators explain that following the workshop, Management Partners would produce this summary report on the discussion.

Attachment – City Manager’s Update Slides



Discussion Outline

1. State of the Organization
2. Citywide Strategic Efforts
 - Organizational Workload
 - Priority/Project Focus Areas
3. Financial Outlook and Sustainability

Think Inside the Triangle™



State of the Organization



- Resilient
- Adaptable
- Strong
- Opportunistic
- Vulnerable
- Transitional
- Uncertain
- Distracted

Think Inside the Triangle™



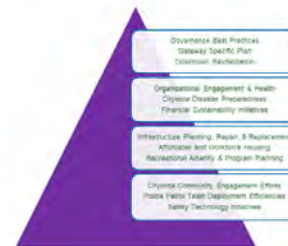
Citywide Efforts



Think Inside the Triangle™



Priority Focus Areas



Think Inside the Triangle™



Budget Snapshot



Think Inside the Triangle™



Budget Snapshot

Why do we focus on the General Fund?

1. It is the largest fund.
2. It provides the only source of discretionary funding for the City.



General Fund Expenditures

Think Inside the Triangle™



Budget Snapshot

How do we spend General Fund dollars?

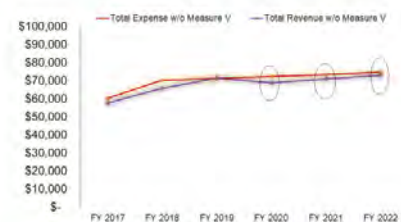


Think Inside the Triangle™



Financial Outlook

Are we living within our means?



Think Inside the Triangle™



Future Obligations

What should financial focus be?

LONG-TERM OBLIGATIONS	ANNUAL FUNDING	REQUIRED
Building, Vehicle/Equipment, Deferred Maintenance	\$3.5M-\$4M	\$0M-\$8M
Road & Street Maintenance	\$2.8M	\$6.5M
		\$4M

OTHER LIABILITIES	ANNUAL CONTRIBUTION	AMOUNT UNFUNDED
Retiree Medical	\$450,000	\$1M
Pension	\$10.4M*	\$91.3M

*Expected to increase 5-10% over next 3 years

Think Inside the Triangle™

Long-Term Financial Sustainability

Key Financial Approaches

1. Focus on long term impacts.
2. Maintain adequate reserves to provide financial flexibility.
3. Use one-time revenues for one-time expenses.

The General Fund is in a cautionary status.

Think Inside the Triangle™

AGENDA ITEM 3.E

REQUEST

RECEIVE AN UPDATE ON CITY'S WATER SYSTEM MASTER PLAN AND WATER RELIABILITY

EXECUTIVE SUMMARY

The City completed a Water System Master Plan in 2012 which identified water supplies, demand, treatment and distribution capacities for existing and new developments within the City's General Plan area. Since then, significant new residential and commercial developments have occurred and new water facilities have been constructed within the City. During this time, the availability and reliability of the City's water supplies have been impacted by drought conditions and recent unprecedented changes in water supply provided by the California Valley Project (CVP) and Bay/Delta Water Quality Control Plan. Given these changes, the City has done an excellent job in water conservation by complying with the local and state restrictions and with the use of water efficient appurtenances. The City's existing water demand has also significantly reduced due to water conservation measures. The 2020 update of the Water Master Plan encompasses all these changes and identifies new sources of water supply to meet City's existing and future demands. The Water Master Plan is in the process of being updated to address new state regulations and development assumptions. It is expected to be complete and before Council for consideration and approval in Spring 2020. The purpose of this agenda item is to advise Council of key findings as it relates to changes in state water reliability regulations.

DISCUSSION

In 2012, the City completed a Water System Master Plan which projected water demands based on buildout of the City's General Plan and evaluated the availability and reliability of the City's water supplies to meet the projected demand. The City also assessed the adequacy of the City's water system infrastructure facilities to deliver water supplies to the City's residents and businesses in a safe and reliable manner.

Since the adoption of the 2012 Water System Master Plan, significant changes to City's water demand, supplies and reliability have occurred due to state regulations and drought impacts. In addition, changes to the water distribution system have occurred due to changes and pattern of developments.

In 2018, the City retained West Yost Associates to prepare an update to the Water System Master Plan to address the issues above. A status report will be presented by Elizabeth Drayer, West Yost's Project Manager for the City's Water System Master Plan Update. The presentation will overview of recent water use trends, changes which have occurred since the completion of the 2012 Water System Master Plan, and projected future water supply and demand based on updated development planning data.

Key changes include the following:

- Significant new development has occurred within the City and future development plans have been updated
- Several new water facilities have been recently constructed in the City
- Recent drought conditions have changed water use habits and led to new water use efficiency legislation in California
- Reliability of the City's water supplies has been impacted by recent drought conditions, environmental concerns and new state regulations

One important change to note is that the recent drought led to unprecedented water supply reductions and mandated statewide water conservation. This means that during future drought conditions, water supply and flow conditions will be impacted. In addition, this impact will be further exacerbated by the 2018 Bay/Delta Water Quality Control Plan, which restricts the use of surface water flows to protect fish and wildlife. Sources impacted are the Stanislaus River; from which the City's South San Joaquin Irrigation District (SSJID) surface water supplies are obtained.

While the changes noted above will be evaluated as part of the Updated Water System Master Plan, West Yost has completed a preliminary assessment of the City's projected future water demands based on updated development planning data and water supply reliability estimates. Preliminary findings include:

- The City has a strong portfolio of available water supply sources
- The City's residents and businesses have done a great job in conserving water and improving their water use efficiency
- The future reliability of the City's water supplies will be impacted by drought conditions, climate change and environmental issues
- Reliable sources of water supply are not available from neighboring irrigation districts and other sources
- The City should continue to be proactive in identifying and developing new water supplies, including:
 - Continuation of the City's recycled water program to offset potable water use for landscape irrigation
 - Expansion of the City's Aquifer Storage and Recovery (ASR) Program to provide for additional dry year water supplies
 - Implementation of a recycled water exchange program with USBR for additional potable water supply

The Water System Master Plan Update is anticipated to be completed in Spring 2020, at which time findings and recommendations will be brought back to City Council. Furthermore, projected water demands developed for the Updated Water System Master Plan will be included in the City's 2020 Urban Water Management Plan which will be due to the California Department of Water Resources by July 1, 2021.

The State Department of Water Resources require cities to adopt an Urban Water Management Plan every five years describing how the current and future resources and demands within the City's service area will be managed to provide adequate and reliable water supplies.

STRATEGIC PLAN

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

FISCAL IMPACT

The proposed update of the Water System Master Plan may have fiscal impacts on new developments which will be studied in detail and presented to City Council at the time of approval of the Master Plan tentatively scheduled for completion in Spring 2020.

RECOMMENDATION

That City Council receive the update on the City's Water System Master Plan.

Prepared by: Robert Armijo, City Engineer
Kuldeep Sharma, Utilities Director

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

Approved by: Jenny Haruyama, City Manager

AGENDA ITEM 3.F

REQUEST

PROVIDE DIRECTION TO STAFF REGARDING NEGOTIATING AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT (ENRA) WITH PRIVATE PUBLIC INFRASTRUCTURE GROUP LLC (PPIG) REGARDING THE COMPLETION OF A FEASIBILITY STUDY TO DETERMINE THE POTENTIAL MONETIZATION OF THE CITY'S FUTURE RECYCLED WATER SUPPLY

EXECUTIVE SUMMARY

The City was approached by PPIG to consider a proposed concept to purchase the City's unused recycled water supply. In return, PPIG offered to complete construction of a large portion of the City's remaining unbuilt recycled water infrastructure. PPIG's intent is to resell the City's recycled water if available to other entities through contracts and that the City could share revenue from the sale of the recycled water. In order to explore this proposed concept further, PPIG has requested that the City execute an ENRA for the purpose of completing a feasibility study. Council Member Ransom and Mayor Rickman have sponsored PPIG's request for this ENRA agenda item for discussion at the Council meeting. Staff is requesting direction from Council relative to negotiating an ENRA with PPIG for the purpose of completing a feasibility study, including potential terms for such an agreement.

DISCUSSION

The City's recycled water is a by-product from the treatment of wastewater at the City's Wastewater Treatment Plant (WWTP) facility and has multiple uses ranging from landscape irrigation to agricultural and indirect potable uses for future developments. With the ultimate buildout of the Master Plan recycled water infrastructure and the expansion of the Wastewater Treatment Plant to 21 mgd, it is anticipated that a portion of the City's recycled water will be available for other non-city uses. However, it should be noted that due to previous droughts and changing State regulations and requirements related to water reliability, potential sources of water supplies for new developments within the City's General Plan area will be limited. As a result, the City is actively evaluating future recycled water supplies for indirect potable uses to ensure adequate water for new development and buildout of the City's General Plan. Recycled water is the only remaining reliable source of water supply available at this time. Most of the available water from neighboring irrigation districts and other sources are subject to reductions during drought conditions and are not reliable.

Recycled Water Master Plan:

The City's Recycled Water Master Plan outlines construction of recycled water infrastructure throughout the City. The recycled water will serve the irrigation needs of street medians and right of way landscaping, parks and sports fields including Legacy Fields, Plascencia Fields, and the Sports Complex. The recycled water will also serve the irrigation needs of onsite landscaping in commercial and industrial facilities. In addition, recycled water is also a future source of indirect water supply to serve the

needs of new developments within the City's General Plan area since availability of existing sources of water are scarce. The City's Water System Master Plan is currently being updated to include new backbone infrastructure to allow potential indirect potable water uses for future developments.

The City's \$24 million grant-funded recycled water project is in the last phase of construction. The project construction will be completed in early 2020, and the project will supply recycled water to Legacy Fields for irrigation purposes.

Regulatory Approved Uses of Recycled Water:

At present, in northern California, the State Water Board has permitted use of recycled water for irrigation purposes only. The recycled water can be used from the source of treatment and applied directly to the land for irrigation purposes. Most of the cities in the Bay Area are either using or are in the process of using recycled water for irrigation of street landscaping, parks, sports fields, commercial and industrial facilities. In the San Joaquin Valley, potential uses of recycled water also include indirect uses and agricultural uses. The location of the Delta Mendota Canal (DMC) in the San Joaquin Valley provides potential of easier and less expansive conveyance of recycled water within the valley from north to south. Southern California is at the forefront of using recycled water for indirect potable use. The City of San Diego and Metropolitan Water District are successfully working on multi-million dollar projects for indirect use of potable water supplies.

Potential Uses of Recycled Water:

The previous drought has demonstrated that any form of water is a commodity in California. As a result, the State is in the process of enacting various regulations which may allow direct or indirect uses of recycled water; thus opening doors for multiple uses including indirect or direct potable use in the future. The state may require additional treatment processes like reverse osmoses for direct uses.

1. Direct Uses: The direct uses of recycled water include irrigating street medians and right of ways landscaping, onsite landscaping in commercial and industrial facilities, parks and sports fields. The future uses could include major Economic Development Projects, frontage and backyard landscaping of residential houses, schools and all existing parks in the core area of the City. The building codes may also allow direct uses of recycled water in the toilets. While the State may consider use of the recycled water for potable uses after reverse osmosis, the City of Tracy may achieve the same goal by its indirect use through DMC.
2. Indirect Uses: The indirect use of recycled water is also a source of potential water supply for new developments within and beyond the City's current General Plan. The recycled water would be pumped in to the DMC and pumped out at the John Jones Water Treatment Plant (JJWTP) in different molecules and used to meet the City's water demand.

3. Agricultural Uses: The economy of San Joaquin Valley is largely based on agriculture. The availability of irrigation water for agricultural uses is critical for its growth. With the dwindling water supplies due to climate changes, last droughts and due to residential, commercial and industrial growth, irrigation water has become an expensive commodity.

PPIG's Interest for Purchase of Recycled Water:

The City was approached by Private Public Infrastructure Group LLC (PPIG) of El Dorado Hills, CA, with a potential proposal to consider the concept for purchase of the City's unused recycled water. In return, PPIG offered funding to complete construction of the remaining recycled water infrastructure of the existing project if left incomplete due to lack of funds. PPIG also offered to extend the infrastructure up to Delta Mendota Canal (DMC) to potentially deliver water south for sale by them to other entities. PPIG's proposal included the potential sale of the City's recycled water to other entities through contracts and sharing revenue from the sale of this water with the City.

In order to explore and better understand the details of their general proposal, PPIG has requested that the City enter into an ENRA with them which will enable them to fund and complete a feasibility study to determine if their concept is viable and does not impact the City's ability to deliver water for the buildout of the General Plan area. PPIG has indicated that the intent of the ENRA is not to bind the City to any specific outcome. After the feasibility study is complete, they and the City could then determine next steps, if appropriate.

Pursuant to recently adopted Council Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings, Council Members may request matters to be discussed by Council. The ENRA agenda item request from PPIG has been sponsored by Council Member Ransom and Mayor Rickman.

ENRA Considerations:

Should Council direct staff to negotiate an ENRA with PPIG, staff has identified a few items or potential terms for Council consideration:

- Deposit funds to offset any staff or consultant costs in relation to the feasibility study
- Clearly define the scope of work related to the ENRA, i.e., to focus on the feasibility study
- Identify clear timelines related to scope performance

Because one of the managers of PPIG previously worked for the City of Tracy as a consultant, the City Attorney's Office advises that, in an abundance of caution, the City obtain a formal advice letter from the Fair Political Practices Commission on whether State conflict of interest laws and regulations prohibit the City from contracting with PPIG after the expiration of ENRA.

STRATEGIC PLAN

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

FISCAL IMPACT

Should Council wish to proceed with the ENRA to complete a feasibility study, staff would request direction from Council to recover all City costs associated with the feasibility study. Any future decisions would be fully analyzed and brought back to City Council for review accordingly.

RECOMMENDATION

Provide direction to staff regarding the request to negotiate an Exclusive Negotiating Rights Agreement with Private Public Infrastructure Group (PPIG) for the completion of a feasibility study regarding the potential monetization of the City's future recycled water supply.

Prepared by: Andrew Malik, Assistant City Manager
Kul Sharma, Utilities Director

Reviewed by: Karin Schnaider, Finance Director

Approved by: Jenny Haruyama, City Manager

AGENDA ITEM 3.G

REQUEST

APPOINT FOUR APPLICANTS TO SERVE ON THE TRACY ARTS COMMISSION

EXECUTIVE SUMMARY

On December 31, 2019, the terms of four Tracy Arts Commissioners will expire. A recruitment was conducted and appointments need to be made.

DISCUSSION

On December 31, 2019, the terms of four Tracy Arts Commissioners will expire. To fill the vacancies, the City Clerk's office conducted a recruitment beginning on October 4, 2019, and ending on October 28, 2019 during which time four applications were received. As stated in the Council's Policy Establishing the Council Selection Process, and Defining Residency Requirements for Appointee Bodies (Resolution No. 2004-152; Attachment A), in the event there are not two or more applicants than vacancies, the filing deadline will be extended. The recruitment was extended beginning on October 29, 2019, and ended on November 19, 2019. The City Clerk's office received three additional applications during the extended recruitment period.

On December 11, 2019, a Council subcommittee consisting of Mayor Rickman and Council Member Ransom interviewed six applicants. In accordance with Resolution No. 2004-152, the Council subcommittee will recommend candidates for appointment to the commission to Council.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That Council, by motion, approve the subcommittee's recommendations and reappoint Maxine Lees and Jill Taylor, and appoint Margarita Anderson, and Cynthia Reis to the Tracy Arts Commission to serve four year terms beginning January 1, 2020, and ending December 31, 2023.

Prepared by: Adrienne Richardson, City Clerk
Reviewed by: Midori Lichtwardt, Assistant City Manager
Approved by: Jenny Haruyama, City Manager

AGENDA ITEM 3.H

REQUEST

APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS TO FILL THREE TERM EXPIRATIONS ON THE PARKS AND COMMUNITY SERVICES COMMISSION

EXECUTIVE SUMMARY

This item requests that Council appoint members to a subcommittee to interview applicants to fill three term expirations on the Parks and Community Services Commission.

DISCUSSION

On January 31, 2020 terms for three Parks and Community Service Commissioners will expire. A recruitment was advertised on November 1, 2019, and closed on November 25, 2019. At this time three applications have been received by the City Clerk's office. As stated in Resolution No. 2004-152 (Attachment A), in the event there are not two or more applicants than vacancies, the filing deadline will be extended. The recruitment had been extended beginning on November 26, 2019, and will end on December 19, 2019.

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 three term expirations on the Parks and Community Services Commission.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENT

A – Resolution No. 2004-052

RESOLUTION 2004-152

REVISING RESOLUTION NO. 2004-089 ESTABLISHING THE COUNCIL SELECTION PROCESS, AND DEFINING RESIDENCY REQUIREMENTS, FOR APPOINTEE BODIES (GOVERNMENT CODE §54970 ET SEQ. LOCAL APPOINTEE OFFICERS)

WHEREAS, Council Policy D-5 was adopted by Resolution 2002-434 on October 15, 2002, which established a selection process for appointee bodies, and

WHEREAS, A variety of terms are used to define residency for the purposes of eligibility for appointment to various Appointee bodies and a method to verify residency has not been established, and

WHEREAS, Council wishes to define the terms and identify methods by which to verify residency and to incorporate those definitions into the selection process, and

WHEREAS, The definitions established herein shall apply to all boards and commissions to which the City Council appoints members unless the Bylaws of the board or commission specifically define otherwise, and

WHEREAS, Revisions to Resolution No. 2004-089 were considered and approved by the City Council on May 18, 2004 as set forth below.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

A. SELECTION PROCESS FOR APPOINTEE BODIES:

1. On or before December 31st of each year, the clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
 - a. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
 - b. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
 - c. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
2. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final

appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

3. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
 - a. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
 - b. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 3.
4. The council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:
 - a. Mayor (or designee) and a selected Council member will review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
 - b. If the interview subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.
 - c. At the interview subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
5. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by staff.
6. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

B. DEFINITION OF RESIDENCY REQUIREMENTS:

1. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
 - a. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
 - b. City of Tracy means within the city limits of the City of Tracy.

- c. Citizen means a resident of the City of Tracy.
 - d. Tracy School District means the geographical area served by the Tracy Unified School District.
 - e. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
2. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
- a. Voter registration,
 - b. Current California Driver's License or Identification,
 - c. Utility bill information (phone, water, cable, etc.),
 - d. Federal or State tax returns.
3. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

The foregoing Resolution 2004-152 was passed and adopted by the Tracy City Council on the 18th day of May, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


Mayor

ATTEST:


City Clerk

AGENDA ITEM 3.I

REQUEST

DISCUSS AMENDING THE TRACY MUNICIPAL CODE SECTION 2.08.080 TO REQUIRE A SUPERMAJORITY VOTE OF FOUR (4) MEMBERS OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

The 2019 San Joaquin Grand Jury Report recommended that the Council consider amending the Tracy Municipal Code by December 31, 2019, to require a supermajority vote of four (4) Council members to remove the City Manager or City Attorney.

This staff report provides a summary of applicable law, an overview of the City's current practices, and requests that Council discuss and provide direction to staff.

DISCUSSION

Tracy Municipal Code (TMC) Title 2, Section 2.08.080, establishes regulations for appointment and service of the City Manager. Tenure of the City Manager is provided in TMC Section 2.08.080 as follows:

- (a) *The City Manager shall hold office for and during the pleasure of the Council.*
- (b) *Removal of the City Manager shall be only by a vote of at least three (3) members of the Council.*
- (c) *The City Manager shall not be removed from office during or within a period of 120 days immediately succeeding any general municipal election held in the City at which election of a member of the Council is elected. The purpose of this provision is to allow any newly elected member of the Council or a reorganized Council to become familiar with the affairs of the City and to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. After the expiration of said 120-day period, the provisions of this section as to the removal of the City Manager shall apply and be effective.*

The 2018-2019 San Joaquin County Grand Jury report commented on the administrative and fiscal impact of executive staff separations in 2017 and 2018. The report highlighted concern regarding the separation of the City Manager, Assistant City Manager and Police Chief as "no explanation was given" and the release of the City Manager following a "contentious 3/2 vote." These separations drew attention of the media with articles in regional newspaper reports and reports on major network affiliates encouraging transparency in personnel matters of executive staff. The Grand Jury felt the impact of the media attention "damaged the City's reputation as a desirable employer and made candidates reluctant to apply for open positions."

The City Manager and the City Attorney serve at the pleasure of and are appointed by City Council. The City Manager serves as the administrative head of the government while the City Attorney serves as legal counsel to the City and advises the City Manager in administering the affairs of the City. The Grand Jury report stated, "the City Manager and City Attorney should be shielded from power politics and shifting alliances by requiring a supermajority vote for their termination. To address this issue, the Grand Jury recommended Council amend the Tracy City Municipal Code to require a supermajority vote of four (4) members of the City Council to remove the City Manager or City Attorney.

The supermajority requirement to remove the City Manager and City Attorney is utilized by some public agencies such as the cities of Sacramento and Healdsburg. Requiring a supermajority vote may communicate a commitment to unifying Council in employment decisions related to at-will Council appointed positions. In addition, adopting this policy may also enhance the City's profile as a potential employer because this requirement may lead to more stability in City executive leadership.

The more common practice is for public agencies to only require a majority vote for employment decisions relating to at-will Council appointed positions. Requiring a majority vote to remove the City Manager or City Attorney would be consistent with voting requirements such as the requirement that all resolutions, orders for payment, and ordinances be supported by a majority vote of the total membership of the Council under Government Code section 36936. The Council has full discretion on this key policy issue and may decide not to implement the Grand Jury's recommendation. If Council supports implementing the Grand Jury's recommendation, staff will prepare an ordinance for further Council action.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategy and Business Plan, and specifically implements the following goals and objectives:

Governance Strategy

Goal 1: Further develop an organization to attract, motivate, develop and retain a high quality, engaged, high-performing and informed workforce.

FISCAL IMPACT

This agenda item will not require any expenditure of funds.

RECOMMENDATION

Discuss amending the Tracy Municipal Code Section 2.08.080 to require a supermajority vote of four (4) members of the City Council to remove the City Manager or City Attorney and provide direction to staff.

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Prepared by: Kimberly Murdaugh, Director of Human Resources

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

Approved by: Jenny Haruyama, City Manager

AGENDA ITEM 3.J

REQUEST

CONSIDER AN ORDINANCE AMENDING THE COMPENSATION FOR THE COUNCIL AND MAYOR IN ACCORDANCE WITH STATE LAW

EXECUTIVE SUMMARY

Government Code section 36516 provides that the salaries of city council members of a general law city may be enacted by ordinance and establishes restrictions on the monthly salaries of council members based on the population of a city. The City of Tracy is a general law city. The salaries for the Tracy City Council and Mayor were last reviewed in 2006.

This item requests that Council review the salaries of its members and consider adopting an ordinance to amend these salaries in accordance with state law. A salary adjustment for Council members shall take effect after the next municipal election on November 3, 2020.

DISCUSSION

Government Code section 36516 provides that the salaries of city council members in a general law city may be enacted by ordinance. Section 36516 also establishes maximum monthly salary amounts for council members depending on population (\$600 per month for cities with a population between 75,001 and 150,000) and restricts annual increases to salaries to five percent (5%) per calendar year for each calendar year (simple, non-compounded basis) from when the last salary adjustment was enacted. Section 36516.5 further provides that council salary increases shall not take effect until one of the council members commences a new term (i.e. the next municipal election). Section 36516.1 authorizes additional compensation for a directly elected mayor in recognition of their mayoral duties. The Attorney General's Office has opined that adjustments to the additional compensation received by a mayor can take effect immediately. (See 89 Ops. Cal. Atty. Gen. 159). State law does not allow automatic future increases in salary (Section 36516(a)(4)). Section 6.1.2 of the Council's recently adopted Code of Conduct states that the salaries of the Mayor and Council shall be reviewed every two years.

Currently the monthly salaries of Tracy Council members are \$585. The Mayor receives an additional \$100 per month. These salary amounts were established pursuant to Ordinance 1094 adopted on April 18, 2006.

Pursuant to state law, the monthly salaries of Council members may be increased up to \$936, which is a sixty percent (60%) increase over the current amount of \$585. This would result in a monthly salary of \$936.

	Current Monthly Salary	Allowable Increase (5% x 12 years)	Total Maximum Salary Allowed
Council Members	\$585	\$351	\$ 936
Mayor	\$685	\$351	\$1,036

The Council may elect to increase its salaries to the maximum amount of \$936 (an increase of \$351). If approved, the Mayor's total salary would be \$1,036. Staff has prepared a draft ordinance (Attachment A) that would codify the salaries of Council Members and the Mayor in the Tracy Municipal Code. The draft includes language setting Council salaries to the maximum amount allowed by state law (\$936) and maintains the additional compensation for the Mayor at \$100. This amount may be amended by Council at the meeting.

FISCAL IMPACT

Depending on Council's direction for an increase in salary, staff will make appropriate adjustment to the FY 2020/21 base budget as the salary increase would go into effect upon the commencement of newly elected City Council members' terms in December 2020

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends Council consider the following options:

1. No increase in Council and Mayor monthly salaries; or
2. Increase Council Member monthly salaries by an amount between \$0 and \$351.
 - a. If so, introduce and waive the first reading of an ordinance amending Chapter 2.04 (City Council Organization and Procedure) of Title 2 (Administration) of the Tracy Municipal Code to add Section 2.04.060 "Council Member and Elected Mayor Compensation."

Prepared by: Leticia Ramirez, City Attorney

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENT:

A - Proposed Ordinance

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 2.04 (CITY COUNCIL ORGANIZATION AND PROCEDURE) OF TITLE 2 (ADMINISTRATION) OF THE TRACY MUNICIPAL CODE TO ADD SECTION 2.04.060 "COUNCIL MEMBER AND ELECTED MAYOR COMPENSATION"

WHEREAS, On April 4, 2006, pursuant to Government Code section 36516, the City Council of the City of Tracy adopted Ordinance No. 1094 setting the salary of Tracy City Council members at Five Hundred Eighty Five Dollars (\$585.00) per month; and

WHEREAS, Pursuant to Government Code section 36516.1 which permits an elected Mayor to receive additional compensation, the salary for the Mayor was set as an additional One Hundred Dollars (\$100) per month; and

WHEREAS, Pursuant to Government Code section 36516(a)(4) the City Council may set salaries for Council members up to Six Hundred Dollars (\$600.00) per month based on a population between 75,001 and 150,000; and

WHEREAS, The California Department of Finance determined the total population of the City of Tracy is 92,800 as of May 2019; and

WHEREAS, Pursuant to Government Code section 36516(c) any adjustment to Council member salaries may not exceed an amount equal to five percent (5%) for each calendar year from the operative date of the last adjustment; and

WHEREAS, The last adjustment to the salaries of Tracy City Council members was operative on January 1, 2007, thus the maximum salary increase allowed under state law is a 60% percent increase of the current \$585 per month salaries for Council Members.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1: The following shall be added as Section 2.04.060 to Chapter 2.04 of Title 2 of the Tracy Municipal Code:

"Section 2.04.060 Council Member and Elected Mayor Compensation:

- (a) The salary of each member of the City Council of the City of Tracy shall be set at Nine Hundred Thirty Six Dollars (\$936.00) per month.
- (b) The Mayor shall receive an additional \$100 per month in compensation."

SECTION 2: This ordinance shall take effect thirty (30) days after the final passage and adoption, however, pursuant to Government Code section 36516.5, this change in compensation shall be effective January 1, 2021, following certification of the results of the November 2020 City Council election.

SECTION 3. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov’t. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 17th day of December 2019, and finally adopted on the ____ day of _____, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.K

REQUEST

ADOPT A RESOLUTION ESTABLISHING A 2020 CALENDAR OF REGULAR CITY COUNCIL MEETINGS AND WORKSHOPS

EXECUTIVE SUMMARY

Staff recommends that City Council consider adopting a resolution establishing the 2020 calendar of regular City Council meetings and workshops. It is a best practice to adopt an annual meeting calendar for agenda management and planning purposes.

DISCUSSION

In accordance with Tracy Municipal Code 2.04.020, regular meetings of the Council shall be held at 7:00 p.m. on the first and third Tuesday of each month in the Council Chambers. Special meetings and workshops may be called by the City Manager, Mayor or by a majority of Council Members as needed. The City Council may also schedule special meetings and workshops as it deems necessary with dates adopted as part of an annual calendar, or announced in accordance with all legal requirements. Adopting a meeting calendar allows for proper agenda planning and can provide for recess periods, holidays, or election days.

The attached resolution includes a 2020 calendar of regular City Council meetings. The calendar also includes an extra special meeting/workshop on the fourth Tuesday of each month at 7:00 pm. This alternative was included for Council consideration given the impact of scheduling special meetings and/or workshops immediately prior to regularly scheduled Council meetings. Often times, our commuting population cannot attend meetings that are scheduled prior to 7:00 pm.

In addition, the extra meeting can be used to take action on items that have been continued or carried over from a previous Council meeting or require further policy discussion because of their complex nature (e.g. study session/workshop). If the additional meeting is not necessary, the meeting can be cancelled.

Historically, Council has cancelled certain meetings given conflicts with state and local events of importance like elections and National Night Out, an annual event that occurs on the first Tuesday in August, and during holiday periods to eliminate the need to prepare and publish an agenda. Council typically takes action on such cancellations a meeting or two before the date of the scheduled meeting. The proposed calendar includes cancelling the following three regular meetings:

January 7, 2020 – Holiday period (there are currently no urgent agenda items scheduled)

March 3, 2020 – Primary Election Day

August 4, 2020 – National Night Out

If Council prefers not to cancel these meetings at this time, the proposed calendar can be amended to reflect that desire.

STRATEGIC PLAN

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

FISCAL IMPACT

Any additional special City Council meeting would require broadcast and recording services and miscellaneous technical support which will have a small impact on the General Fund.

RECOMMENDATION

It is recommended that Council consider adopting a resolution establishing a 2020 calendar of regular City Council meetings and workshops.

Prepared by: Adrienne Richardson, City Clerk
Reviewed by: Midori Lichtwardt, Assistant City Manager
Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

A RESOLUTION ESTABLISHING A 2020 CALENDAR OF REGULAR CITY COUNCIL MEETINGS AND WORKSHOPS

WHEREAS, In accordance with Tracy Municipal Code 2.04.020, regular meetings of the City Council shall be held at 7:00 p.m. on the first and third Tuesday of each month in Council Chambers, and

WHEREAS, Special meetings and workshops may be called by the City Manager, Mayor or a majority of Council members as needed, and

WHEREAS, The City Council may also schedule special meetings and/or workshops as it deems necessary with dates adopted as part of the annual calendar, or announced in accordance with all legal requirements, and

WHEREAS, Adopting a meeting calendar each year for the upcoming year allows for proper agenda planning and can provide for recess periods, holidays, or election days, and

WHEREAS, Staff is recommending that the City Council adopt the following 2020 regular meeting and workshop calendar.

TRACY CITY COUNCIL 2020 MEETING CALENDAR			
Date	Type	Date	Type
January 7 - Cancel		July 7	Regular
January 21	Regular	July 21	Regular
January 28	Special Meeting/Workshop	July 28	Special Meeting/Workshop
February 4	Regular	August 4 – Cancel (National Night Out)	
February 18	Regular	August 18	Regular
February 26	Special Meeting/Workshop	August 25	Special Meeting/Workshop
March 3 – Cancel (Primary Election Day)		September 1	Regular
March 17	Regular	September 15	Regular
March 24	Special Meeting/Workshop	September 22	Special Meeting/Workshop
April 7	Regular	October 6	Regular
April 21	Regular	October 20	Regular
April 28	Special Meeting/Workshop	October 27	Special Meeting/Workshop
May 5	Regular	November 3	Regular
May 19	Regular	November 17	Regular
May 26	Special Meeting/Workshop	November 24	Special Meeting/Workshop
June 2	Regular	December 1	Regular
June 16	Regular	December 15	Regular
June 23	Special Meeting/Workshop	December 22	Special Meeting/Workshop

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the 2020 Regular Meeting and Workshop Calendar.

The foregoing Resolution 2019-_____ was adopted by the City Council on the 17th day of December 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK