

Tuesday, November 17, 2020, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS REGULAR MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE NOVEMBER 17, 2020 MEETING

Remote Access to City of Tracy Council Meeting:

In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming City Council meeting on Tuesday, November 17, 2020.

As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

*Public comment, limited to 250 words or less, submitted via email **will be accepted for agenda items before the start of the Council meeting at 7:00 p.m.** Please send an email to publiccomment@cityoftracy.org and identify the item you wish to comment on in your email's subject line.*

During the upcoming City Council meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Phone** by dialing (209) 831-6010, or
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number:** 126 598 4157 and **Event Password:** TracyCC
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.

- **Protocols for submitting comments by *phone*:**
 - If you wish to discuss an item on the “Consent Calendar” identify the item when calling in. All requests to discuss an item on the “Consent Calendar” must be submitted before the Mayor announces that the time to submit such a request has expired.
 - Identify the item you wish to comment on to staff when calling in. Comments received by phone will be accepted for the “Items from the Audience/Public Comment” and “Regular Items” portions of the agenda.
 - Comments received by phone for the “Items from the Audience/Public Comment” portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.
 - Comments received by phone on each “Regular Item” will be accepted until the Mayor announces that public comment for that item is closed.
- **Protocols for commenting via WebEx:**
 - If you wish to comment on the “Consent Calendar”, “Items from the Audience/Public Comment” or “Regular Agenda” portions of the agenda:
 - Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.
 - If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.
 - Comments for the “Consent Calendar” “Items from the Agenda/Public Comment” or “Regular Agenda” portions of the agenda will be accepted until the public comment for that item is closed.
- **The total allotted time for public comment will be as follows:**
 - Consent Calendar: **10 minutes**
 - Items from the Audience: **15 minutes**
 - Regular Items: **10 minutes**

Comments received by publiccomment@cityoftracy.org, phone call, or on Webex outside of the comment periods outlined above will not be included in the record.

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6105) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the “Items from the Audience/Public Comment” portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous City Council direction. One motion, a second, and a roll call vote may enact the items listed on the Consent Calendar. No separate discussion of Consent Calendar items shall take place unless a member of the City Council, City staff or the public request discussion on a specific item.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agenda items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minutes maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agenda items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

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

Full copies of the agenda are available on the City's website: www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL

1. CONSENT CALENDAR

- 1.A. ADOPTION OF OCTOBER 20, 2020 CLOSED SESSION AND REGULAR MEETING MINUTES
- 1.B. APPROVE THE PLACEMENT OF TWO (2) BENCHES WITH PLAQUES DONATED BY TRACY ROTARY AND SUNRISE ROTARY CLUBS IN THE PUBLIC RIGHT OF WAY IN DOWNTOWN TRACY PER CITY STANDARD POLICY AND PROCEDURES
- 1.C. ADOPT A RESOLUTION AMENDING THE CITY OF TRACY MASTER EMPLOYEE PAY SCHEDULE TO CONFIRM THE PAY RATES FOR CITY OF TRACY ESTABLISHED POSITIONS
- 1.D. APPROVE THE WATER SUPPLY DEVELOPMENT AND OPERATING AGREEMENT WITH THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND RESCIND RESOLUTION NO. 2000-168

- 1.E. APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND VANDERMYDEN MADDUX LAW CORPORATION FOR CONFIDENTIAL WORKPLACE INVESTIGATION SERVICES INCREASING THE NOT TO EXCEED AMOUNT BY \$100,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$200,000
- 1.F. WAIVE SECOND READING AND ADOPT ORDINANCE 1298, AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS VILLAGE 7C PROJECT APPLICATION NUMBER SPA20-0003
- 1.G. WAIVE SECOND READING AND ADOPT ORDINANCE 1299, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE MAXIMUM BUILDING HEIGHT AND THE MINIMUM BUILDING SETBACK IN THE NORTHEAST INDUSTRIAL SPECIFIC PLAN
- 1.H. WAIVE SECOND READING AND ADOPT ORDINANCE 1300, AN ORDINANCE OF THE CITY OF TRACY APPROVING THE FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT AGREEMENT AMENDMENT BY AND BETWEEN THE CITY OF TRACY AND THE TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE 1, LLC, APPLICATION NUMBER DA20-0001
- 1.I. WAIVE SECOND READING AND ADOPT ORDINANCE 1301 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS PHASE 1B/1C PROJECT APPLICATION NUMBER SPA19-0002
- 1.J. WAIVE SECOND READING AND ADOPT ORDINANCE 1302 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS KT PROJECT APPLICATION NUMBER SPA20-0008
- 1.K. WAIVE SECOND READING AND ADOPT ORDINANCE 1303 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 10.08 "ZONING REGULATIONS" OF THE TRACY MUNICIPAL CODE TO ADD A NEW SECTION 10.08.3194 "TOBACCO RETAIL USES" TO ESTABLISH LOCATION RESTRICTIONS ON TOBACCO RETAILERS
- 1.L. APPROVE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING SERVICES, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$164,665
- 1.M. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BURKE WILLIAMS SORENSEN LLP FOR SPECIAL COUNSEL SERVICES TO CONDUCT LABOR NEGOTIATIONS WITH MULTIPLE EMPLOYEE GROUPS FOR A NOT-TO-EXCEED AMOUNT OF \$100,000
- 1.N. APPROVE THE FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR TRACY HILLS – PHASE 1A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

- 1.O. AUTHORIZE THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ACCEPT A NUCLEAR POWER ELECTRICITY ALLOCATION FROM PG&E TO CREATE A CARBON FREE OPTION FOR ELECTRICITY CONSUMERS IN THE CITY OF TRACY
2. ITEMS FROM THE AUDIENCE
3. REGULAR AGENDA
 - 3.A. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)
 - 3.B. CONDUCT PUBLIC HEARING TO CONSIDER AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEE TO INCREASE THE FEE FOR 2021
 - 3.C. RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF
 - 3.D. DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS
7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 20, 2020, 5:30 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Rickman called the meeting to order at 5:30 p.m. for the purpose of a closed session to discuss the items outlined below.
 2. ROLL CALL – Roll call found Council Member Arriola, Mayor Pro Tem Young and Mayor Rickman present.

Council Member Vargas joined the meeting remotely at 5:31 p.m.

Council Member Ransom arrived at 5:36 p.m.
 3. ITEMS FROM THE AUDIENCE – There was no public comment.
 4. CLOSED SESSION
 - a. Conference with Legal Counsel – Existing Litigation (Gov. Code § 54956.9(d)(1))
 - i. *Mitracos v. City of Tracy* (San Joaquin County Superior Court Case No.: STK-CV-UWM-2018-5531)
 5. RECESS TO CLOSED SESSION - Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Young to recess the meeting to closed session at 5:33 p.m. Roll call vote found Council Members Arriola, Vargas, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Ransom absent.
 6. RECONVENE TO OPEN SESSION – The meeting reconvened to open session at 6:29 p.m.
 7. REPORT OF FINAL ACTION – By a unanimous vote, City Council authorized the filing of any and all motion to challenge the judgement and writ and the filing of an appeal in the *Mitracos v. City of Tracy* matter regarding the Second Amendment to the Surland Development Agreement.
 8. ADJOURNMENT – Time: 6:30 p.m.
- ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to adjourn. Roll call found all in favor; passed and so ordered.

The agenda was posted at City Hall on October 15, 2020. The above are action minutes.

ATTEST:

Mayor

City Clerk

October 20, 2020, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

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

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, phone and WebEx during the meeting.

Mayor Rickman called the meeting to order at 7:00 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Tim Heinrich, Crossroads Baptist Church offered the invocation.

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

Jenny Haruyama, City Manager pulled agenda item 3.D from the agenda.

REGULAR MEETING – 7:00 P.M.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.E by Mayor Pro Tem Young and 1.G by Robert Tanner, motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.A APPROVAL OF OCTOBER 6, 2020 CLOSED SESSION AND REGULAR MEETING MINUTES - **Minutes were adopted.**
 - 1.B ADOPT RESOLUTION ASSIGNING THE PARKS & RECREATION DIRECTOR, OR DESIGNEE, AS THE AUTHORIZED AGENT TO EXECUTE AND FILE ALL DOCUMENTS AND FUNDING AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR ALLOCATIONS OF THE CALIFORNIA STATE OF GOOD REPAIR PROGRAM AND EXECUTION OF THE CERTIFICATIONS AND ASSURANCES – **Resolution 2020-174** assigned the Parks & Recreation Director or designee as the authorized agent to execute documents for the California Department of Transportation for allocations of the California State of Good Repair Program and execution of the certifications and assurances.
 - 1.C APPROVE THE FINAL SUBDIVISION MAP FOR TRACT NO. 4013, KT PROPERTY I, AND AUTHORIZE THE RECORDATION OF THE FINAL SUBDIVISION MAP IN THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – **Resolution 2020-175** approved the Final Subdivision Map for Tract No. 4013, KT Property I.
 - 1.D APPROVE A ONE YEAR GENERAL SERVICES AGREEMENT WITH NUTRIEN AG SOLUTIONS, FOR CHEMICALS USED IN THE CITY OF TRACY'S INTEGRATED PEST MANAGEMENT (IPM) PROGRAM FOR A NOT TO

EXCEED AMOUNT OF \$195,000 ANNUALLY AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT AND ANY EXTENSIONS OR MINOR AMENDMENTS TO THE AGREEMENT – Resolution 2020-176
approved the General Services Agreement with Nutrien AG Solutions.

- 1.F APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH INDIGO | HAMMOND + PLAYLE ARCHITECTS, LLP, OF DAVIS, CALIFORNIA FOR AN UPDATE TO THE PUBLIC SAFETY MASTER PLAN (CIP 71108) FOR A NOT-TO-EXCEED AMOUNT OF \$176,500 – Resolution 2020-177 approved a Professional Services Agreement with Indigo | Hammond & Playle Architects, LLP.
- 1.H WAIVE SECOND READING AND ADOPT ORDINANCE 1297, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTIONS 3.04.010 AND 3.04.030 OF CHAPTER 3.04 OF THE TRACY MUNICIPAL CODE, "FIREWORKS", REGARDING ADMINISTRATIVE CITATIONS FOR DANGEROUS FIREWORKS ENFORCEMENT - Ordinance 1297 was adopted.
- 1.E APPROVE THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND TRACY, POST NO. 1537, VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT OF CALIFORNIA

Christine Mabry, Management Analyst provided the staff report.

Mayor Pro Tem Young pulled the item to acknowledge a \$5,000 contribution by the VFW towards a project to provide year round display of military banners and armed forces flags at the Tracy War Memorial and ongoing replacement of the banners and the flag.

There was no public comment.

City Council comments followed.

ACTION:

Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-178** approving the Memorandum of Understanding between the City of Tracy and Tracy, Post No. 1537, Veterans of Foreign Wars of the United States, Department of California. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

- 1.G ADOPT A RESOLUTION AMENDING THE CITY'S OPERATING AND CAPITAL IMPROVEMENT PROJECTS (CIP) BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2021, AS PROPOSED

Robert Tanner pulled the item and stated the City should list Legacy Fields Phase 1E for an additional parking lot and regular toilets to complete the project, and not start the Aquatic Park until one amenity is finished.

Alice English spoke about Legacy Fields Phase 1D and 1E, traffic study update, and requested information regarding CIP 72104 intersection improvements on Corral Hollow and Linne Road.

Marsha McCray stated the Aquatic Center is not just for a specific group of swimmers, it is for the public to meet all recreational needs in the water and spoke about the Aquatic Center amenities.

Chris Allenberger spoke about allocating funds to complete Legacy Fields, no restrooms, snack shack, not enough concrete completed, and lack of care of the fields.

Luigi Gonzalez stated he would like to have the Aquatic Park.

City Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt **Resolution 2020-179** amending the City Operating and Capital Budget for Fiscal Year 2020-21. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

2. ITEMS FROM THE AUDIENCE – Alex Monceaux stated he had not heard from staff regarding his previous cannabis application questions. Mr. Monceaux spoke about the Bird scooters in the City blocking sidewalks, sanitization between uses, and asked about regulations in Tracy.

Yubo Cody, Patriot Coalition of American Citizens spoke about Council Member Ransom breaking Code of Conduct Section 3.3.1, and her campaign contributions and activities.

Council Member Ransom responded to Mr. Cody's comments.

Dan Evans, Patriot Coalition of American Citizens responded to Council Member Ransom's comments, spoke about ongoing FPPC investigations related to Mayor Pro Tem Young, and questioned her eligibility to run for Mayor while under investigation.

Council Member Ransom asked Mr. Evans to clarify his comment regarding Sow A Seed only has 5% going to the purpose.

Mr. Evans responded to Council Member Ransom's request for clarification.

Council Member Ransom responded to Mr. Evan's comments.

Mayor Pro Tem Young asked Mr. Evans about the Patriot Coalition's mission in Tracy.

Mr. Evans provided the Patriot Coalition's mission.

Mayor Pro Tem Young responded to Mr. Evans.

Adrienne Richardson, City Clerk acknowledged an email received from LPC Veterans Service regarding the Las Positas College Veterans First Program and Pleasanton Military Families 3rd Annual 2.2 For 22 Walk for Vets Virtual Challenge held October 21st to November 11th.

Wayne Templeton, Tracy Community Connections Center acknowledged working with the City to achieve goals related to the homelessness strategic plan, emergency shelter and temporary shelter for the homeless population.

Cyn Ramirez shared concerns about the appointment of the interim Executive Director as Permanent Executive Director to South County Fire Authority, and the position not being advertised.

Jacy Krogh shared his disappointment regarding the shared mobility devices (SMDs) Scooters in Tracy, violation of their terms of service and vehicle code, and the City not getting ahead of this.

Mayor Rickman responded to Cyn Ramirez's comment.

3. REGULAR AGENDA

3.A DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)

Jenny Haruyama, City Manager provided an update and presentation on the City's response to COVID-19.

There was no public comment.

City Council questions and comments followed.

Mayor Rickman asked about keeping City Hall open on the closed Friday (October 23, 2020) for mail-in ballot drop off. Council Member Arriola supported the request.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Young to accept the report. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.B PUBLIC HEARING TO CONSIDER APPROVING THE TRACY HILLS VILLAGE 7C PROJECT, WHICH INVOLVES APPROVING A GENERAL PLAN AMENDMENT, INTRODUCING AN ORDINANCE APPROVING A TRACY HILLS SPECIFIC PLAN AMENDMENT, APPROVING A VESTING TENTATIVE SUBDIVISION MAP TO INCREASE THE NUMBER OF LOTS IN VILLAGE 7C FROM 66 TO 132, AND APPROVING A DEVELOPMENT REVIEW PERMIT FOR THE ARCHITECTURE, WHICH IS PROPOSED AS ATTACHED SINGLE-FAMILY HOMES IN A DUETS DESIGN, LOCATED ON APPROXIMATELY 28 ACRES IN TRACY HILLS PHASE 1A IN THE VICINITY OF TRACY HILLS DRIVE. THE APPLICANT IS JOHN PALMER. APPLICATION NUMBERS GPA20-0002, SPA20-0003, TSM20-0001, AND D20-0023

Scott Claar, Senior Planner, provided the staff report.

Mayor Rickman opened the public hearing.

Robert Tanner asked if the duets have a common wall between two single-family homes like a duplex.

Laura Madrano, Tracy Hills resident asked about maintaining the current neighborhood stability, would the community stance change if the home values decrease with the new approach.

John Palmer, Project Manager for Tracy Hills explained the change to the project.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-180** to approve a General Plan Amendment for the Tracy Hills Village 7C Project, Application Number GPA20-0002. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

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

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to waive the reading of the full text and introduce **Ordinance 1298**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Village 7C Project Application Number SPA20-0003. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt **Resolution 2020-181** to approve a vesting tentative subdivision map for the Tracy Hills Village 7C Project to create 132 single-family residential lots located within the Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive, Application Number TSM20-0001. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt **Resolution 2020-182** approving a Development Review Permit for the architectural design of the Tracy Hills Village 7C Project, which consists of a 132-lot residential subdivision with attached single-family dwellings, designed as duets, on approximately 19 acres located within the Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive, Application Number D20-0023. Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.C ADOPT RESOLUTION SUPPLEMENTING RESOLUTION NO. 2016-161 (AS PREVIOUSLY SUPPLEMENTED) 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. 2016-1 (TRACY HILLS)

Karin Schnaider, Finance Director provided the staff report.

Yubo Cody, Patriot Coalition of America shared his concerns regarding the traffic issues being created with all the additional housing at Tracy Hills.

Bubba Paris thanked Council for making a comfortable place to live here, and spoke about Tracy Hills agreeing to partner with Tracy Community Connection Center to help the homeless.

Mike Souza stated there is a lot of work behind the bond issue and thanked staff and consultants for their efforts to get us here tonight.

There were no comments from Council.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt **Resolution 2020-183** supplementing Resolution No. 2016-161 (as previously supplemented) 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. 2016-1 (Tracy Hills). Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.D DISPENSE WITH PUBLIC BIDDING REQUIREMENTS AND AUTHORIZE THE CITY MANAGER TO TAKE IMMEDIATE AND EMERGENCY ACTIONS PURSUANT TO THE COUNCIL'S SHELTER CRISIS DECLARATION TO EXPEDITE THE CONSTRUCTION OF TEMPORARY EMERGENCY HOUSING FOR TRACY'S UNSHELTERED ON CITY-OWNED PROPERTY AT 500 W. ARBOR ROAD INCLUDING THE PROCUREMENT AND AWARD OF CONTRACTS AND EQUIPMENT AND SUPPLIES – **Item was pulled from the agenda.**

3.E UPDATE REGARDING THE STATUS OF THE DESIGN AND CONSTRUCTION OF THE AQUATIC CENTER

Jenny Haruyama, City Manager, and Brian MacDonald, Parks and Recreation Director provided the update on the design and construction of the Aquatic Center.

Leticia Ramirez, City Attorney provided information regarding the Design, Funding and Construction Agreement.

Robert Tanner spoke about a dry season delaying the Aquatics Park again, park originally pushed by aquatic swim teams, purple pipe against the law and asked how much is the city willing to delay if the state says no pools and has water restrictions.

Marsha McCray spoke about the status of the design and construction of the Aquatic Center and stated there is no reason the phasing plan of the project cannot come before the Council on another date.

Todd Lieberg supported an Aquatic Center but shared his concerns regarding the delay of the project, recommended the City assume control of the project from the developer, collect the missing \$8 million in cash, take possession of 16 acres, build this project, and work within the City's budget and design.

Karen Moore supported an Aquatic Park, and going back to the bidding process. Ms. Moore asked Council to help move it forward and not postpone the project.

Yubo Cody shared his concern about the closeness of the Aquatics Park to the airport and planes flying over the Aquatic Park. Mr. Cody agreed with Mr. Lieberg to get rid of developers, use the City's money, and create jobs and infrastructure.

Sandi Taylor requested Council bring back phasing plan options to move the Aquatic Center forward.

Brandi Marotta asked Council to bring back the Aquatic Center phasing plan and approve a fully built Aquatic Center.

Council comments followed.

City Council accepted the update regarding the status of the design and construction of the Aquatic Center.

3.F APPOINT ONE APPLICANT TO SERVE ON THE MEASURE V RESIDENTS' OVERSIGHT COMMITTEE

Mayor Pro Tem Young provided the staff report.

Karen Moore shared her concerns regarding the Measure V Resident's Oversight Committee meetings being cancelled and committee members attending those meetings, or be replaced.

Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Mayor Rickman to appoint Joyce Fenton to the Measure V Residents' Oversight Committee for a term commencing on October 21, 2020, and ending on February 28, 2023, and place Tai'Rance Kelly on the 12-month eligibility list. Roll call vote found Council Member Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent and Council Member Arriola abstained.

4. ITEMS FROM THE AUDIENCE – Alice English shared concerns about the drought, the City improving more development and water rates going up, Council going around Measure A, making it more affordable for bay area people to buy homes, proposed Measure should say Tracy residents first, adding homes, no infrastructure and spoke about Aquatic Center delays by Surland and not the City.

Mayor Pro Tem Young responded to Ms. English's comments regarding mischaracterizations about what Council does.

Dan Evans, Patriot Coalition of America stated he met with candidates for City Council and shared his recommendation to fill the upcoming Council seats and Board of Supervisor seat.

5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency:
 - Approved First Amendment to Retainer Agreement for Legal Services with Burke, Williams & Sorensen, LLP.
 - Approved Amendment No. 1 to Professional Services Agreement with CSG Advisors, Inc., for municipal financial advisory services.
 - Approved a Professional Services Agreement with FCGA Architecture for Transit Center Renovation.
 - Approved an Office of Traffic Safety Selective Traffic Enforcement.
6. COUNCIL ITEMS – Council Member Arriola wished everyone a happy Halloween, thanked our Veterans and encouraged everyone to vote.

Council Member Ransom stated there is a new legal smoke store near Tracy High and requested an agenda item about signage as it is blazing and in close proximity to school. Council Member Arriola seconded the request. Council Member Ransom asked for a special meeting for the building trades PLA. Council Member Arriola seconded the request.

Jenny Haruyama, City Manager clarified with Council Member Ransom that the request for the special meeting was not before November 3, and she already has a meeting planned and the Clerk will be polling Council.

Council Member Ransom wished everyone a happy Halloween and encouraged everyone to vote.

Mayor Pro Tem Young encouraged everyone to vote and announced the following: happy Veteran's Day, shout out to father and stepfather, be safe for Halloween, wished a happy birthday to two sons – Nathaniel - 20, and Michael - 25 in November. Mayor Pro Tem Young requested to include the eligibility list for commissions in the staff report. Council Member Ransom seconded the request.

Mayor Rickman encouraged everyone to vote, and announced the following: Veterans Day on November 11 and thanked all the veterans, Month of October is Breast Cancer Awareness Month, encouraged everyone to shop local and support small businesses, Farmers Market still going strong on Central Ave, wished everyone a happy Halloween, Trick or Treating is allowed, and wished his daughter Grace a happy birthday on Friday.

7. ADJOURNMENT – Time: 10:00 p.m.

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

The above agenda was posted at the Tracy City Hall on October 15, 2020. 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 THE PLACEMENT OF TWO (2) BENCHES WITH PLAQUES DONATED BY TRACY ROTARY AND SUNRISE ROTARY CLUBS IN THE PUBLIC RIGHT OF WAY IN DOWNTOWN TRACY PER CITY STANDARD POLICY AND PROCEDURES

EXECUTIVE SUMMARY

The Tracy Rotary and Sunrise Rotary Clubs have submitted an application per the City standard policy and procedures to donate two benches and plaques in the public right of way on 10th Street in Downtown Tracy.

DISCUSSION

In a collaborative effort, the Rotary Club of Tracy and Tracy Sunrise Rotary Club have submitted an application to the Parks and Recreation Department to install two (2) benches with plaques to be placed in the public right of way on 10th Street in Downtown Tracy.

The Rotary Clubs' purpose worldwide is to "bring together business and professional leaders in order to provide humanitarian service and to advance goodwill and peace around the world". Both entities define themselves as service clubs. According to their websites, one of the best reasons for becoming a Rotarian is "the chance to do something for somebody else and to sense the self-fulfillment that comes in the process and return of that satisfaction to one's own life".

The clubs are requesting to donate benches with plaques to the Downtown area, to be used and enjoyed by the Tracy community. The location of the benches are significant as they are proposed for locations on 10th Street maximizing use by patrons of the numerous restaurants and businesses Downtown. The need for additional and strategic seating options near busy storefronts is more important than ever due to the current pandemic as many businesses have expanded services outdoors and/or have asked patrons to wait outside to maintain social distancing indoors. Additionally, the benches will be located in close proximity to the recently donated and installed Rotary Clock Tower on 10th Street near 45 W. 10th Street.

Many have supported this request, including the Tracy City Center Association who supported this application and donation request at their September 10, 2020 Board Meeting.

The Parks and Recreation Department has discussed this item with the Tracy Rotary and Sunrise Rotary Club, including the design and specifications of the benches and plaques, which is incorporated into the attached proposal. The Rotary Clubs will donate the benches, with the plaques pre-installed. The City of Tracy Public Works Department will install the benches and will maintain these amenities going forward. Finally, the proposal meets the City standard for benches used in public spaces and parks.

At the October 1, 2020 Parks and Community Services Commission meeting, after hearing from the public, the request was reviewed and discussed as per policy and procedures. The Commission discussed the benches and plaques (Attachment A). The Commission recommended the item for approval of the City Council.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority, which is to provide an outstanding quality of life by enhancing the City's amenities, business mix and services and cultivating connections to promote positive change and progress in our community.

FISCAL IMPACT

Approval of this item is expected to have minimal impact on the City General Fund. Tracy Rotary and Sunrise Rotary Clubs will be donating the benches and plaques to the City. The Public Works Department will install and maintain the benches. The one-time installation and on-going maintenance costs for this item will be absorbed within the existing City operating budget.

RECOMMENDATION

That the City Council, by resolution, approve placement of the two benches and plaques donated by the Rotary Clubs in the public right of way in Downtown Tracy.

Prepared by: Thien Nguyen, Recreation Services Supervisor

Reviewed by: Jolene Jauregui-Correll, Recreation Services Manager
Richard Joaquin, Parks Planning & Development Manager
Brian MacDonald, Parks & Recreation Director
Don Scholl, Public Works Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS

Attachment A – Draft of Benches Donation, Plaque, and Location by Rotary Clubs

Plaque Language (Draft)

*Donated by Tracy Sunrise Rotary Club
20xx*

*Donated by Tracy Rotary Club
20xx*

Bench Sample



PZ-01X00-72 with PZ-01XCA center arm



Bench Locations

Location 1: South of Main Street Music Inc.



Location 2: North of Tracy Optometry Group



RESOLUTION _____

APPROVING THE PLACEMENT OF TWO (2) BENCHES WITH PLAQUES DONATED
BY TRACY ROTARY AND SUNRISE ROTARY CLUBS IN THE PUBLIC RIGHT OF
WAY IN DOWNTOWN TRACY PER CITY STANDARD POLICY AND PROCEDURES

WHEREAS, The Tracy Rotary and Sunrise Rotary Clubs have submitted an application to the Parks and Recreation Department to place two benches and plaques in the public right of way on 10th Street in Downtown Tracy, and

WHEREAS, The Rotary Clubs' purpose worldwide is to "bring together business and professional leaders in order to provide humanitarian service and to advance goodwill and peace around the world", and

WHEREAS, The Rotary Clubs agree to donate the benches and plaques, per City Standard, to be installed and maintained by the Public Works Department, and

WHEREAS, The Parks and Community Services Commission reviewed and discussed the Rotary Clubs request per the City Standard Policy and Procedures and recommended the City Council approve the request;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tracy approves the placement of the two benches and plaques donated by the Tracy Rotary and Sunrise Rotary Clubs in the public right of way in Downtown Tracy.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 17th day of November 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

**ADOPT A RESOLUTION AMENDING THE CITY OF TRACY MASTER EMPLOYEE
PAY SCHEDULE TO CONFIRM THE PAY RATES FOR CITY OF TRACY
ESTABLISHED POSITIONS**

EXECUTIVE SUMMARY

This item recommends that the City Council amend the City of Tracy Master Employee Pay Schedule to update the rate of pay for Limited Services Employees (LSE) to reflect cost of living increases and adjustments for classifications compensated at the minimum wage rate to comply with the State of California Minimum Wage Order and Council Member and Mayor compensation adjustments.

DISCUSSION

City Council routinely approves the Master Employee Pay Schedule identifying the rate of pay associated with each City of Tracy classification. On October 16, 2018, Council approved a Limited Service Employees (LSE) Compensation and Benefits Plan that provided for cost of living increases and adjustments for classifications compensated at the minimum wage rate to be adjusted annually during the term of the plan to comply with the State of California Minimum Wage Order schedule. All other classifications within the LSE Compensation and Benefit Plan were adjusted appropriately to maintain the current differential between the classifications compensated at minimum wage.

On December 17, 2019, City Council approved Ordinance No. 1283, which amended Chapter 2.04 of the Tracy Municipal Code to add section 2.04.060 "Council Member and Elected Mayor Compensation" adjusting the City Council monthly salary to \$936.00 per month effective with the pay period including January 1, 2021. The Ordinance also provided for an additional \$100.00 in monthly compensation for the Mayor for a total of \$1,036.00 per month. The last salary adjustments for the Tracy City Council members occurred in January 2007.

The Public Employees' Retirement Law governs the California Public Employees Retirement System (CalPERS) codified in Title 2 of the California Code of Regulations. Section 570.5 of the California Code of Regulations requires City Council approve the rate of pay or classification titles in a publicly available pay schedule for employees who are members of CalPERS. Amendment of the current Master Employee Pay Schedule is required to comply with the State of California Minimum Wage Order schedule and Ordinance No. 1283 in accordance with CalPERS regulations. Therefore, it is recommended the amended Master Employee Pay Schedule be approved to reflect the aforementioned changes.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose: To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

FISCAL IMPACT

Staff costs' associated with the adoption of the City of Tracy Master Employee Pay Schedule have been included in the adopted budget for FY 2020-21.

RECOMMENDATION

That the City Council, by resolution, amend the City of Tracy Master Employee Pay Schedule to confirm the pay rates for City of Tracy established positions.

Prepared by: Judy Carlos, Human Resources Analyst

Reviewed by: Kimberly Murdaugh, Human Resources Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

Attachment: Exhibit A - City of Tracy Master Employee Pay Schedule

City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
3106	Accountant*	TMMBU	A		3,225.70	6,989.02	83,868.20	40.3213
			B		3,386.98	7,338.46	88,061.48	42.3373
			C		3,556.33	7,705.39	92,464.58	44.4541
			D		3,734.14	8,090.64	97,087.64	46.6768
			E		3,920.84	8,495.16	101,941.84	49.0105
4112	Accounting Assistant	TTSSEA	A		2,051.65	4,445.25	53,342.90	25.6456
			B		2,154.24	4,667.52	56,010.24	26.9280
			C		2,261.95	4,900.90	58,810.70	28.2744
			D		2,375.05	5,145.95	61,751.30	29.6881
			E		2,493.81	5,403.26	64,839.06	31.1726
4203	Accounting Coordinator	TTSSEA	A		2,932.35	6,353.43	76,241.10	36.6544
			B		3,078.97	6,671.11	80,053.22	38.4871
			C		3,232.93	7,004.69	84,056.18	40.4116
			D		3,394.58	7,354.93	88,259.08	42.4323
			E		3,564.32	7,722.70	92,672.32	44.5540
3103	Accounting Officer*	TMMBU	A		4,203.39	9,107.35	109,288.14	52.5424
			B		4,413.55	9,562.70	114,752.30	55.1694
			C		4,634.23	10,040.84	120,489.98	57.9279
			D		4,865.94	10,542.87	126,514.44	60.8243
			E		5,109.23	11,070.00	132,839.98	63.8654
2520	Accounting Manager*	CONF	A		4,663.26	10,103.73	121,244.76	58.2908
			B		4,896.42	10,608.91	127,306.92	61.2053
			C		5,141.25	11,139.38	133,672.50	64.2656
			D		5,398.31	11,696.34	140,356.06	67.4789
			E		5,668.24	12,281.19	147,374.24	70.8530
4201	Accounting Technician	TTSSEA	A		2,523.14	5,466.81	65,601.64	31.5393
			B		2,649.31	5,740.18	68,882.06	33.1164
			C		2,781.76	6,027.15	72,325.76	34.7720
			D		2,920.86	6,328.53	75,942.36	36.5108
			E		3,066.91	6,644.98	79,739.66	38.3364
4101	Administrative Assistant I	TTSSEA	A		1,839.75	3,986.13	47,833.50	22.9969
			B		1,931.75	4,185.46	50,225.50	24.1469
			C		2,028.33	4,394.72	52,736.58	25.3541
			D		2,129.74	4,614.44	55,373.24	26.6218
			E		2,236.25	4,845.21	58,142.50	27.9531
4102	Administrative Assistant II	TTSSEA	A		2,042.58	4,425.59	53,107.08	25.5323
			B		2,144.70	4,646.85	55,762.20	26.8088
			C		2,251.94	4,879.21	58,550.44	28.1493
			D		2,364.53	5,123.15	61,477.78	29.5566
			E		2,482.75	5,379.30	64,551.50	31.0344
8102	Administrative Assistant II-Confidential	CONF	A		2,093.23	4,535.34	54,423.98	26.1654
			B		2,197.88	4,762.08	57,144.88	27.4735
			C		2,307.78	5,000.19	60,002.28	28.8473
			D		2,423.17	5,250.21	63,002.42	30.2896
			E		2,544.33	5,512.72	66,152.58	31.8041

Employees marked with an * (asterisk) are salaried
Employees are paid semi-monthly

City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
4106	Administrative Assistant III	TTSSEA	A		2,165.76	4,692.48	56,309.76	27.0720
			B		2,274.04	4,927.09	59,125.04	28.4255
			C		2,387.76	5,173.48	62,081.76	29.8470
			D		2,507.14	5,432.14	65,185.64	31.3393
			E		2,632.50	5,703.75	68,445.00	32.9063
4107	Administrative Technician	TTSSEA	A		2,523.14	5,466.81	65,601.64	31.5393
			B		2,649.31	5,740.18	68,882.06	33.1164
			C		2,781.76	6,027.15	72,325.76	34.7720
			D		2,920.86	6,328.53	75,942.36	36.5108
			E		3,066.91	6,644.98	79,739.66	38.3364
4425	Airport Coordinator	TTSSEA	A		2,432.34	5,270.07	63,240.84	30.4043
			B		2,553.97	5,533.61	66,403.22	31.9246
			C		2,681.66	5,810.27	69,723.16	33.5208
			D		2,815.74	6,100.77	73,209.24	35.1968
			E		2,956.52	6,405.80	76,869.52	36.9565
3510	Airport Manager*	TMMBU	A		3,274.33	7,094.39	85,132.58	40.9291
			B		3,438.03	7,449.07	89,388.78	42.9754
			C		3,609.93	7,821.52	93,858.18	45.1241
			D		3,790.43	8,212.60	98,551.18	47.3804
			E		3,979.94	8,623.21	103,478.44	49.7493
9322	Airport Operations Assistant	LS	A					14.0000
			B					14.7000
			C					15.4300
			D					16.2100
			E					17.0200
5522	Animal Services Aide	TEAMSTERS	A		1,400.09	3,033.53	36,402.34	17.5011
			B		1,470.09	3,185.20	38,222.34	18.3761
			C		1,543.61	3,344.49	40,133.86	19.2951
			D		1,620.79	3,511.72	42,140.54	20.2599
			E		1,701.82	3,687.28	44,247.32	21.2728
5521	Animal Services Officer I	TEAMSTERS	A		1,948.65	4,222.08	50,664.90	24.3581
			B		2,046.06	4,433.13	53,197.56	25.5758
			C		2,148.35	4,654.76	55,857.10	26.8544
			D		2,255.77	4,887.51	58,650.02	28.1971
			E		2,368.57	5,131.91	61,582.82	29.6071
5523	Animal Services Officer II	TEAMSTERS	A		2,139.45	4,635.48	55,625.70	26.7431
			B		2,246.42	4,867.25	58,406.92	28.0803
			C		2,358.75	5,110.63	61,327.50	29.4844
			D		2,476.68	5,366.14	64,393.68	30.9585
			E		2,600.53	5,634.49	67,613.78	32.5066
3620	Animal Services Manager*	TMMBU	A		3,517.33	7,620.89	91,450.58	32.5781
			B		3,693.20	8,001.94	96,023.20	34.2070
			C		3,877.86	8,402.03	100,824.36	35.9173
			D		4,071.75	8,822.13	105,865.50	37.7131
			E		4,275.34	9,263.24	111,158.84	39.5988

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
3621	Animal Services Supervisor	TMMBU NON EXEMPT	A		2,606.25	5,646.88	67,762.50	32.5781
			B		2,736.56	5,929.22	71,150.56	34.2070
			C		2,873.38	6,225.66	74,707.88	35.9173
			D		3,017.05	6,536.95	78,443.30	37.7131
			E		3,167.90	6,863.79	82,365.40	39.5988
2573	Assistant City Attorney*	CONF	A		5,936.54	12,862.51	154,350.04	74.2068
			B		6,233.36	13,505.62	162,067.36	77.9170
			C		6,545.03	14,180.90	170,170.78	81.8129
			D		6,872.28	14,889.94	178,679.28	85.9035
			E		7,215.88	15,634.41	187,612.88	90.1985
3308	Assistant City Engineer*	TMMBU	A		5,009.49	10,853.90	130,246.74	62.6186
			B		5,259.97	11,396.61	136,759.22	65.7496
			C		5,522.97	11,966.44	143,597.22	69.0371
			D		5,799.11	12,564.74	150,776.86	72.4889
			E		6,089.09	13,193.03	158,316.34	76.1136
1502	Assistant City Manager*	DH	Min		8,647.26	18,735.74	224,828.82	108.0908
			Max		9,274.07	20,093.82	241,125.79	115.9259
3302	Assistant Civil Engineer*	TMMBU	A		3,372.18	7,306.39	87,676.68	42.1523
			B		3,540.77	7,671.67	92,060.02	44.2596
			C		3,717.82	8,055.28	96,663.32	46.4728
			D		3,903.71	8,458.04	101,496.46	48.7964
			E		4,098.89	8,880.93	106,571.14	51.2361
2682	Assistant Director DES*	CONF	A		5,669.76	12,284.48	147,413.76	70.8720
			B		5,953.24	12,898.69	154,784.24	74.4155
			C		6,250.90	13,543.62	162,523.40	78.1363
			D		6,563.44	14,220.79	170,649.44	82.0430
			E		6,891.61	14,931.83	179,181.86	86.1451
2681	Assistant Director DES/City Engineer*	CONF	A		5,940.08	12,870.18	154,442.08	74.2510
			B		6,237.08	13,513.68	162,164.08	77.9635
			C		6,548.94	14,189.37	170,272.44	81.8618
			D		6,876.38	14,898.83	178,785.88	85.9548
			E		7,220.22	15,643.81	187,725.72	90.2528
5232	Assistant Planner	TEAMSTERS	A		2,799.31	6,065.18	72,782.06	34.9914
			B		2,939.28	6,368.44	76,421.28	36.7410
			C		3,086.24	6,686.86	80,242.24	38.5780
			D		3,240.55	7,021.20	84,254.30	40.5069
			E		3,402.58	7,372.26	88,467.08	42.5323
2580	Assistant to the City Manager*	CONF	A		4,663.26	10,103.73	121,244.76	58.2908
			B		4,896.42	10,608.91	127,306.92	61.2053
			C		5,141.25	11,139.38	133,672.50	64.2656
			D		5,398.31	11,696.34	140,356.06	67.4789
			E		5,668.24	12,281.19	147,374.24	70.8530

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Employees are paid semi-monthly

City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
3303	Associate Engineer*	TMMBU	A		3,788.30	8,207.99	98,495.80	47.3538
			B		3,977.70	8,618.35	103,420.20	49.7213
			C		4,176.60	9,049.30	108,591.60	52.2075
			D		4,385.42	9,501.75	114,020.92	54.8178
			E		4,604.69	9,976.83	119,721.94	57.5586
3202	Associate Planner*	TMMBU	A		3,205.96	6,946.25	83,354.96	40.0745
			B		3,366.25	7,293.55	87,522.50	42.0781
			C		3,534.56	7,658.22	91,898.56	44.1820
			D		3,711.29	8,041.13	96,493.54	46.3911
			E		3,896.87	8,443.22	101,318.62	48.7109
4451	Box Office Assistant	TTSSEA	A		1,839.75	3,986.13	47,833.50	22.9969
			B		1,931.75	4,185.46	50,225.50	24.1469
			C		2,028.33	4,394.72	52,736.58	25.3541
			D		2,129.74	4,614.44	55,373.24	26.6218
			E		2,236.25	4,845.21	58,142.50	27.9531
4455	Box Office Coordinator	TTSSEA	A		2,432.34	5,270.07	63,240.84	30.4043
			B		2,553.97	5,533.61	66,403.22	31.9246
			C		2,681.66	5,810.27	69,723.16	33.5208
			D		2,815.74	6,100.77	73,209.24	35.1968
			E		2,956.52	6,405.80	76,869.52	36.9565
3104	Budget Officer*	CONF	A		4,307.62	9,333.18	111,998.12	53.8453
			B		4,523.00	9,799.84	117,598.00	56.5375
			C		4,749.15	10,289.83	123,477.90	59.3644
			D		4,986.61	10,804.33	129,651.86	62.3326
			E		5,235.95	11,344.56	136,134.70	65.4494
5218	Building and Fire Inspector I	TEAMSTERS	A		2,512.10	5,442.89	65,314.60	31.4013
			B		2,637.70	5,715.02	68,580.20	32.9713
			C		2,769.58	6,000.76	72,009.08	34.6198
			D		2,908.07	6,300.82	75,609.82	36.3509
			E		3,053.47	6,615.86	79,390.22	38.1684
5219	Building and Fire Inspector II	TEAMSTERS	A		3,208.36	6,951.45	83,417.36	40.1045
			B		3,368.79	7,299.05	87,588.54	42.1099
			C		3,537.21	7,663.96	91,967.46	44.2151
			D		3,714.08	8,047.18	96,566.08	46.4260
			E		3,899.77	8,449.51	101,394.02	48.7471
5211	Building Inspector I	TEAMSTERS	A		2,734.99	5,925.82	71,109.74	34.1874
			B		2,871.74	6,222.11	74,665.24	35.8968
			C		3,015.31	6,533.18	78,398.06	37.6914
			D		3,166.10	6,859.89	82,318.60	39.5763
			E		3,324.41	7,202.89	86,434.66	41.5551
5212	Building Inspector II	TEAMSTERS	A		3,055.57	6,620.41	79,444.82	38.1946
			B		3,208.36	6,951.45	83,417.36	40.1045
			C		3,368.79	7,299.05	87,588.54	42.1099
			D		3,537.21	7,663.96	91,967.46	44.2151
			E		3,714.08	8,047.18	96,566.08	46.4260

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
5321	Building Maintenance Worker	TEAMSTERS	A		2,244.35	4,862.76	58,353.10	28.0544
			B		2,356.57	5,105.91	61,270.82	29.4571
			C		2,474.40	5,361.20	64,334.40	30.9300
			D		2,598.12	5,629.26	67,551.12	32.4765
			E		2,728.03	5,910.74	70,928.78	34.1004
5322	Building Maintenance Worker Assistant	TEAMSTERS	A		2,202.49	4,772.07	57,264.74	27.5311
			B		2,312.61	5,010.66	60,127.86	28.9076
			C		2,428.23	5,261.17	63,133.98	30.3529
			D		2,549.64	5,524.22	66,290.64	31.8705
			E		2,677.12	5,800.43	69,605.12	33.4640
3341	Building Official*	TMMBU	A		4,859.50	10,528.92	126,347.00	60.7438
			B		5,102.47	11,055.36	132,664.22	63.7809
			C		5,357.60	11,608.14	139,297.60	66.9700
			D		5,625.48	12,188.54	146,262.48	70.3185
			E		5,906.76	12,797.98	153,575.76	73.8345
4502	Building Permit Technician I	TTSSEA	A		2,229.34	4,830.24	57,962.84	27.8668
			B		2,340.82	5,071.78	60,861.32	29.2603
			C		2,457.85	5,325.35	63,904.10	30.7231
			D		2,580.75	5,591.63	67,099.50	32.2594
			E		2,709.79	5,871.22	70,454.54	33.8724
1506	City Attorney*	CONTRACT			8,653.85	18,750.00	225,000.00	108.1731
3110	City Clerk*	TMMBU	A		4,317.64	9,354.89	112,258.64	53.9705
			B		4,533.53	9,822.65	117,871.78	56.6691
			C		4,760.20	10,313.77	123,765.20	59.5025
			D		4,998.21	10,829.46	129,953.46	62.4776
			E		5,248.12	11,370.93	136,451.12	65.6015
1102	City Council Member*				432.00	936.00	11,232.00	
1501	City Manager*	CONTRACT			9,423.08	20,416.67	245,000.00	117.7885
1112	City Treasurer*				438.47	950.02	11,400.22	
9107	Clerical	LS	A					14.0000
			B					14.7000
			C					15.4300
			D					16.2100
			E					17.0200
3155	Code Compliance Analyst	TMMBU NON EXEMPT	A		3,052.89	6,614.60	79,375.14	38.1611
			B		3,205.53	6,945.32	83,343.78	40.0691
			C		3,365.80	7,292.57	87,510.80	42.0725
			D		3,534.10	7,657.22	91,886.60	44.1763
			E		3,710.80	8,040.07	96,480.80	46.3850
5202	Code Enforcement Officer	TEAMSTERS	A		2,594.96	5,622.42	67,468.96	32.4370
			B		2,724.70	5,903.52	70,842.20	34.0588
			C		2,860.94	6,198.71	74,384.44	35.7618
			D		3,003.98	6,508.63	78,103.48	37.5498
			E		3,154.18	6,834.06	82,008.68	39.4273

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
3623	Communications Unit Supervisor*	TMMBU	A		3,153.76	6,833.15	81,997.76	39.4220
			B		3,311.44	7,174.79	86,097.44	41.3930
			C		3,477.02	7,533.55	90,402.52	43.4628
			D		3,650.86	7,910.20	94,922.36	45.6358
			E		3,833.42	8,305.75	99,668.92	47.9178
9113	Community Access Coordinator	LS	A					26.7500
			B					28.0900
			C					29.4900
			D					30.9700
			E					32.5100
3210	Community Development Analyst*	TMMBU	A		3,205.96	6,946.25	83,354.96	40.0745
			B		3,366.25	7,293.55	87,522.50	42.0781
			C		3,534.56	7,658.22	91,898.56	44.1820
			D		3,711.29	8,041.13	96,493.54	46.3911
			E		3,896.87	8,443.22	101,318.62	48.7109
3206	Community Devel Program Manager*	TMMBU	A		4,859.48	10,528.88	126,346.48	60.7435
			B		5,102.45	11,055.31	132,663.70	63.7806
			C		5,357.58	11,608.09	139,297.08	66.9698
			D		5,625.46	12,188.50	146,261.96	70.3183
			E		5,906.74	12,797.94	153,575.24	73.8343
3315	Community Preservation Manager*	TMMBU	A		3,788.30	8,207.99	98,495.80	47.3538
			B		3,977.70	8,618.35	103,420.20	49.7213
			C		4,176.60	9,049.30	108,591.60	52.2075
			D		4,385.42	9,501.75	114,020.92	54.8178
			E		4,604.69	9,976.83	119,721.94	57.5586
5513	Community Services Officer	TEAMSTERS	A		2,265.89	4,909.43	58,913.14	28.3236
			B		2,379.19	5,154.92	61,858.94	29.7399
			C		2,498.13	5,412.62	64,951.38	31.2266
			D		2,623.05	5,683.28	68,199.30	32.7881
			E		2,754.21	5,967.46	71,609.46	34.4276
3501	Community Services Supervisor*	TMMBU	A		3,517.32	7,620.86	91,450.32	43.9665
			B		3,693.19	8,001.92	96,022.94	46.1649
			C		3,877.85	8,402.01	100,824.10	48.4731
			D		4,071.74	8,822.11	105,865.24	50.8968
			E		4,275.32	9,263.20	111,158.32	53.4415
5222	Construction Inspector I	TEAMSTERS	A		2,911.99	6,309.32	75,711.74	36.3999
			B		3,057.61	6,624.83	79,497.86	38.2201
			C		3,210.48	6,956.04	83,472.48	40.1310
			D		3,371.00	7,303.84	87,646.00	42.1375
			E		3,539.57	7,669.07	92,028.82	44.2446
5223	Construction Inspector II	TEAMSTERS	A		3,057.43	6,624.44	79,493.18	38.2179
			B		3,210.29	6,955.63	83,467.54	40.1286
			C		3,370.81	7,303.43	87,641.06	42.1351
			D		3,539.37	7,668.64	92,023.62	44.2421
			E		3,716.33	8,052.05	96,624.58	46.4541

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
4605	Crime Analyst	TTSSEA	A		2,752.79	5,964.38	71,572.54	34.4099
			B		2,890.43	6,262.60	75,151.18	36.1304
			C		3,034.96	6,575.75	78,908.96	37.9370
			D		3,186.71	6,904.54	82,854.46	39.8339
			E		3,346.03	7,249.74	86,996.78	41.8254
5514	Crime Prevention Specialist	TEAMSTERS	A		2,347.12	5,085.43	61,025.12	29.3390
			B		2,464.50	5,339.75	64,077.00	30.8063
			C		2,587.73	5,606.75	67,280.98	32.3466
			D		2,717.09	5,887.03	70,644.34	33.9636
			E		2,852.94	6,181.37	74,176.44	35.6618
5517	Crime Scene Technician	TEAMSTERS	A		2,541.92	5,507.50	66,089.92	31.7740
			B		2,669.00	5,782.84	69,394.00	33.3625
			C		2,802.46	6,072.00	72,863.96	35.0308
			D		2,942.58	6,375.59	76,507.08	36.7823
			E		3,089.72	6,694.40	80,332.72	38.6215
3622	Crime Scene Unit Supervisor	TMMBU NON EXEMPT	A		2,666.55	5,777.53	69,330.30	33.3319
			B		2,799.87	6,066.39	72,796.62	34.9984
			C		2,939.85	6,369.68	76,436.10	36.7481
			D		3,086.84	6,688.16	80,257.84	38.5855
			E		3,241.18	7,022.56	84,270.68	40.5148
1108	Cultural Arts Commissioner			Stipend \$50.00 per meeting				
3525	Cultural Arts Manager - Performing Arts*	TMMBU	A		3,517.33	7,620.89	91,450.58	43.9666
			B		3,693.20	8,001.94	96,023.20	46.1650
			C		3,877.86	8,402.03	100,824.36	48.4733
			D		4,071.75	8,822.13	105,865.50	50.8969
			E		4,275.34	9,263.24	111,158.84	53.4418
3524	Cultural Arts Manager - Visual Arts*	TMMBU	A		3,517.33	7,620.89	91,450.58	43.9666
			B		3,693.20	8,001.94	96,023.20	46.1650
			C		3,877.86	8,402.03	100,824.36	48.4733
			D		4,071.75	8,822.13	105,865.50	50.8969
			E		4,275.34	9,263.24	111,158.84	53.4418
9552	D.A.R.E Officer	LS	A					35.3100
			B					37.0700
			C					38.9300
			D					40.8800
			E					42.9200
2571	Deputy City Attorney I*	CONF	A		4,660.93	10,098.69	121,184.18	58.2616
			B		4,893.98	10,603.63	127,243.48	61.1748
			C		5,138.68	11,133.81	133,605.68	64.2335
			D		5,395.62	11,690.51	140,286.12	67.4453
			E		5,665.39	12,275.02	147,300.14	70.8174
2572	Deputy City Attorney II*	CONF	A		5,127.03	11,108.57	133,302.78	64.0879
			B		5,383.39	11,664.02	139,968.14	67.2924
			C		5,652.56	12,247.22	146,966.56	70.6570
			D		5,935.19	12,859.58	154,314.94	74.1899
			E		6,231.94	13,502.54	162,030.44	77.8993

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4116	Deputy City Clerk	TTSSEA	A		2,710.15	5,872.00	70,463.90	33.8769
			B		2,845.66	6,165.60	73,987.16	35.5708
			C		2,987.93	6,473.85	77,686.18	37.3491
			D		3,137.35	6,797.60	81,571.10	39.2169
			E		3,294.20	7,137.44	85,649.20	41.1775
1515	Development & Engineering Services Director*	DH	Min		6,937.39	15,031.02	180372.19	86.7174
			Max		8,430.97	18,267.11	219205.26	105.3871
2751	Division Fire Chief*	CONF	A		5669.61	12,284.16	147,409.86	70.8701
			B		5953.08	12,898.34	154,780.08	74.4135
			C		6250.75	13,543.30	162,519.50	78.1344
			D		6563.29	14,220.47	170,645.54	82.0411
			E		6891.46	14,931.50	179,177.96	86.1433
2561	Division Manager I*	CONF	A		4,000.72	8,668.23	104,018.72	50.0090
			B		4,200.77	9,101.67	109,220.02	52.5096
			C		4,410.81	9,556.76	114,681.06	55.1351
			D		4,631.34	10,034.57	120,414.84	57.8918
			E		4,862.89	10,536.27	126,435.14	60.7861
3161	Division Manager I*	TMMBU	A		3,903.91	8,458.48	101,501.66	48.7989
			B		4,099.11	8,881.41	106,576.86	51.2389
			C		4,304.07	9,325.49	111,905.82	53.8009
			D		4,519.27	9,791.76	117,501.02	56.4909
			E		4,745.23	10,281.34	123,375.98	59.3154
3162	Division Manager II*	TMMBU	A		4,550.42	9,859.25	118,310.92	56.8803
			B		4,777.94	10,352.21	124,226.44	59.7243
			C		5,016.84	10,869.82	130,437.84	62.7105
			D		5,267.67	11,413.29	136,959.42	65.8459
			E		5,531.05	11,983.95	143,807.30	69.1381
3209	Economic Devel Management Analyst*	TMMBU	A		3,400.57	7,367.91	88,414.82	42.5071
			B		3,570.60	7,736.30	92,835.60	44.6325
			C		3,749.13	8,123.12	97,477.38	46.8641
			D		3,936.59	8,529.28	102,351.34	49.2074
			E		4,133.43	8,955.77	107,469.18	51.6679
3207	Economic Development Manager*	TMMBU	A		4,203.39	9,107.35	109,288.14	52.5424
			B		4,413.55	9,562.70	114,752.30	55.1694
			C		4,634.23	10,040.84	120,489.98	57.9279
			D		4,865.94	10,542.87	126,514.44	60.8243
			E		5,109.23	11,070.00	132,839.98	63.8654
5324	Electrician	TEAMSTERS	A		2,927.96	6,343.92	76,126.96	36.5995
			B		3,074.40	6,661.20	79,934.40	38.4300
			C		3,228.10	6,994.22	83,930.60	40.3513
			D		3,389.50	7,343.92	88,127.00	42.3688
			E		3,558.97	7,711.11	92,533.22	44.4871

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3711	Emergency Medical Services Manager*	TMMBU	A		3,787.56	8,206.38	98,476.56	47.3445
			B		3,976.93	8,616.69	103,400.18	49.7116
			C		4,175.78	9,047.53	108,570.28	52.1973
			D		4,384.58	9,499.93	113,999.08	54.8073
			E		4,603.79	9,974.88	119,698.54	57.5474
3309	Engineering Program Manager*	TMMBU	A		4,554.08	9,867.18	118,406.08	56.9260
			B		4,781.78	10,360.53	124,326.28	59.7723
			C		5,020.87	10,878.56	130,542.62	62.7609
			D		5,271.92	11,422.50	137,069.92	65.8990
			E		5,535.51	11,993.61	143,923.26	69.1939
5221	Engineering Technician I	TEAMSTERS	A		2,563.42	5,554.08	66,648.92	32.0428
			B		2,691.58	5,831.76	69,981.08	33.6448
			C		2,826.16	6,123.35	73,480.16	35.3270
			D		2,967.47	6,429.52	77,154.22	37.0934
			E		3,115.85	6,751.01	81,012.10	38.9481
5225	Engineering Technician II	TEAMSTERS	A		2,691.59	5,831.78	69,981.34	33.6449
			B		2,826.17	6,123.37	73,480.42	35.3271
			C		2,967.49	6,429.57	77,154.74	37.0936
			D		3,115.88	6,751.08	81,012.88	38.9485
			E		3,271.64	7,088.56	85,062.64	40.8955
5425	Environmental Compliance Officer	TEAMSTERS	A		2,616.40	5,668.87	68,026.40	32.7050
			B		2,747.21	5,952.29	71,427.46	34.3401
			C		2,884.55	6,249.86	74,998.30	36.0569
			D		3,028.79	6,562.38	78,748.54	37.8599
			E		3,180.24	6,890.52	82,686.24	39.7530
5424	Environmental Compliance Technician	TEAMSTERS	A		2,133.74	4,623.11	55,477.24	26.6718
			B		2,240.44	4,854.29	58,251.44	28.0055
			C		2,352.44	5,096.96	61,163.44	29.4055
			D		2,470.06	5,351.80	64,221.56	30.8758
			E		2,593.59	5,619.45	67,433.34	32.4199
5313	Equipment Mechanic I	TEAMSTERS	A		2,355.85	5,104.35	61,252.10	29.4481
			B		2,473.64	5,359.56	64,314.64	30.9205
			C		2,597.32	5,627.53	67,530.32	32.4665
			D		2,727.18	5,908.89	70,906.68	34.0898
			E		2,863.54	6,204.34	74,452.04	35.7943
5314	Equipment Mechanic II	TEAMSTERS	A		2,473.63	5,359.54	64,314.38	30.9204
			B		2,597.32	5,627.53	67,530.32	32.4665
			C		2,727.17	5,908.87	70,906.42	34.0896
			D		2,863.54	6,204.34	74,452.04	35.7943
			E		3,006.71	6,514.54	78,174.46	37.5839
4108	Executive Assistant	TTSSEA	A		2,484.71	5,383.54	64,602.46	31.0589
			B		2,608.94	5,652.71	67,832.44	32.6118
			C		2,739.39	5,935.35	71,224.14	34.2424
			D		2,876.37	6,232.14	74,785.62	35.9546
			E		3,020.18	6,543.73	78,524.68	37.7523

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8108	Executive Assistant - Confidential	CONF	A		2,546.33	5,517.05	66,204.58	31.8291
			B		2,673.65	5,792.91	69,514.90	33.4206
			C		2,807.33	6,082.55	72,990.58	35.0916
			D		2,947.69	6,386.67	76,639.94	36.8461
			E		3,095.08	6,706.01	80,472.08	38.6885
2581	Executive Assistant to City Manager	CONF	A		2,908.08	6,300.84	75,610.08	36.3510
			B		3,053.48	6,615.88	79,390.48	38.1685
			C		3,206.15	6,946.66	83,359.90	40.0769
			D		3,366.47	7,294.02	87,528.22	42.0809
			E		3,534.78	7,658.69	91,904.28	44.1848
9635	Facility Attendant	LS	A					18.4800
			B					19.4000
			C					20.3700
			D					21.3900
			E					22.4600
1522	Finance Director*	DH	Min		6,472.60	14,023.97	168,287.60	80.9075
			Max		7,861.15	17,032.50	204,389.89	98.2644
3715	Fire Battalion Chief*	SCFCOA	A		4,731.38	10,251.33	123,015.88	42.2445
			B		4,967.93	10,763.85	129,166.18	44.3565
			C		5,216.33	11,302.05	135,624.58	46.5744
			D		5,477.15	11,867.16	142,405.90	48.9031
			E		5,751.01	12,460.53	149,526.26	51.3483
7105	Fire Captain	TFFA	A		3,600.44	7,800.96	93,611.44	32.1468
			B		3,780.58	8,191.26	98,295.08	33.7552
			C		3,969.49	8,600.57	103,206.74	35.4419
			D		4,167.96	9,030.58	108,366.96	37.2139
			E		4,376.36	9,482.12	113,785.36	39.0746
1514	Fire Chief*	DH	Min		6937.39	15,031.02	180,372.19	86.7174
			Max		8430.97	18,267.11	219,205.26	105.3871
7103	Fire Engineer	TFFA	A		3168.79	6,865.72	82,388.54	28.2928
			B		3327.20	7,208.94	86,507.20	29.7071
			C		3493.58	7,569.43	90,833.08	31.1927
			D		3668.26	7,947.90	95,374.76	32.7523
			E		3851.68	8,345.31	100,143.68	34.3900
5213	Fire Inspector	TEAMSTERS	A		3055.57	6,620.41	79,444.82	38.1946
			B		3208.36	6,951.45	83,417.36	40.1045
			C		3368.79	7,299.05	87,588.54	42.1099
			D		3537.21	7,663.96	91,967.46	44.2151
			E		3714.08	8,047.18	96,566.08	46.4260
2752	Fire Marshal*	CONF	A		4980.03	10,790.07	129,480.78	62.2504
			B		5229.02	11,329.55	135,954.52	65.3628
			C		5490.48	11,896.04	142,752.48	68.6310
			D		5765.01	12,490.86	149,890.26	72.0626
			E		6053.25	13,115.38	157,384.50	75.6656

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
9563	Fire Reserve	LS	A					14.0000
								14.7000
								15.4300
								16.2100
								17.0200
7102	Firefighter	TFFA	A		2807.31	6,082.51	72,990.06	25.0653
			B		2947.65	6,386.58	76,638.90	26.3183
			C		3095.05	6,705.95	80,471.30	27.6344
			D		3249.79	7,041.22	84,494.54	29.0160
			E		3412.28	7,393.28	88,719.28	30.4668
					426.54	Paramedic Pay (per pay period)		
9565	Firefighter Trainee	LS	A					24.5600
					(70% OF STEP A, FIREFIGHTER)			
7108	Firefighter/Paramedic	TFFA	A		3158.38	6,843.16	82,117.88	28.1998
			B		3316.30	7,185.32	86,223.80	29.6098
			C		3482.12	7,544.60	90,535.12	31.0904
			D		3656.22	7,921.81	95,061.72	32.6448
			E		3839.04	8,317.92	99,815.04	34.2771
3404	Fleet Supervisor*	TMMBU	A		3274.33	7,094.39	85,132.58	40.9291
			B		3438.03	7,449.07	89,388.78	42.9754
			C		3609.93	7,821.52	93,858.18	45.1241
			D		3790.43	8,212.60	98,551.18	47.3804
			E		3979.94	8,623.21	103,478.44	49.7493
4206	GIS Technician	TTSSEA	A		2752.79	5,964.38	71,572.54	34.4099
			B		2890.43	6,262.60	75,151.18	36.1304
			C		3034.96	6,575.75	78,908.96	37.9370
			D		3186.71	6,904.54	82,854.46	39.8339
			E		3346.03	7,249.74	86,996.78	41.8254
2511	Human Resources Analyst I*	CONF	A		3030.44	6,565.96	78,791.44	37.8805
			B		3181.96	6,894.25	82,730.96	39.7745
			C		3341.04	7,238.92	86,867.04	41.7630
			D		3508.10	7,600.89	91,210.60	43.8513
			E		3683.50	7,980.92	95,771.00	46.0438
2512	Human Resources Analyst II*	CONF	A		3484.90	7,550.62	90,607.40	43.5613
			B		3659.15	7,928.16	95,137.90	45.7394
			C		3842.10	8,324.55	99,894.60	48.0263
			D		4034.21	8,740.79	104,889.46	50.4276
			E		4235.93	9,177.85	110,134.18	52.9491
1518	Human Resources Director*	DH	Min		6472.60	14,023.97	168287.60	80.9075
			Max		7861.15	17,032.49	204389.84	98.2644
2562	Human Resources Manager*	CONF	A		4663.26	10,103.73	121,244.76	58.2908
			B		4896.42	10,608.91	127,306.92	61.2053
			C		5141.25	11,139.38	133,672.50	64.2656
			D		5398.31	11,696.34	140,356.06	67.4789
			E		5668.24	12,281.19	147,374.24	70.8530

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4301	Human Resources Technician	CONF	A		2585.72	5,602.40	67,228.72	32.3215
			B		2715.01	5,882.53	70,590.26	33.9376
			C		2850.76	6,176.65	74,119.76	35.6345
			D		2993.30	6,485.49	77,825.80	37.4163
			E		3142.96	6,809.75	81,716.96	39.2870
4204	Information Systems Technician I	TTSSEA	A		2393.74	5,186.44	62,237.24	29.9218
			B		2513.43	5,445.77	65,349.18	31.4179
			C		2639.11	5,718.08	68,616.86	32.9889
			D		2771.06	6,003.97	72,047.56	34.6383
			E		2909.61	6,304.16	75,649.86	36.3701
4205	Information Systems Technician II	TTSSEA	A		2752.79	5,964.38	71,572.54	34.4099
			B		2890.43	6,262.60	75,151.18	36.1304
			C		3034.96	6,575.75	78,908.96	37.9370
			D		3186.71	6,904.54	82,854.46	39.8339
			E		3346.03	7,249.74	86,996.78	41.8254
2553	Information Technology Manager*	CONF	A		4663.26	10,103.73	121,244.76	58.2908
			B		4896.42	10,608.91	127,306.92	61.2053
			C		5141.25	11,139.38	133,672.50	64.2656
			D		5398.31	11,696.34	140,356.06	67.4789
			E		5668.24	12,281.19	147,374.24	70.8530
3111	Information Technology Specialist*	TMMBU	A		3303.36	7,157.28	85,887.36	41.2920
			B		3468.54	7,515.17	90,182.04	43.3568
			C		3641.96	7,890.92	94,690.96	45.5245
			D		3824.05	8,285.45	99,425.30	47.8006
			E		4015.25	8,699.71	104,396.50	50.1906
5413	Instrumentation Technician	TEAMSTERS	A		2917.37	6,320.97	75,851.62	36.4671
			B		3063.24	6,637.02	79,644.24	38.2905
			C		3216.41	6,968.89	83,626.66	40.2051
			D		3377.21	7,317.29	87,807.46	42.2151
			E		3546.08	7,683.18	92,198.08	44.3260
9108	Intern-Generalist	LS	A					19.1800
			B					20.1400
			C					21.1500
			D					22.2000
			E					23.3100
5224	Junior Engineer	TEAMSTERS	A		2960.33	6,414.05	76,968.58	37.0041
			B		3108.34	6,734.74	80,816.84	38.8543
			C		3263.75	7,071.46	84,857.50	40.7969
			D		3426.94	7,425.04	89,100.44	42.8368
			E		3598.29	7,796.30	93,555.54	44.9786
5423	Laboratory Quality Assurance Officer	TEAMSTERS	A		2747.28	5,952.44	71,429.28	34.3410
			B		2884.66	6,250.10	75,001.16	36.0583
			C		3028.89	6,562.60	78,751.14	37.8611
			D		3180.33	6,890.72	82,688.58	39.7541
			E		3339.35	7,235.26	86,823.10	41.7419

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City of Tracy
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Effective 01-01-2021

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3424	Laboratory Supervisor*	TMMBU	A		3670.21	7,952.13	95,425.46	45.8776
			B		3853.71	8,349.71	100,196.46	48.1714
			C		4046.39	8,767.18	105,206.14	50.5799
			D		4248.71	9,205.54	110,466.46	53.1089
			E		4461.15	9,665.83	115,989.90	55.7644
5421	Laboratory Technician I	TEAMSTERS	A		2326.19	5,040.08	60,480.94	29.0774
			B		2442.49	5,292.07	63,504.74	30.5311
			C		2564.63	5,556.70	66,680.38	32.0579
			D		2692.85	5,834.51	70,014.10	33.6606
			E		2827.49	6,126.23	73,514.74	35.3436
5422	Laboratory Technician II	TEAMSTERS	A		2431.11	5,267.41	63,208.86	30.3889
			B		2552.66	5,530.77	66,369.16	31.9083
			C		2680.30	5,807.32	69,687.80	33.5038
			D		2814.31	6,097.68	73,172.06	35.1789
			E		2955.02	6,402.55	76,830.52	36.9378
3508	Landscape Architect*	TMMBU	A		3740.63	8,104.70	97,256.38	46.7579
			B		3927.66	8,509.93	102,119.16	49.0958
			C		4124.04	8,935.42	107,225.04	51.5505
			D		4330.24	9,382.19	112,586.24	54.1280
			E		4546.77	9,851.34	118,216.02	56.8346
4109	Legal Secretary	CONF	A		2777.36	6,017.62	72,211.36	34.7170
			B		2916.22	6,318.48	75,821.72	36.4528
			C		3062.04	6,634.42	79,613.04	38.2755
			D		3215.15	6,966.16	83,593.90	40.1894
			E		3375.90	7,314.45	87,773.40	42.1988
9636	Lifeguard	LS	A					14.0000
			B					14.7000
			C					15.4300
			D					16.2100
			E					17.0200
9303	Maintenance Aide	LS	A					15.6800
			B					16.4600
			C					17.2900
			D					18.1500
			E					19.0600
5301	Maintenance Worker I	TEAMSTERS	A		1733.98	3,756.96	45,083.48	21.6748
			B		1820.69	3,944.83	47,337.94	22.7586
			C		1911.72	4,142.06	49,704.72	23.8965
			D		2007.30	4,349.15	52,189.80	25.0913
			E		2107.67	4,566.62	54,799.42	26.3459
5303	Maintenance Worker II	TEAMSTERS	A		2202.49	4,772.07	57,264.74	27.5311
			B		2312.61	5,010.66	60,127.86	28.9076
			C		2428.23	5,261.17	63,133.98	30.3529
			D		2549.64	5,524.22	66,290.64	31.8705
			E		2677.12	5,800.43	69,605.12	33.4640

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3151	Management Analyst I*	TMMBU	A		2957.10	6,407.05	76,884.60	36.9638
			B		3104.94	6,727.37	80,728.44	38.8118
			C		3260.19	7,063.75	84,764.94	40.7524
			D		3423.19	7,416.92	89,002.94	42.7899
			E		3594.36	7,787.78	93,453.36	44.9295
3152	Management Analyst II*	TMMBU	A		3400.57	7,367.91	88,414.82	42.5071
			B		3570.60	7,736.30	92,835.60	44.6325
			C		3749.13	8,123.12	97,477.38	46.8641
			D		3936.59	8,529.28	102,351.34	49.2074
			E		4133.43	8,955.77	107,469.18	51.6679
1101	Mayor*				478.15	1,036.00	12,432.00	
4207	Media Services Coordinator	TTSSEA	A		2432.34	5,270.07	63,240.84	30.4043
			B		2553.97	5,533.61	66,403.22	31.9246
			C		2681.66	5,810.27	69,723.16	33.5208
			D		2815.74	6,100.77	73,209.24	35.1968
			E		2956.52	6,405.80	76,869.52	36.9565
3527	Media Services Supervisor*	TMMBU	A		2919.91	6,326.48	75,917.66	36.4989
			B		3065.92	6,642.83	79,713.92	38.3240
			C		3219.21	6,974.96	83,699.46	40.2401
			D		3380.17	7,323.71	87,884.42	42.2521
			E		3549.19	7,689.92	92,278.94	44.3649
5531	Meter Reader	TEAMSTERS	A		1502.47	3,255.36	39,064.22	18.7809
			B		1577.58	3,418.09	41,017.08	19.7198
			C		1656.47	3,589.02	43,068.22	20.7059
			D		1739.28	3,768.44	45,221.28	21.7410
			E		1826.25	3,956.88	47,482.50	22.8281
1107	Parks Commissioner			Stipend of \$50.00 per meeting				
1516	Parks & Community Services Director*	DH	Min		6472.60	14,023.96	168,287.50	80.9075
			Max		7861.15	17,032.50	204,389.89	98.2644
3509	Parks Planning & Development Manager*	TMMBU	A		3740.63	8,104.70	97,256.38	46.7579
			B		3927.66	8,509.93	102,119.16	49.0958
			C		4124.04	8,935.42	107,225.04	51.5505
			D		4330.24	9,382.19	112,586.24	54.1280
			E		4546.77	9,851.34	118,216.02	56.8346
4202	Payroll Coordinator	TTSSEA	A		2932.35	6,353.43	76,241.10	36.6544
			B		3078.97	6,671.11	80,053.22	38.4871
			C		3232.93	7,004.69	84,056.18	40.4116
			D		3394.58	7,354.93	88,259.08	42.4323
			E		3564.32	7,722.70	92,672.32	44.5540
3306	Plan Check Engineer*	TMMBU	A		4553.95	9,866.90	118,402.70	56.9244
			B		4781.65	10,360.25	124,322.90	59.7706
			C		5020.74	10,878.27	130,539.24	62.7593
			D		5271.78	11,422.19	137,066.28	65.8973
			E		5535.37	11,993.31	143,919.62	69.1921

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5215	Plan Check Examiner	TEAMSTERS	A		3296.18	7,141.73	85,700.68	41.2023
			B		3461.02	7,498.88	89,986.52	43.2628
			C		3634.06	7,873.80	94,485.56	45.4258
			D		3815.75	8,267.46	99,209.50	47.6969
			E		4006.56	8,680.88	104,170.56	50.0820
1106	Planning Commissioner			Stipend of \$50.00 per meeting				
4506	Planning Technician	TTSSEA	A		2523.14	5,466.81	65,601.64	31.5393
			B		2649.31	5,740.18	68,882.06	33.1164
			C		2781.76	6,027.15	72,325.76	34.7720
			D		2920.86	6,328.53	75,942.36	36.5108
			E		3066.91	6,644.98	79,739.66	38.3364
5411	Plant Mechanic I	TEAMSTERS	A		2657.37	5,757.64	69,091.62	33.2171
			B		2790.23	6,045.50	72,545.98	34.8779
			C		2929.74	6,347.77	76,173.24	36.6218
			D		3076.23	6,665.17	79,981.98	38.4529
			E		3230.04	6,998.42	83,981.04	40.3755
5412	Plant Mechanic II	TEAMSTERS	A		2723.78	5,901.53	70,818.28	34.0473
			B		2859.98	6,196.63	74,359.48	35.7498
			C		3002.98	6,506.46	78,077.48	37.5373
			D		3153.11	6,831.74	81,980.86	39.4139
			E		3310.77	7,173.34	86,080.02	41.3846
4601	Police Assistant	TTSSEA	A		1839.75	3,986.13	47,833.50	22.9969
			B		1931.75	4,185.46	50,225.50	24.1469
			C		2028.33	4,394.72	52,736.58	25.3541
			D		2129.74	4,614.44	55,373.24	26.6218
			E		2236.25	4,845.21	58,142.50	27.9531
6212	Police Captain*	TPMA	A		5731.63	12,418.54	149,022.38	71.6454
			B		6018.22	13,039.48	156,473.72	75.2278
			C		6319.12	13,691.43	164,297.12	78.9890
			D		6635.08	14,376.01	172,512.08	82.9385
			E		6966.86	15,094.87	181,138.36	87.0858
1513	Police Chief*	DH	Min		7369.94	15,968.21	191618.51	92.1243
			Max		8958.24	19,409.53	232914.34	111.9780
6103	Police Corporal	TPOA	A	3,946.48		7,892.96	94,715.52	45.5346
			B	4,143.82		8,287.64	99,451.68	47.8115
			C	4,351.01		8,702.02	104,424.24	50.2020
			D	4,568.57		9,137.14	109,645.68	52.7122
			E	4,796.99		9,593.98	115,127.76	55.3478
9501	Police Intern/Parking Enforcement Officer	LS	A					18.2000
			B					19.1100
			C					20.0700
			D					21.0700
			E					22.1200

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6211	Police Lieutenant*	TPMA	A		4960.59	10,747.95	128,975.34	62.0074
			B		5208.61	11,285.33	135,423.86	65.1076
			C		5469.06	11,849.63	142,195.56	68.3633
			D		5742.50	12,442.09	149,305.00	71.7813
			E		6029.62	13,064.18	156,770.12	75.3703
6102	Police Officer	TPOA	A	3,587.71		7,175.42	86,105.04	41.3951
			B	3,767.10		7,534.20	90,410.40	43.4649
			C	3,955.46		7,910.92	94,931.04	45.6382
			D	4,153.25		8,306.50	99,678.00	47.9203
			E	4,360.90		8,721.80	104,661.60	50.3161
9517	Police Range Master	LS	A					30.2600
			B					31.7700
			C					33.3600
			D					35.0300
			E					36.7800
4103	Police Records Assistant I	TTSSEA	A		2073.33	4,492.22	53,906.58	25.9166
			B		2177.01	4,716.86	56,602.26	27.2126
			C		2285.87	4,952.72	59,432.62	28.5734
			D		2400.15	5,200.33	62,403.90	30.0019
			E		2520.16	5,460.35	65,524.16	31.5020
4104	Police Records Assistant II	TTSSEA	A		2176.98	4,716.79	56,601.48	27.2123
			B		2285.85	4,952.68	59,432.10	28.5731
			C		2400.12	5,200.26	62,403.12	30.0015
			D		2520.13	5,460.29	65,523.38	31.5016
			E		2646.14	5,733.31	68,799.64	33.0768
9551	Police Reserve	LS	A					39.3700
6105	Police Sergeant	TPOA	A	4,323.40		8,646.80	103,761.60	49.8835
			B	4,539.59		9,079.18	108,950.16	52.3779
			C	4,766.58		9,533.16	114,397.92	54.9969
			D	5,004.90		10,009.80	120,117.60	57.7466
			E	5,255.16		10,510.32	126,123.84	60.6341
2712	Police Support Operations Manager*	CONF	A		5278.14	11,435.97	137,231.64	65.9768
			B		5542.05	12,007.78	144,093.30	69.2756
			C		5819.14	12,608.14	151,297.64	72.7393
			D		6110.09	13,238.53	158,862.34	76.3761
			E		6415.60	13,900.47	166,805.60	80.1950
4701	Police Support Services Technician	TTSSEA	A		2523.14	5,466.81	65,601.64	31.5393
			B		2649.31	5,740.18	68,882.06	33.1164
			C		2781.76	6,027.15	72,325.76	34.7720
			D		2920.86	6,328.53	75,942.36	36.5108
			E		3066.91	6,644.98	79,739.66	38.3364
6101	Police Trainee (Non-Sworn)	TPOA	A	3,119.65		6,239.30	74,871.60	35.9946

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
9638	Pool Manager	LS	A					19.8900
			B					20.8900
			C					21.9300
			D					23.0300
			E					24.1800
5408	Principal WWTP Operator	TEAMSTERS	A		3499.92	7,583.16	90,997.92	43.7490
			B		3674.91	7,962.31	95,547.66	45.9364
			C		3858.67	8,360.46	100,325.42	48.2334
			D		4051.60	8,778.47	105,341.60	50.6450
			E		4254.17	9,217.37	110,608.42	53.1771
9533	Professional Standards Officer	LS	A					50.4400
			B					52.9600
			C					55.6100
			D					58.3900
			E					61.3100
9110	Program Assistant	LS	Min					14.0000
			Max					24.1000
9231	Project Specialist I	LS	Min					14.0000
			Max					46.6800
9232	Project Specialist II	LS	Min					46.6900
			Max					131.5900
5518	Property and Evidence Technician	TEAMSTERS	A		2236.01	4,844.69	58,136.26	27.9501
			B		2347.80	5,086.90	61,042.80	29.3475
			C		2465.20	5,341.27	64,095.20	30.8150
			D		2588.47	5,608.36	67,300.22	32.3559
			E		2717.87	5,888.72	70,664.62	33.9734
2585	Public Information Officer*	CONF	A		3484.90	7,550.62	90,607.40	43.5613
			B		3659.15	7,928.16	95,137.90	45.7394
			C		3842.10	8,324.55	99,894.60	48.0263
			D		4034.21	8,740.79	104,889.46	50.4276
			E		4235.93	9,177.85	110,134.18	52.9491
5502	Public Safety Dispatcher I	TEAMSTERS	A		2583.24	5,597.02	67,164.24	32.2905
			B		2712.39	5,876.85	70,522.14	33.9049
			C		2848.01	6,170.69	74,048.26	35.6001
			D		2990.41	6,479.23	77,750.66	37.3801
			E		3139.95	6,803.23	81,638.70	39.2494
9512	Public Safety Dispatcher II - Per Diem	LS	A					32.1500
			B					33.7600
			C					35.4400
			D					37.2200
			E					39.0800

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City of Tracy
Master Salary Schedule

Effective 01-01-2021

Class Code	Position Title	Unit		Semi-Mon Salary	Bi-Weekly Salary	Monthly Salary	Annual Salary	Hourly Rate
5503	Public Safety Dispatcher II	TEAMSTERS	A		2834.02	6,140.38	73,684.52	35.4253
			B		2975.71	6,447.38	77,368.46	37.1964
			C		3124.50	6,769.75	81,237.00	39.0563
			D		3280.73	7,108.25	85,298.98	41.0091
			E		3444.77	7,463.67	89,564.02	43.0596
5504	Public Safety Dispatcher - Lead	TEAMSTERS	A		2975.71	6,447.38	77,368.46	37.1964
			B		3124.50	6,769.75	81,237.00	39.0563
			C		3280.73	7,108.25	85,298.98	41.0091
			D		3444.77	7,463.67	89,564.02	43.0596
			E		3617.02	7,836.88	94,042.52	45.2128
1512	Public Works Director*	DH	Min		6472.60	14,023.96	168287.50	80.9075
			Max		7861.15	17,032.50	204389.89	98.2644
3401	Public Works Superintendent*	TMMBU	A		3929.74	8,514.44	102,173.24	49.1218
			B		4126.23	8,940.17	107,281.98	51.5779
			C		4332.54	9,387.17	112,646.04	54.1568
			D		4549.17	9,856.54	118,278.42	56.8646
			E		4776.62	10,349.35	124,192.12	59.7078
3405	Public Works Supervisor*	TMMBU	A		3274.33	7,094.39	85,132.58	40.9291
			B		3438.03	7,449.07	89,388.78	42.9754
			C		3609.93	7,821.52	93,858.18	45.1241
			D		3790.43	8,212.60	98,551.18	47.3804
			E		3979.94	8,623.21	103,478.44	49.7493
4105	Receptionist	TTSSEA	A		1672.50	3,623.75	43,485.00	20.9063
			B		1756.12	3,804.93	45,659.12	21.9515
			C		1843.93	3,995.19	47,942.18	23.0491
			D		1936.14	4,194.97	50,339.64	24.2018
			E		2032.94	4,404.71	52,856.44	25.4118
3626	Records Unit Supervisor*	TMMBU	A		2971.80	6,438.90	77,266.80	37.1475
			B		3120.40	6,760.87	81,130.40	39.0050
			C		3276.41	7,098.89	85,186.66	40.9551
			D		3440.24	7,453.86	89,446.24	43.0030
			E		3612.23	7,826.50	93,917.98	45.1529
9631	Recreation Leader I	LS	A					14.0000
			B					14.7000
			C					15.4400
			D					16.2000
			E					17.0200
9632	Recreation Leader II	LS	A					17.5400
			B					18.4100
			C					19.3300
			D					20.3000
			E					21.3200

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9633	Recreation Leader III	LS	A					19.8900
			B					20.8900
			C					21.9300
			D					23.0300
			E					24.1800
4401	Recreation Prgm Coordinator I	TTSSEA	A		2432.34	5,270.07	63,240.84	30.4043
			B		2553.97	5,533.61	66,403.22	31.9246
			C		2681.66	5,810.27	69,723.16	33.5208
			D		2815.74	6,100.77	73,209.24	35.1968
			E		2956.52	6,405.80	76,869.52	36.9565
4402	Recreation Prgm Coordinator II	TTSSEA	A		2675.59	5,797.12	69,565.34	33.4449
			B		2809.37	6,086.97	73,043.62	35.1171
			C		2949.84	6,391.32	76,695.84	36.8730
			D		3097.33	6,710.89	80,530.58	38.7166
			E		3252.17	7,046.37	84,556.42	40.6521
3511	Recreation Service Manager*	TMMBU	A		4046.89	8,768.27	105,219.14	50.5861
			B		4249.23	9,206.67	110,479.98	53.1154
			C		4461.70	9,667.02	116,004.20	55.7713
			D		4684.79	10,150.38	121,804.54	58.5599
			E		4919.03	10,657.90	127,894.78	61.4879
3513	Recreation Services Program Manager*	TMMBU	A		3869.04	8,382.92	100,595.04	48.3630
			B		4062.50	8,802.09	105,625.00	50.7813
			C		4265.62	9,242.18	110,906.12	53.3203
			D		4478.91	9,704.31	116,451.66	55.9864
			E		4702.85	10,189.51	122,274.10	58.7856
3505	Recreation Services Supervisor*	TMMBU	A		3517.32	7,620.86	91,450.32	43.9665
			B		3693.19	8,001.92	96,022.94	46.1649
			C		3877.85	8,402.01	100,824.10	48.4731
			D		4071.74	8,822.11	105,865.24	50.8968
			E		4275.32	9,263.20	111,158.32	53.4415
9626	Recreation Specialized Instructor	LS	Min					14.0000
			Max					49.6600
3433	Safety Coordinator*	TMMBU	A		2957.10	6,407.05	76,884.60	36.9638
			B		3104.94	6,727.37	80,728.44	38.8118
			C		3260.19	7,063.75	84,764.94	40.7524
			D		3423.19	7,416.92	89,002.94	42.7899
			E		3594.36	7,787.78	93,453.36	44.9295
3105	Senior Accountant*	TMMBU	A		3655.15	7,919.50	95,033.90	45.6894
			B		3837.91	8,315.48	99,785.66	47.9739
			C		4029.81	8,731.26	104,775.06	50.3726
			D		4231.30	9,167.82	110,013.80	52.8913
			E		4442.87	9,626.22	115,514.62	55.5359

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4113	Senior Accounting Assistant	TTSSEA	A		2261.39	4,899.68	58,796.14	28.2674
			B		2374.46	5,144.67	61,735.96	29.6808
			C		2493.18	5,401.89	64,822.68	31.1648
			D		2617.85	5,672.01	68,064.10	32.7231
			E		2748.73	5,955.59	71,466.98	34.3591
5323	Senior Building Maintenance Worker	TEAMSTERS	A		2486.09	5,386.53	64,638.34	31.0761
			B		2610.38	5,655.83	67,869.88	32.6298
			C		2740.89	5,938.60	71,263.14	34.2611
			D		2877.95	6,235.56	74,826.70	35.9744
			E		3021.86	6,547.37	78,568.36	37.7733
3304	Senior Civil Engineer*	TMMBU	A		4554.08	9,867.18	118,406.08	56.9260
			B		4781.78	10,360.53	124,326.28	59.7723
			C		5020.87	10,878.56	130,542.62	62.7609
			D		5271.92	11,422.50	137,069.92	65.8990
			E		5535.51	11,993.61	143,923.26	69.1939
5325	Senior Electrician	TEAMSTERS	A		3220.76	6,978.32	83,739.76	40.2595
			B		3381.81	7,327.26	87,927.06	42.2726
			C		3550.91	7,693.64	92,323.66	44.3864
			D		3728.44	8,078.29	96,939.44	46.6055
			E		3914.86	8,482.20	101,786.36	48.9358
5315	Senior Equipment Mechanic	TEAMSTERS	A		2597.33	5,627.55	67,530.58	32.4666
			B		2727.18	5,908.89	70,906.68	34.0898
			C		2863.55	6,204.36	74,452.30	35.7944
			D		3006.72	6,514.56	78,174.72	37.5840
			E		3157.06	6,840.30	82,083.56	39.4633
2513	Senior Human Resources Analyst*	CONF	A		3820.04	8,276.76	99,321.04	47.7505
			B		4011.04	8,690.59	104,287.04	50.1380
			C		4211.59	9,125.12	109,501.34	52.6449
			D		4422.18	9,581.39	114,976.68	55.2773
			E		4643.29	10,060.47	120,725.54	58.0411
4208	Senior Information Systems Technician	TTSSEA	A		3028.06	6,560.80	78,729.56	37.8508
			B		3179.47	6,888.86	82,666.22	39.7434
			C		3338.45	7,233.31	86,799.70	41.7306
			D		3505.37	7,594.97	91,139.62	43.8171
			E		3680.63	7,974.70	95,696.38	46.0079
9637	Senior Lifeguard	LS	A					17.5400
			B					18.4100
			C					19.3300
			D					20.3000
			E					21.3200
5305	Senior Maintenance Worker	TEAMSTERS	A		2424.71	5,253.54	63,042.46	30.3089
			B		2545.92	5,516.16	66,193.92	31.8240
			C		2673.22	5,791.98	69,503.72	33.4153
			D		2806.89	6,081.60	72,979.14	35.0861
			E		2947.22	6,385.65	76,627.72	36.8403

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3203	Senior Planner*	TMMBU	A		3903.90	8,458.45	101,501.40	48.7988
			B		4099.10	8,881.39	106,576.60	51.2388
			C		4304.06	9,325.47	111,905.56	53.8008
			D		4519.26	9,791.73	117,500.76	56.4908
			E		4745.22	10,281.31	123,375.72	59.3153
5402	Senior Water Treatment Plant Operator	TEAMSTERS	A		3047.50	6,602.92	79,235.00	38.0938
			B		3199.88	6,933.08	83,196.88	39.9985
			C		3359.88	7,279.74	87,356.88	41.9985
			D		3527.87	7,643.72	91,724.62	44.0984
			E		3704.26	8,025.90	96,310.76	46.3033
5407	Senior WW Treatment Plant Operator	TEAMSTERS	A		2860.38	6,197.49	74,369.88	35.7548
			B		3003.37	6,507.31	78,087.62	37.5421
			C		3153.55	6,832.70	81,992.30	39.4194
			D		3311.24	7,174.36	86,092.24	41.3905
			E		3476.81	7,533.09	90,397.06	43.4601
3343	Supervising Building & Fire Inspector	TMMBU	A		3495.11	7,572.74	90,872.86	43.6889
			B		3669.86	7,951.37	95,416.36	45.8733
			C		3853.36	8,348.95	100,187.36	48.1670
			D		4046.03	8,766.40	105,196.78	50.5754
			E		4248.33	9,204.72	110,456.58	53.1041
3345	Supervising Construction Inspector	TMMBU NON EXEMPT	A		3643.21	7,893.63	94,723.46	45.5401
			B		3825.38	8,288.33	99,459.88	47.8173
			C		4016.65	8,702.75	104,432.90	50.2081
			D		4217.47	9,137.86	109,654.22	52.7184
			E		4428.34	9,594.74	115,136.84	55.3543
3344	Supervising Plans Examiner*	TMMBU	A		3427.59	7,426.45	89,117.34	42.8449
			B		3598.96	7,797.75	93,572.96	44.9870
			C		3778.92	8,187.66	98,251.92	47.2365
			D		3967.86	8,597.03	103,164.36	49.5983
			E		4166.26	9,026.90	108,322.76	52.0783
3523	Technical Theatre Supervisor*	TMMBU	A		2919.91	6,326.48	75,917.66	36.4989
			B		3065.92	6,642.83	79,713.92	38.3240
			C		3219.21	6,974.96	83,699.46	40.2401
			D		3380.17	7,323.71	87,884.42	42.2521
			E		3549.19	7,689.92	92,278.94	44.3649
4461	Theatre Operations & Tech Asst	TTSSEA	A		2042.58	4,425.59	53,107.08	25.5323
			B		2144.70	4,646.85	55,762.20	26.8088
			C		2251.94	4,879.21	58,550.44	28.1493
			D		2364.53	5,123.15	61,477.78	29.5566
			E		2482.75	5,379.30	64,551.50	31.0344
9361	Theatre Technician	LS	A					28.8400
			B					30.2800
			C					31.8000
			D					33.3900
			E					35.0600

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1109	Transportation Commissioner			Stipend \$50.00 per meeting				
3423	Treatment Plant Facilities Maintenance Superintendent*	TMMBU	A		4077.99	8,835.65	106,027.74	50.9749
			B		4281.88	9,277.41	111,328.88	53.5235
			C		4495.97	9,741.27	116,895.22	56.1996
			D		4720.78	10,228.36	122,740.28	59.0098
			E		4956.81	10,739.76	128,877.06	61.9601
3410	Treatment Plant Facilities Maintenance Supervisor*	TMMBU	A		3398.31	7,363.01	88,356.06	42.4789
			B		3568.23	7,731.17	92,773.98	44.6029
			C		3746.64	8,117.72	97,412.64	46.8330
			D		3933.98	8,523.63	102,283.48	49.1748
			E		4130.68	8,949.81	107,397.68	51.6335
1520	Utilities Director*	DH	Min		6937.39	15,031.02	180372.19	86.7174
			Max		8430.97	18,267.11	219205.26	105.3871
3403	Utility Line Maintenance Superintendent*	TMMBU	A		4003.88	8,675.08	104,100.88	50.0485
			B		4204.06	9,108.80	109,305.56	52.5508
			C		4414.27	9,564.26	114,771.02	55.1784
			D		4634.98	10,042.46	120,509.48	57.9373
			E		4866.73	10,544.59	126,534.98	60.8341
5404	Utility Operator	TEAMSTERS	A		3264.21	7,072.46	84,869.46	40.8026
			B		3427.39	7,426.02	89,112.14	42.8424
			C		3598.78	7,797.36	93,568.28	44.9848
			D		3778.72	8,187.23	98,246.72	47.2340
			E		3967.65	8,596.58	103,158.90	49.5956
5406	Wastewater Treatment Plant Operator	TEAMSTERS	A		2608.96	5,652.75	67,832.96	32.6120
			B		2739.41	5,935.39	71,224.66	34.2426
			C		2876.38	6,232.16	74,785.88	35.9548
			D		3020.19	6,543.75	78,524.94	37.7524
			E		3171.20	6,870.94	82,451.20	39.6400
9351	Water Patrol Aide	LS	A					16.5200
			B					17.3500
			C					18.2100
			D					19.1200
			E					20.0800
5403	Water Plant Operator-In-Training	TEAMSTERS	A		2307.10	4,998.72	59,984.60	28.8388
			B		2422.47	5,248.69	62,984.22	30.2809
			C		2543.58	5,511.09	66,133.08	31.7948
			D		2670.77	5,786.67	69,440.02	33.3846
			E		2804.30	6,075.99	72,911.80	35.0538
3421	Water Plant Superintendent*	TMMBU	A		4003.88	8,675.08	104,100.88	50.0485
			B		4204.06	9,108.80	109,305.56	52.5508
			C		4414.27	9,564.26	114,771.02	55.1784
			D		4634.98	10,042.46	120,509.48	57.9373
			E		4866.73	10,544.59	126,534.98	60.8341

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3431	Water Resources Coordinator*	TMMBU	A		2596.88	5,626.58	67,518.88	32.4610
			B		2726.72	5,907.90	70,894.72	34.0840
			C		2863.06	6,203.30	74,439.56	35.7883
			D		3006.21	6,513.46	78,161.46	37.5776
			E		3156.52	6,839.13	82,069.52	39.4565
5401	Water Treatment Plant Operator	TEAMSTERS	A		2785.18	6,034.56	72,414.68	34.8148
			B		2924.43	6,336.27	76,035.18	36.5554
			C		3070.67	6,653.12	79,837.42	38.3834
			D		3224.20	6,985.77	83,829.20	40.3025
			E		3385.44	7,335.12	88,021.44	42.3180
3422	WW Operations Superintendent*	TMMBU	A		4077.99	8,835.65	106,027.74	50.9749
			B		4281.88	9,277.41	111,328.88	53.5235
			C		4495.97	9,741.27	116,895.22	56.1996
			D		4720.78	10,228.36	122,740.28	59.0098
			E		4956.81	10,739.76	128,877.06	61.9601
5405	WW Plant Operator-In-Training	TEAMSTERS	A		2165.44	4,691.79	56,301.44	27.0680
			B		2273.72	4,926.40	59,116.72	28.4215
			C		2387.39	5,172.68	62,072.14	29.8424
			D		2506.77	5,431.34	65,176.02	31.3346
			E		2632.10	5,702.89	68,434.60	32.9013

RESOLUTION 2020 - _____

AMEND THE CITY OF TRACY MASTER EMPLOYEE PAY SCHEDULE AND THE PAY
RATES FOR CITY OF TRACY ESTABLISHED POSITIONS

WHEREAS, The City Council approves the Master Employee Pay Schedule identifying the rate of pay for each City of Tracy classification titles and pay rates, and

WHEREAS, On October 16, 2018, City Council approved a compensation and benefit plan for Limited Service Employees (LSE) including adjusted hourly rates reflecting a cost of living increase in addition to annual adjustments to maintain compliance with the State of California Minimum Wage Order schedule, and

WHEREAS, On December 17, 2019, City Council approved Ordinance 1283, which amended Title 2 Chapter 2.04 of the Tracy Municipal Code to add section 2.04.060 Council Member and Elected Mayor Compensation adjusting the City Council monthly salary to \$936.00 per month effective with the pay period including January 1, 2021 and also provided for an additional \$100.00 in monthly compensation for the Mayor, and

WHEREAS, The Public Employees' Retirement Law (PERL) governs the California Public Employees Retirement System, codified in Title 2 of the California Code of Regulations, requires City Council approval to modify the rate of pay or classification titles by amending the Master Employee Pay Schedule, and

WHEREAS, Amendment to the City's Master Employee Pay Schedule is required to comply with the State of California Minimum Wage Order schedule and Ordinance 1283 in accordance with CalPERS regulations.

NOW, THEREFORE, BE IT RESOLVED, That City Council of the City of Tracy hereby amends the City of Tracy Master Employee Pay Schedule, a copy of which is attached to the staff report accompanying this resolution, to confirm the pay rates for all City of Tracy Established Positions.

The foregoing Resolution 2020 - _____ was adopted by the Tracy City Council on the 17th day of November, 2020 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.D

REQUEST

**APPROVE THE WATER SUPPLY DEVELOPMENT AND OPERATING AGREEMENT
WITH THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND RESCIND
RESOLUTION NO. 2000-168**

EXECUTIVE SUMMARY

The proposed Water Supply Development and Operating Agreement (WSD&OA) is an update of the original 1995 Water Supply Development Agreement (1995 WSDA) with the South San Joaquin Irrigation District (SSJID). The agreement provides for continued treated potable water service from SSJID through 2049. In a typical year, the SSJID water supply provides approximately 70% of Tracy's potable water demand.

In 2000, the City Council approved Amendment No. 1 to the original 1995 WSDA allowing the City of Tracy to provide fair share funding and collectively defend any challenge to the project environmental document. The project included construction of the water treatment plant and water conveyance infrastructure by SSJID. However, this amendment was never approved by the SSJID Board of Directors therefore it is also recommended to rescind Resolution No. 2000-168 approving Amendment No. 1.

DISCUSSION

Water Supply Development & Operating Agreement WSD&OA

In 1995, the City and SSJID entered into the 1995 WSDA. The cities of Manteca, Lathrop and Escalon entered into similar agreements with SSJID. These agreements allowed SSJID to plan, finance, construct and operate the South County Water Supply Project (SCWSP) for supplying treated water to the participating cities. This project included construction of Nick DeGroot Water Treatment Plant at Woodward Reservoir and 40 miles of pipeline delivering water to the Cities of Manteca, Lathrop, Tracy and in the future, Escalon. The project commenced delivering water in 2005.

In 2006, the City and SSJID entered into the Escalon Amendment to the City's 1995 WSDA allowing the City to purchase Escalon's share of the project water supply.

In 2013, the City, SSJID, and the City of Lathrop entered into the Lathrop-Tracy Purchase, Sale and Amendment Agreement allowing Tracy to purchase a part of the Lathrop water supply.

The increased purchase of water supply by the City under the above agreements has improved the City's water quality, increased water supply, and decreased the salinity levels of wastewater effluent discharged into the Delta since the City started blending surface water from the Delta Mendota Canal and groundwater treated from the City's Water Treatment Plant.

The original 1995 WSDA currently in effect was primarily used to plan, finance, construct and operate the South County Water Supply Project. Since twenty-five years has elapsed since execution of the original agreement, a large portion of the 1995 WSDA is no longer applicable. In treatment, the maintenance, operational, and other issues and practices have evolved over time, which are not addressed in the 1995 WSDA. As a result, a new WSD&OA is needed to incorporate all relevant information and requirements.

The WSD&OA was prepared jointly by the staffs of SSJID and the participating cities. It has been prepared to reflect current practices and anticipated future decision making processes. The City, jointly working with other cities, had the document reviewed by an outside counsel specializing in water agreements. The WSD&OA will supersede the 1995 WSDA and its term will expire on December 31, 2049.

The WSD&OA defines the terms and conditions of water treatment and the delivery and sales between SSJID and participating cities. The agreement address a variety of issues, procedures and processes, including but not limited to water supply capacities, points of deliveries, schedules of deliveries, water quality, shortages due to drought, allocation of costs and expenses, capital projects and Phase 2 improvements to the Water Treatment Plant.

Rescinding of Resolution No. 2000-168

In 2000, both the City and SSJID worked together to enter into an amendment to the 1995 WSDA. This amendment allowed the City of Tracy to provide fair share funding for its share of the project and working collectively to defend challenges to the project environmental document. City Council authorized this amendment per Resolution No. 2000-168. However, this amendment was never executed by the SSJID Board and did not take effect. Thus, staff is recommending rescinding Resolution No. 2000-168.

STRATEGIC PLAN

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

FISCAL IMPACT

Tracy currently budgets \$3.9 million per year for SSJID treated water supply. Due to normal increases in operational and maintenance costs of the SSJID water treatment plant and conveyance facilities, the City's budgeted amount will be adjusted accordingly every year as allowed under the agreement.

RECOMMENDATION

Staff recommends that the City Council, by resolution, approve the Water Supply Development and Operating Agreement with the South San Joaquin Irrigation District and rescind Resolution No. 2000-168.

Prepared by: Kul Sharma, Director of Utilities

Reviewed by: Midori Lichtwardt

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS:

- A. Water Supply Development and Operating Agreement
- B. Resolution No. 2000-168

WATER SUPPLY DEVELOPMENT AND OPERATING AGREEMENT

This Water Supply Development and Operating Agreement ("Water Supply Agreement"), dated as of _____, by and between the South San Joaquin Irrigation District (the "District"), an irrigation district duly organized and existing pursuant to the Irrigation District Act (the "Irrigation District Act"), commencing with California Water Code, Section 20500 and the City of Tracy (the "City"), a municipal corporation created pursuant to the constitution and laws of the State of California. The District and City are referred in this Water Supply Agreement collectively as "Parties" and individually as "Party."

RECITALS

- A. WHEREAS, on or about October 1, 1995, the City entered into the Initial Agreement with the District to provide for the construction, operation, and financing of the Project and to specify the City's right to acquire by purchase, treated water up to the amount specified as the City's Project Allotment in the Initial Agreement (capitalized terms used herein have the meanings set forth in Section 2); and
- B. WHEREAS, all Project Participants entered into an Initial Project Participant Agreement with the District, similar to the Initial Agreement, to fund and construct the Project and to specify each Project Participant's right to acquire treated water; and
- C. WHEREAS, the District after consultation with the Operating Committee, constructed the Project with the Assigned Capacity of the Water Treatment Plant and the capacity of each Reach of the Project to serve the City with the flow rate requested by the City as was agreed to by the City. The cost of the Project was divided among the Project Participants, pro rata using Project Allotments and Assigned Capacities as the allocation factors; and
- D. WHEREAS, the various Initial Project Participant Agreements were amended as follows:
 - 1. On or about July 11, 2000, the District and the City of Manteca and the District and the City of Lathrop, entered into Amendment No. 1 to the Initial Agreement;
 - 2. On or about March 28, 2006, the District and the City of Tracy entered into the "Escalon Amendment to Tracy-SSJID Water Supply Development Agreement" ("Escalon-Tracy Amendment") and the Cities of Escalon, Manteca, and Lathrop consented to the "Escalon-Tracy Amendment;" and
 - 3. In 2013, the District and the Cities of Tracy and Lathrop entered into the "Lathrop-Tracy Purchase, Sale and Amendment Agreement" which increased the City of Tracy's Project Allotment by 1,120 acre feet and

reduced the City of Lathrop's Project Allotment by 1,120 acre-feet. Further, the City of Lathrop's share of Assigned Capacity was reduced by 2 million gallons per day and the City of Tracy's share of Assigned Capacity was increased by 2 million gallons per day;

- E. WHEREAS, the Parties desire to enter into this Water Supply Agreement to supersede and replace the Initial Agreement in its entirety, without disturbing those subsequent side agreements between the District and individual Project Participants referenced as various "Amendments" herein, so long as those Amendments are not in conflict with this Water Supply Agreement. This Water Supply Agreement is intended to extend the City's ability to receive treated water from the Project, to acknowledge and maintain the transfer of water in the "Escalon-Tracy Amendment," to acknowledge the "Lathrop-Tracy Purchase, Sale and Amendment Agreement," and to establish the Parties' understanding of the terms and conditions under which the City obtains the right to acquire and obligation to pay for treated water from the Project; and
- F. WHEREAS, by entering into this Water Supply Agreement, the City intends to preserve its ability to receive treated water from the Project in the future through existing facilities and subsequent construction of the Phase II Project facilities, sufficient to serve the City, and for the sale by the District to the City of the annual Project Allotment quantity of water and certain other matters:

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties hereto do agree as follows:

Section 1. "Initial Agreement" Superseded.

This Water Supply Agreement supersedes the Initial Agreement, provided however, that all provisions of the Escalon Amendment to Tracy-SSJID Water Supply Development Agreement and the Lathrop-Tracy Purchase, Sale and Amendment Agreement not in conflict with this Water Supply Agreement remain in full effect.

Section 2. Definitions.

The following terms shall, for all purposes of this Water Supply Agreement have the following meanings:

"Additional Project Participant" means the in-District City of Ripon, which executes a Project Participant Water Supply Agreement in accordance with Section 17.

"Amendments" means the amendments to the Initial Agreement referenced in Recital D.

“Annual Budget” is defined in Section 12.

“Assigned Capacity” is a Project Participant’s share of the design peak flow treatment and delivery capacity used as an allocation factor in dividing the original cost of the Project among the Project Participants, and as shown in Exhibit A. Assigned Capacity is additionally used for determining allocation of shortages in Capacity as set forth in Section 7.

“Capacity” means the expected or actual peak flow rate capacity of the Project or a component of the Project at any given time. The unit of measure for Capacity shall be millions of gallons per day which can be used as a measure of flow rate for a time period of any length.

“Capital Facilities Fund” means the fund described in Section 14(d).

“Capital Improvement & Replacement Costs” means the costs of the Project’s capital assets, other than Capital Investment Costs, according to generally accepted accounting principles and the accounting policies of the District. Capital Improvement & Replacement Costs include capital improvements for the Project that do not create new capacity in the Project. Capital Improvement & Replacement Costs include capital assets which jointly benefit the Project and the District apart from the Project. Capital Improvement & Replacement Costs are included in an annual budget pursuant to Section 12 and allocated among Project Participants.

“Capital Investment Costs” means capital costs incurred by District and the Project Participants related to design, right-of-way, CEQA compliance, construction management and construction of the Project. For the purpose of allocating Capital Investment Costs among the Project Participants pursuant to Section 14, the Capital Investment Costs were first allocated among (i) the raw water pipeline to the Water Treatment Plant, (ii) the Water Treatment Plant, and (iii) to each of the Reaches. Each element of Capital Investment Costs was also identified as being most closely related to Assigned Capacity or to Project Allotment. The allocated cost of the raw water pipeline, the Treatment Plant, and each Reach, was then allocated pro rata among the Project Participants on the basis of each Project Participant’s Assigned Capacity and Project Allotment.

“City” has the meaning set forth in the preamble.

“District” has the meaning set forth in the preamble.

“Fixed O&M Costs” means Project Operation and Maintenance Expenses and a reasonable reserve for contingencies, in each case incurred by the District with respect to the Project, irrespective of the amount of water delivered to the Project Participants and which are not Variable O&M Costs. Fixed O&M Costs are included in the Annual Budget pursuant to Section 12, allocated among Project Participants pursuant to Section 14, and invoiced to Project Participants pursuant to Section 15.

“Initial Agreement” means that certain “Water Supply Development

Agreement” dated as of October 1, 1995, by and between the District and the City.

“Initial Project Participant Agreement” means those certain “Water Supply Development Agreements” dated as of October 1, 1995, by and between the District and each Project Participant, other than the City.

“Operating Committee” means the Operating Committee created in accordance with Section 4 of this Water Supply Agreement.

“Phase II Project” means the planning, design and construction of the facilities necessary to deliver additional treated water to Project Participants for the Phase II Project Allotments as shown on Exhibit A, Table 3. The Phase II Project may be developed and constructed in multiple stages.

“Point of Delivery” means a turnout location along the treated water pipeline.

“Project” means certain facilities necessary to deliver treated water to the Project Participants, including the following; (i) a raw water pipeline to the Water Treatment Plant, (ii) the Water Treatment Plant, and (iii) treated water pipeline, tanks and booster stations to convey treated water from the Water Treatment Plant to the Project Participants.

“Project Allotment” means the quantity of treated water each Project Participant is entitled to purchase from the District each Year. The quantity is set forth as acre-feet of treated water per year and is further identified in Exhibit A, Table 3 as the amount of water for “Phase I.” The Project Allotment set forth in Exhibit A, Table 3 may be amended pursuant to Sections 11 and 22. The Project Allotment may be changed to the amount of water indicated as “Phase II” in Exhibit A, Table 3, in accordance with Sections 18 and 23 of this Water Supply Agreement.

“Project Operation and Maintenance Expenses” means the costs incurred by the District for maintaining and operating the Project, calculated in accordance with generally accepted accounting principles, and including a reasonable allocation of general and administrative costs of the District, but excluding in all cases (i) depreciation, replacement and obsolescence charges or reserves, and (ii) costs which under generally accepted accounting principles and the policies of the District are chargeable to a capital asset account. The method for allocating general and administrative costs of the District is prescribed in Section 14.

“Project Participant” means the City and each City listed in Exhibit A executing a Project Participant Water Supply Agreement with the District in substantial conformity with this Water Supply Agreement.

“Project Participant Water Supply Agreement” means each agreement by and between the District and a Project Participant, which is in substantial conformity with this Water Supply Agreement, as the same may be amended or supplemented from time to time.

“Reach” means a segment of the treated water pipeline which conveys treated

water from the Water Treatment Plant to the Project Participants. Each Reach is an entire segment that serves a unique group of downstream project participants. For example, the segment of the treated water pipeline beginning at the Water Treatment Plant and ending at the first Point of Delivery is one of the Reaches because it is the only pipeline segment that serves a unique group, which in the case of the first reach only, is constituted of all Project Participants.

"Requested Delivery Rate" means a temporary rate of flow for delivery to a Project Participant, determined in accordance with Section 7(c). Among the factors the District will consider when evaluating such a delivery rate request are the effects on other Project Participants. Requested Delivery Rate may be more or less than the Project Participant's Assigned Capacity in accordance with Section 7(c).

"Variable O&M Costs" means Project Operation and Maintenance Expenses incurred by the District in an amount which varies with the amount of water delivered to the Project Participants. Variable O&M Costs also include an amount for raw water provided at the District's then-current established rate. Variable O&M Costs are included in the Annual Budget pursuant to Section 12, allocated among Project Participants pursuant to Section 14, and invoiced to Project Participants pursuant to Section 15.

"Water Supply Agreement" means this Water Supply Agreement by and between the District and the City, as the same may be amended or supplemented from time to time. Each Project Participant shall enter into a separate but identical Water Supply Agreement with the District.

"Water Supply Delivery Schedule" means a written request from the City specifying the portion of the City's Project Allotment which the City requests be delivered by the District to the City in each month of a Year in accordance with Section 6.

"Water Treatment Plant" means water treatment facilities including all associated facilities, rights, properties, electrical facilities and associated improvements.

"Year" means the twelve-month period from January 1 through December 31, both dates inclusive.

Section 3. Purpose.

The purpose of this Water Supply Agreement is for the District to sell and deliver water to the City in accordance with its Project Allotment, and to provide the terms and conditions of such treatment, delivery, and sale. The Parties confirm that this Water Supply Agreement constitutes a contractual right to purchase treated water and that no water right is being transferred by the District to the City or any other Project Participant under this Water Supply Agreement. Each Project Participant acknowledges that the District is entering into Project Participant Agreements with cities located within the District and outside the District and upon execution each Project Participant waives any claim such Project Participant may have to the Project Allotment of other Project Participants.

This Water Supply Agreement is also intended to recognize that certain Project

Participants blend their Project Allotment with groundwater in order to meet certain water quality requirements. The District and the Project Participants endeavor, by entering into this Water Supply Agreement and the other associated Project Participant Agreements, to increase the water delivery reliability of the Project to all Project Participants with the goal of establishing the Project as an uninterruptable potable water supply, should the Project Participants find it desirable, and technically and financially feasible.

Section 4. Operating Committee.

(a) General. The District shall form and organize an Operating Committee in accordance with this Section. The Operating Committee for the Project shall consist of the General Manager of the District and the City Manager of each Project Participant unless the District or a Project Participant designates another staff member to serve on the Operating Committee. The Operating Committee shall be chaired by the General Manager of the District or his or her designee. Project Participants and the District shall each have one (1) vote for matters requiring a vote. The Operating Committee shall meet quarterly or at other times when a meeting is called by the chair of the Operating Committee or upon written request by two or more Project Participants. The District shall ensure that the Operating Committee meets to review the proposed Annual Budget pursuant to Section 12, to manage the Capital Facilities Fund pursuant to Section 14(d), to consider the need for beginning Phase II Project pursuant to Section 18, to consider any sale, lease, or other disposition of any portion of the Project pursuant to Section 20(c), to review, evaluate and recommend to the District by majority vote items related to the acquisition, construction, financing, operation and maintenance of the Project and the status of any water rights issues relating to the District's ability to deliver treated water to the City, including but not limited to review of budgets relating to construction, annual operations and maintenance, and other financial and operational matters relating to delivery of treated water to the Project Participants.

(b) Compliance with Agreements. The Operating Committee created by this Section is not authorized to interfere with the District's day-to-day operation of the Project or in any way affect the District's ability to act with respect to any agreement entered into by the District for the maintenance and operation of the Project or any applicable licenses, permits or regulatory provisions. The District shall be responsible for executing contracts relating to maintenance and operation of the Project and fulfilling the obligations of the District.

Section 5. Determination of Capacities of Water Treatment Plant and Reaches.

(a) The District shall operate and maintain the Project to provide the City and each Project Participant with its Assigned Capacity as set forth in Exhibit A, and to enable delivery of water to the City and to other Project Participants and at the locations, times, and maximum flow rates agreed to by the District and the City. The

District shall operate the Project in substantial conformance with the Basis of Operation report to be developed and periodically updated.

(b) Capacity Increases Resulting from Technology Advances. The Project was designed using established technology at the time of design. Technology has advanced resulting in increased treatment capacity for the membrane filtration modules. Additional technology changes may occur in the future. Unless otherwise provided in an amendment to this Water Supply Agreement, increases in treatment capacity in unit processes within the Water Treatment Plant shall be allocated to the Project Participants in proportion to their Assigned Capacities in Exhibit A.

Section 6. Delivery of Water.

(a) Project Allotment. The District is entitled to appropriate water from the Stanislaus River and the District shall make available to the City its Project Allotment from such appropriated water at the Point(s) of Delivery, subject to the availability of water and compliance with all local, state and federal laws, rules and regulations.

(b) Water Supply Delivery Schedule by City. Pursuant to the terms of this Water Supply Agreement and except as otherwise provided herein, the District shall make available and deliver to the City in each Year the amount of water set forth in the Water Supply Delivery Schedule of the City established pursuant to subsection (d). The District is not obligated to deliver an amount of water in excess of the City's Project Allotment. The District agrees to use its best efforts to deliver water pursuant to this Water Supply Agreement meeting all applicable local, state and federal water quality standards as such standards may be in effect or amended from time to time. The District agrees to operate the Project to provide a correlative priority of use to the City and Project Participants as set forth in this Water Supply Agreement.

(c) Points of Delivery. The District will deliver or cause to be delivered to or for the account of the City the amount of water specified in each Water Supply Delivery Schedule at Delivery Points along the Project to be agreed upon by the District and the City. The District will remain available to make or cause to be made all necessary and possible arrangements for transmission and delivery of such water in accordance with this Water Supply Agreement. New Points of Delivery may be added at the City's expense as may be agreed upon by the City and the District. New Points of Delivery must satisfy the design and operating criteria established by the District. Direct connections of Project Participant transmission facilities to the District transmission main shall be permitted when the District determines they are designed and will be operated to ensure no detrimental effects to water delivery to other Project Participants. Such permit shall not be withheld unreasonably.

(d) Procedure for Determining Water Supply Delivery Schedule. The amounts and times of delivery of water to the City during any Year shall be in accordance with a Water Supply Delivery Schedule for that Year, such schedule to be determined in the following manner:

(1) On or before September 1 of each Year, the City shall submit in writing to the District a preliminary Water Supply Delivery Schedule indicating the amounts of water desired by the City during each month of the succeeding three Years or such lesser or greater period as the District shall determine.

(2) Upon receipt of a preliminary schedule, the District shall review the preliminary schedule and, after consultation with the City, shall make such modifications as are necessary to ensure that the amounts, times, and rates of delivery to the City will be consistent with the District's overall delivery ability, considering the then current delivery schedules of all Project Participants and the District.

(3) A Water Supply Delivery Schedule may be amended by the District upon the City's written request. Proposed amendments shall be submitted by the City within a reasonable time before the desired change is to become effective, and shall be subject to review and modification by the District in like manner as the schedule itself.

(e) Limit on Peak Deliveries of Water from the Water Treatment Plant. The District shall not enter into a contract to deliver treated water from the Water Treatment Plant to any Project Participant at a flow rate greater than the Assigned Capacities set forth in Exhibit A. The District may deliver, and the City may take treated water from the Project at a rate of flow temporarily exceeding the City's Assigned Capacity subject to the provisions of Section 7 for curtailment of delivery, provided the additional flow rate does not harm other Project Participants.

(f) Limit on Rate of Delivery to City. In no event shall the District be obligated to deliver water to the City through any Point of Delivery at an instantaneous rate of flow that would cause harm to other Project Participants. The Project Participants and the District agree to work cooperatively to accommodate water delivery rates best meeting the needs of the Project Participants. The District shall have the final authority in determining the rate of delivery at each Point of Delivery.

(g) Delivery of Water Not Delivered in Accordance with Water Supply Delivery Schedule. If in any Year the District, as a result of causes beyond its control, is unable to deliver any portion of the City's Project Allotment for such Year as provided for in the Water Supply Delivery Schedule established for that Year, the City may elect to receive the amount of water which otherwise would have been delivered to it during such period at other times during the Year, or during the succeeding year, to the extent that such water is then available and such election is consistent with the District's overall delivery ability including Capacity, considering the then current delivery schedules of all Project Participants and the Basis of Operations Report.

(h) Water Quality. The District shall ensure that water treated for delivery to the City meets or is superior to all applicable minimum standards for drinking water quality in effect at the time of delivery, including those established by the State Water

Resources Control Board and any federal agency with jurisdiction over drinking water standards. The District will provide all water quality sampling, reporting, and notification required by State and Federal law. The City and all Project Participants understand and agree that future changes to drinking water quality standards may require implementation of additional processes or technology, and the costs of such implementation shall be the sole responsibility of the Project Participants.

Section 7. Curtailment of Delivery.

(a) District May Curtail Deliveries. The District may temporarily discontinue or reduce the delivery of water to the City for the purposes of necessary investigation, inspection, maintenance, repair, or replacement of any of the Project facilities necessary for the delivery of water to the City. The District shall notify the City as far in advance as possible of any such discontinuance or reduction, except in cases of emergency, in which case notice need not be given in advance.

(b) City May Receive Later Delivery of Water Not Delivered. In the event of any discontinuance or reduction of delivery of water pursuant to subsection (a) of this Section, the City may elect to receive the amount of water which otherwise would have been delivered to it in accordance with Section 6(g).

(c) Method of Computation for Curtailed Deliveries. In the event the District, in the judgment of the manager of the Water Treatment Plant, is unable to provide the Requested Delivery Rate to each Project Participant due to total Requested Delivery Rate exceeding Capacity, the District shall curtail deliveries to one or more Project Participants. Assigned Capacities shown in Exhibit A shall be used to determine equitable allocation of available Capacity among the curtailed Project Participants in accordance with the following:

- (1) The curtailment may limit the rate of flow of any or all Project Participants so the combined flow rate to all Project Participants does not exceed the Capacity of the Project at that time, which may be less than the sum of the Assigned Capacities shown in Exhibit A.
- (2) The Assigned Capacities shown in Exhibit A shall be used to determine equitable allocation proportions for available Capacity among the curtailed Project Participants.
- (3) The District shall confirm or ascertain each Project Participant's Requested Delivery Rate during the period of curtailment.
- (4) The District shall identify currently available Capacity and allocate among Project Participants in proportion to their respective shares of their Assigned Capacities.
- (5) The District shall determine how much each Project Participant's Requested Delivery Rate is more or less than the Project Participant's allocation of currently available Capacity.

- (6) If a Project Participant's Requested Delivery Rate is less than the Project Participant's allocation of currently available Capacity, such excess Capacity shall be allocated to the other Project Participants equitably in proportions determined by reference to their Assigned Capacities.
- (7) The Project Participants and the District agree to work cooperatively to accommodate water delivery rates best meeting the needs of the Project Participants. The District shall have the final authority in allocation of Capacity.

Section 8. Shortage in Water Supply.

(a) Allocation of Shortages among Project Participants. The District will use all reasonable efforts to ensure against any conditions of shortage in the water supplies available to the Project and to ensure against interruptions in the City's ability to use the Project. In any Year in which there may occur a shortage or interruption due to drought or other cause in the supply of water available for delivery to the Project Participants, including but not limited to shortages or interruptions caused by changes in laws, regulations or rulings relating to or affecting the District's water rights, permits and licenses, and Project impairment, with the result that such supply is less than the total of the annual Project Allotments of all Project Participants for that Year, the District shall reduce the delivery of water to the City pro rata with deliveries to all Project Participants based upon the Project Allotment of the City and each Project Participant without preference or priority among the City and the Project Participants.

(b) Allocation of Shortages between Agricultural Users and the Project. Any shortage or interruption in the supply of water available to the District shall take effect after giving effect to paragraphs (c) and (d) of this section and shall be allocated by the District between agricultural users and the Project Participants, such that any percentage reduction in the delivery of water to the City is approximately equal to the percentage reduction in the delivery of water to the District's in-District agricultural customers who joined the District before October 1, 1995.

(c) Future Annexations of Land to District. The District shall not annex any land to the District unless said annexation shall include an express condition that the lands so annexed shall have an entitlement to receive water from District that is subordinate in priority to the right of City to receive water from District pursuant to this Water Supply Agreement. In any Year in which there may occur a shortage or interruption in the supply of water available to the Project with the result that such supply is less than the total of the annual Project Allotment of all Project Allotments of all Project Participants for the Year, the District shall reduce or suspend the delivery of water by District to lands annexed to District on or after October 1, 1995.

(d) Future Transfers of Water by District. In the event that District enters into any agreement for the sale or transfer of water to any retail or wholesale water provider for consumptive use outside District boundaries, the District shall ensure that such transfer agreement includes an express condition that the transferee shall have

an entitlement to receive water from the District that is subordinate in priority to the right of City. In any Year in which there may occur a shortage or interruption in the supply of water with the result that supply available to the Project Participants is less than the annual Project Allotment of all Project Participants for the year, District will reduce or suspend the delivery of water by the District to such transferee. The District represents and warrants that, as of October 1, 1995, it has not entered into any agreement, other than this Water Supply Agreement, for the sale or transfer of water for use outside the District's boundaries which is not subordinate in priority to the right or the City and the Project Participants.

(e) No Liability for Shortages. Neither the District nor any of its officers, agents, or employees shall be liable for any damage, direct or indirect, arising from the shortages in the amount of water to be made available for delivery to the City under this Water Supply Agreement caused by drought or any other cause beyond its control; provided however that nothing in this clause (e) shall excuse the District from compliance with clauses (a), (b), (c) and (d) of this Section.

Section 9. Measurement of Water Delivered.

The District shall measure, or cause to be measured, all water delivered to the City and shall keep and maintain accurate and complete records. For this purpose and in accordance with Section 6, the District shall install, operate, and maintain, or cause to be installed, operated and maintained, at all delivery structures for delivery of water to the City such measuring devices and equipment as are satisfactory and acceptable to both Parties. Said devices and equipment shall be examined, tested, and serviced by the District regularly to ensure their accuracy. At any time or times, the City may inspect such measuring devices and equipment, and the measurements and records.

Section 10. Responsibility for Delivery and Distribution of Water.

(a) Neither the District nor any of its officers, agents, or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water supplied to the City after such water has passed through a Point of Delivery; nor for claim of damage of any nature whatsoever, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water beyond Point of Delivery and including attorney's fees and other costs of defense in connection therewith; the City shall indemnify and hold harmless the District and its officers, agents, and employees from any such damages or claims of damages.

(b) Neither the City nor any of its officers, agents or employees shall be liable for the control, carriage, handling, use, disposal, or distribution of water to be supplied to the City until such water has reached the Point of Delivery, including but not limited to property damage, personal injury or death, arising out of or connected with the control, carriage, handling, use, disposal or distribution of such water before it has reached said delivery structures and including attorney's fees and other costs

of defense in connection therewith; the District shall indemnify and hold harmless the City and its officers, agents, and employees from any such damages or claims of damages.

Section 11. Sale or Other Disposition of Project Allotment and Assigned Capacity by City.

(a) Sale or Other Disposition of Project Allotment Without Approval. The City may sell or otherwise dispose of all or any portion of its Project Allotment to another Project Participant without approval by the District and without written amendment to this Water Supply Agreement, as set forth in Section 22; provided however, that the City provides notice to the District and other Project Participants of such transfer, as provided in Subsection (c).

(b) Transfer of Assigned Capacity. The City may transfer existing Assigned Capacity to or from other Project Participants only with the District's approval. The City may transfer existing Assigned Capacity to or from another Project Participant on a permanent basis, or a temporary basis, on terms agreeable to the subject Project Participants.

(c) Notice of Sale or Other Disposition. The City shall give ninety (90) days' advance written notice to the District and the other Project Participants of any proposed sale, transfer or other disposition pursuant to this Section.

(d) Nothing in this section authorizes the sale or other disposition of the City's Project Allotment to any entity that is not a Project Participant.

Section 12. Annual Budget.

The District will prepare an annual budget for each Year for credits, costs and expenses of the Project, including Capital Improvement & Replacement Costs, Fixed O&M Costs, and Variable O&M Costs. The District shall submit a draft of such budget to the Operating Committee on or prior to the November 1 first preceding the budget year for review and comment by the Operating Committee. District staff shall use its best efforts to resolve any questions or concerns raised by a Project Participant during such review. The Board of Directors of the District will adopt a final annual budget for the applicable Year on or before December 31 of each Year and shall allow any Project Participant which may object to any provision of the budget to present such objection to the Board of Directors of the District. The District shall supply a copy of the final annual budget to the City on or before January 15 of each Year. Any amendment to the budget shall be submitted to the Operating Committee for review and comment at least 30 days prior to action thereon by the District Board of Directors. Any such amendment shall be subject to the same requirements applicable to the budget set forth above.

Section 13. Raw Water Cost

The cost to the City of raw water is determined using a rate of dollars per acre-foot. The raw water cost shall be lower for Project Participants located within the District and higher for

those Project Participants located outside the District. From time to time, the District may adopt changes in the raw water rates, provided the District first meets and confers with the City and provides the City notice at least twelve (12) months prior to implementation of any such adjustment.

Section 14. Allocation of Costs and Expenses.

The City shall pay to the District the City's share of the following costs: (i) Capital Improvement & Replacement Costs, (ii) Fixed O&M Costs, and (iii) Variable O&M Costs. The computation of the City's share of these costs is described in this Section. The District shall not allocate costs and expenses in any way which discriminates among Project Participants which take delivery through the same Reaches, except that the cost of raw water included in Variable O&M Costs may be varied between Project Participants within the boundaries of the District and those outside the boundaries of the District. Project costs shall be allocated in accordance with the following allocation methods:

(a) Method of Allocating Capital Improvement & Replacement Costs. The District shall establish and annually update, as part of the budget process, a capital improvement and replacement program that identifies projects, the timing, and the cost thereof, considering the facilities to be improved or replaced, the years of service remaining in the facilities, and the existing Capital Facilities Fund balance. The program shall use a seven year time horizon and be utilized to assist in determining the target balance for the Capital Facilities Fund. The Operating Committee will be provided opportunity to review and comment on the seven year plan. The District shall charge the City an amount to recover the City's allocable share of Capital Improvement & Replacement Costs. Determination of the City's allocable share of Capital Improvement & Replacement Costs shall employ two steps.

(1) Step 1 is to allocate the cost of Capital Improvement and Replacement Costs which benefit both the Project Participants and the District apart from the Project Participants. The basis of the Step 1 allocation is the pro rata shares of the benefits enjoyed by the Project Participants and by the District apart from the Project Participants. Examples of these benefits include, among others, reduced costs and the volume of water conveyed.

(2) Step 2 is to allocate the total amount of Capital Improvement & Replacement Costs of the Project. The basis of the step 2 allocation is the ratio of the Project Allotment of each Project Participant for which water is treated at the Water Treatment Plant to the total Project Allotment of all Project Participants for which water is treated at the Water Treatment Plant. If a Capital Improvement & Replacement Cost does not benefit all Reaches downstream of the first Reach, and therefore does not benefit all Project Participants, then the cost allocation calculation will involve only those Reaches and Project

Participants that benefit from the Capital Improvement & Replacement Cost.

(b) Method of Allocating Fixed O&M Costs. The District shall charge the City an amount to recover the City's allocable share of Fixed O&M Costs. The total amount of Fixed O&M Costs of the Project shall be allocated among all Project Participants entitled to delivery of treated water from the Water Treatment Plant, based upon the ratio of the Project Allotment of each Project Participant for which water is treated at the Water Treatment Plant to the total Project Allotment of all Project Participants for which water is treated at the Water Treatment Plant. The City and the District acknowledge that if the City has not elected to have all facilities which are a part of the Project constructed with Assigned Capacity to enable the City to take treated water, the City shall not be liable for any Fixed O&M Costs for such unconstructed facilities.

(c) Method of Allocating Variable O&M Costs. The District shall charge the City an amount to recover the City's share of Variable O&M Costs. The charge to the City for raw water is equal to the number of acre-feet of raw water treated for delivery to the City multiplied by the District's then-current established rate per acre-foot for raw water. The City's allocation of total Variable O&M Costs for a month, other than raw water, is a ratio of the amount of water delivered to the City divided by the total water delivered by the Project during the month.

(d) Capital Facilities Fund. The District shall maintain a Capital Facilities Fund with funds collected from Project Participants for future Capital Improvement & Replacement Costs. The Capital Facilities Fund shall be held in a separate investment account. The investment of the Capital Facilities Fund shall be managed in accordance with the District's investment policy. Investment earnings of this fund will be kept in the fund and shall not be used to offset charges to the Project Participants. The respective amounts of the Project Participants' contributions to the Capital Facilities Fund will be in the same proportions as used for allocating Capital Improvement & Replacement Costs as set forth in Section 14(a) of this Water Supply Agreement. The total amount of contributions to this fund shall be established, and may be changed from time to time by the Operating Committee. Withdrawals will be subject to approval in advance by the Operating Committee, except in case of emergency when the District may decide to pay for Capital Improvement & Replacement Costs using a withdrawal from the Capital Facilities Fund with subsequent notification of the Project Participants.

Section 15. Time and Method of Payment, and Statement of Charges.

(a) Invoicing. The District shall invoice the City monthly for the actual amount of Capital Improvement & Replacement Costs not funded from the Capital Facilities Fund, the actual amount of Fixed O&M Costs, and the actual amount of Variable O&M Costs incurred during the previous month or months taking into account applicable credits received by the District.

(b) Payment of Charges. The City shall pay the District all monies due within 30 days of receipt of invoice from the District.

(c) Contest of Accuracy of Charges. If the City questions or disputes the correctness of any invoice of the District, it shall pay the District the amount claimed when due and shall within thirty (30) days of receipt of such invoice request an explanation from the District. If the invoice is determined to be incorrect, the District will adjust the invoice to such City in the next billing statement. If the District and the City fail to agree on the correctness of an invoice within ninety (90) days after the City has requested an explanation, or if the District does not respond to City's request within ninety (90) days after the City has requested an explanation, the City shall make written demand upon the District, and if said failure is not remedied within thirty (30) days from the date of such demand such failure shall constitute a default at the expiration of such period. Errors or disputes in billing and correction of errors shall be made retroactive for a period of up to two years prior to the City notifying the District, or the District notifying the City, of the error or dispute.

Section 16. Obligation in the Event of Default.

(a) Written Demand upon Failure to Make Payment. Upon failure of the City to make any payment in full when due under this Water Supply Agreement or to perform any other obligation hereunder, the District shall make written demand upon the City. If said failure is not remedied within thirty (30) days from the date of such demand, or if remedy is not possible within thirty (30) days, then failure to remedy or commence such remedy within thirty (30) days and diligently pursue such remedy thereafter shall constitute a default at the expiration of such period. Notice of such demand shall be provided to each other Project Participant by the District. Upon failure of the District to perform any obligation of the District hereunder, the City shall make written demand upon the District. If said failure is not remedied within thirty (30) days from the date of such demand, or if remedy is not possible within thirty (30) days, then failure to remedy or commence such remedy within thirty (30) days and diligently pursue such remedy thereafter shall constitute a default at the expiration of such period. Notice of such demand shall be provided to each Project Participant by the City making such written demand.

(b) Defaulting City's Account. Upon the failure of the City to make any payment which failure constitutes a default under this Water Supply Agreement, the District may cease water deliveries to the City until payment is made in full, unless the City invokes the dispute resolution procedures set forth in Subsection 16(c) during which time, the District may not cease water deliveries to the City.

(c) Dispute Resolution. The Parties acknowledge that there are a number of informal dispute resolution procedures (such as arbitration, mediation, informal conferences, etc.) which could be used to resolve any controversy or claim arising out of or relating to this Water Supply Agreement. The Parties agree in principle that one or more such mechanisms should be utilized prior to proceeding in a judicial forum. Should any such controversy or claim arise, any Party wishing to utilize an

informal dispute resolution procedure may request in writing that such procedure should be utilized, stating in general terms the nature of the proposed procedure. The other Party shall then have a period of two (2) weeks in which to either accept or reject such request. If such request is denied, or if no answer to such request is given within such period, then the requesting Party shall be free to pursue any legal remedy which may be available to it. If such request is accepted, then the procedures outlined in such request shall first be followed prior to either Party resorting to a judicial procedure. This subsection does not limit remedies available to any Party at law or in equity.

(d) Enforcement of Remedies. In addition to the remedies set forth in this Section, upon the occurrence of an event of default, the District or the City, as the case may be, shall be entitled to proceed to protect and enforce the rights vested in such Party by this Water Supply Agreement by such appropriate judicial proceeding as such Party shall deem most effectual, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained hereon or to enforce any other legal or equitable right vested in such Party by this Water Supply Agreement or by law. The provisions of this Water Supply Agreement and the duties of each Party hereof, their respective boards, officers or employees shall be enforceable by the other Party hereto by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, with the losing Party paying all costs and attorney fees. Without limiting the generality of the foregoing, the District or the City, as the case may be, shall have the right to bring the following actions:

(1) Accounting. By action or suit in equity to require an Accounting for money at issue by the District or the City, as the case may be, including its officers, employees and assigns.

(2) Injunction. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the District or the City, as the case may be.

(3) Mandamus. By mandamus or other suit, action or proceeding at law or in equity to enforce its rights against the other Party hereto (and its board, officers and employees) and to compel the other Party hereto to perform and carry out its duties and obligations under the law and its covenants and agreements as provided herein.

(e) Waiver. The waiver by either Party of any breach by the other Party of any agreement, condition, covenant or term hereof shall not operate as a waiver of any subsequent breach of the same or any other agreement, condition, covenant or term.

Section 17. Additional Project Participant.

The City acknowledges that the District may enter into a Project Participant Water Supply Agreement with an Additional Project Participant subsequent to the execution of this Water Supply Agreement. Prior to the execution of a Project Participant Water Supply Agreement with an Additional Project Participant, the District shall promptly provide to the City a proposed revision to Exhibit A to this Water Supply Agreement setting forth the revised list of Project Participants, Project Allotments, Assigned Capacity of the Project Participants. The District agrees that the Project Participant Water Supply Agreement with such Additional Project Participant shall establish a price to be paid by the Additional Project Participant to the City, an amount which reasonably compensates the City for Capital Investment Costs, Capital Improvement and Replacement Costs, previously paid by the City which are fairly allocable to the Additional Project Participant, including but not limited to costs incurred by the City in connection with the Project. The price paid by the Additional Project Participant shall be subject to approval of the Project Participants. The District acknowledges that analysis per the California Environmental Quality Act (CEQA) has not yet been performed for Additional Project Participant, and that any analysis necessary shall be the at the sole cost of the proposed Additional Project Participant

Section 18. Initiation and Implementation of the Phase II Project.

(a) Subject to the provisions of Section 23, the Phase II Project shall be considered by the District and the Project Participants when expected future demand indicates the need for additional Project Allotment and/or Assigned Capacity. The Parties understand and agree that any and all costs associated with the initiation and implementation of the Phase II Project will be paid by the Project Participants.

(b) Each Year, until completion of the Phase II Project, the District shall query the Project Participants regarding the quantity and timing of any additional Assigned Capacity expected to be required during the next 6 years. On or before October 1, the City will provide its best estimate of the quantity and timing of any requested additional Assigned Capacity. On or before December 31 of the same Year, the District shall report to the Operating Committee the results of its query of the Project Participants.

(c) At the first Operating Committee meeting of each Year, the Operating Committee shall discuss the results of the District's query regarding additional Assigned Capacity and consider whether to begin implementation of the Phase II Project.

(d) Additionally, when Project Participant water demands cause the Treatment Plant to be operated at 80% of Assigned Capacity during the month of July, or when requested by two or more Project Participants, the District shall commence discussions with Project Participants regarding implementation of the Phase II Project.

(e) Discussions regarding implementation of the Phase II Project shall include evaluation of the potential for one Project Participant to temporarily utilize another Project Participant's underutilized Assigned Capacity.

(f) The following shall be an example of a process for planning, design and construction of the Phase II Project.

(1) After consideration of the existing and projected water demands, and briefing by the District, the Operating Committee shall consider recommending to the District that planning for the Phase II Project commence.

(2) The District, in consultation with the Operating Committee, shall retain the services of a professional engineer to develop and evaluate strategies for implementation of the Phase II Project, and potential for staging of construction implementation.

(3) The District, in consultation with the Operating Committee, shall develop an agreement for each Project Participant for the Phase II Project. The agreement shall reflect the proposed Project Allotment, proposed Assigned Capacity, project funding, CEQA and water rights compliance, project construction, and include off ramps as appropriate.

Section 19. Covenants of the City.

(a) Insurance. The City shall procure and maintain or cause to be procured and maintained insurance on the City water system with responsible insurers so long as such insurance is available from reputable insurance companies, or, alternatively, shall establish a program of self-insurance, or participate in a joint powers agency providing insurance or other pooled insurance program, in such amounts and against such risks (including accident to or destruction of the City water system) as are usually covered in connection with water systems similar to the City water system.

Section 20. Covenants of the District.

(a) Insurance. The District shall procure and maintain or cause to be procured and maintained insurance on the Project with responsible insurers so long as such insurance is available from reputable insurance companies, or, alternatively, shall establish a program of self-insurance, or participate in a joint powers agency providing insurance or other pooled insurance program, covering such risks, in such amounts and with such deductibles as shall be determined by the District. The District shall indemnify and hold harmless the City from any liability for personal injury or property damage resulting from any accident or occurrence arising out of or in any way related to the Project.

(b) Compliance with Law. The District shall comply with all local, state and federal laws applicable to the Project.

(c) Against Sale or Other Disposition of Project. The District will not sell, lease or otherwise dispose of the Project or any part thereof unless the Board of Directors of the District determines that such sale, lease or other disposition will not materially adversely affect the District's ability to comply with its obligations under this Water Supply Agreement and such determination is approved by the Operating Committee.

(d) Maintenance and Operation of the Project. Subject to the payment obligations of the Project Participants, the District will maintain and preserve the Project in good repair and working order at all times and will operate the Project in an efficient and economical manner.

Section 21. Term.

The term of this Water Supply Agreement shall continue until December 31, 2049. The Parties hereto agree to negotiate in good faith to amend this Water Supply Agreement on or prior to such date to extend the term hereof and to include terms and conditions as are mutually agreeable to the Parties, provided that the price to be paid with respect to the Project Allotment in such amendment shall reflect the payment of capital costs to such date. In the event that the District and all Project Participants cannot agree to amend the Water Supply Agreement(s), the District agrees to cause ownership of the Project to be transferred to a joint powers agency or similar entity created by the Project Participants and to enter into a raw water sale agreement with such entity on terms and conditions consistent with the raw water pricing and delivery policy in effect under this Water Supply Agreement at the time of such transfer. The City agrees to work in good faith with the District to form a joint powers agency or similar entity in the event the Parties cannot agree to amend this Water Supply Agreement.

In the event the ownership of the Project is transferred pursuant to this section, the quantity of raw water that will be made available to the entity created by the Project Participants shall not be reduced from the quantity of raw water being made available by the District to the Project Participants immediately prior to the expiration of the term of this Water Supply Agreement. Should the ownership of the Project be transferred to a new entity, the price paid to the District for raw water shall be on the same terms as prior to the transfer, plus any costs incurred by the District for operation, maintenance or capital improvement reimbursements relating to facilities necessary to deliver raw water to the Project.

Section 22. Amendments.

This Water Supply Agreement may only be amended, modified, changed or rescinded in writing signed by each of the Parties; provided, however that: (a) the City may transfer any portion of its Project Allotment to the District or to a Project Participant without amendment, by providing written notice of such transfer; and (b) any transfer of Assigned Capacity in the Project is approved by the District.

Section 23. Additional Water in Future for Phase II Project.

The District agrees that to the extent the Board of Directors of the District determines that water surplus to the needs of agricultural water users within the District is available and subject to compliance with federal and state laws, including CEQA, and to the District's water rights, permits and licenses, and to state laws applicable thereto, the District shall commence proceedings to expand the Project to make additional treated water available to the Project Participants, but such expansion shall occur only on terms and conditions reasonably agreeable to the District and the Project Participants. In the event that the District and the Project Participants cannot agree upon terms and conditions for expansion of the Project and delivery of additional treated water, the District shall not be obligated to expand the Project or to make additional treated water available to the Project Participants. Nothing in this Water Supply Agreement shall be construed to require the District to deliver treated water to the City in excess of the City's Project Allotment or to enter into any agreement to deliver treated water to the City in excess of the City's Project Allotment unless the District Board of Directors determines that water surplus to the needs of agricultural water users within the District is available to the District.

Section 24. Service Area.

The service area for the City shall be the corresponding municipal service boundary as established by the San Joaquin County Local Agency Formation Commission.

Section 25. Recycled water and return flow.

Consistent with Water Code section 1210 et seq., the City is entitled to possess and use recycled water and return flows resulting from the use of Project Allotment delivered to the City.

Section 26. Miscellaneous.

(a) Opinions and Determinations. Where this Water Supply Agreement provides for an action to be based on the opinion, determination, approval, or review of either Party, such terms are not intended to be, and will not be construed as permitting, such action to be arbitrary, capricious or unreasonable. Any opinion, determination, approval, or review required of a Party under this Water Supply Agreement must be provided in a reasonable and timely manner.

(b) Reasonable Cooperation. The Parties agree to reasonable cooperate with each other, including the execution of any necessary documents, to carry out the purposes and intent of this Water Supply Agreement. Each Party will reasonably cooperate with the other to provide materials and information requested from time to time to facilitate implementation and review of this Water Supply Agreement, and the Parties' respective rights and duties.

(c) Notices. The Parties shall notify each other within ten (10) days of

becoming aware of: (1) any claims or suits brought against either Party which involve this Water Supply Agreement or water supplied pursuant to this Water Supply Agreement; (2) any force majeure event. To the extent feasible, notice shall be provided by electronic mail transmission to the e-mail addresses listed below. If electronic mail transmission is not feasible, then via U.S. Mail with return receipt or by hand delivery to the following addresses:

“DISTRICT”

South San Joaquin Irrigation District

Mail:

P.O. Box 727

Ripon, California 95366-0747

Street Address:

11011 E. Highway 120

Manteca, California 95336-9750

Attention: General Manager

Phone: (209) 249-4645

“CITY”

City of Tracy

Mail:

3900 Holly Drive

Tracy, CA 95304

Attention: Kul Sharma, Director of
Utilities

6649 S. Tracy Boulevard

Tracy, CA, 95377

Attention: Lea Emmons, Water Plant
Superintendent

(d) **Headings.** The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Water Supply Agreement.

(e) **Severability.** If any one or more of the covenants or agreements provided in this Water Supply Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Water Supply Agreement.

(f) **Counterparts.** This Water Supply Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

(g) **Governing Law and Venue.** This Water Supply Agreement shall be governed by and construed in accordance with the laws of the State of California. The Parties agree that the venue for any action brought to enforce the terms of this Water Supply Agreement shall be in a court of competent jurisdiction in the County of San Joaquin, California.

(h) **Attorneys’ Fees.** The prevailing Party in any judicial action to enforce this Water Supply Agreement is entitled to reasonable attorneys’ fees.

(i) **Remedies Nonexclusive.** The remedies provided in this Water Supply Agreement are cumulative and not exclusive and are in addition to any other remedies that may be provided by law or equity. The exercise by either Party of any remedy

under this Water Supply Agreement will be without prejudice to the enforcement of any other remedy.

(j) Construction and Interpretation. The Parties acknowledge that this Water Supply Agreement has been arrived at through negotiation, and that each Party has had a full and fair opportunity to review the terms with an attorney and to revise the terms of this Water Supply Agreement. Consequently, ambiguities are not to be resolved against any Party in construing or interpreting this Water Supply Agreement.

(k) Relationship of Parties. Nothing in this Water Supply Agreement will be construed to create an association, joint venture, trust, or partnership, or to impose a trust or partnership covenant, obligation, or liability.

(l) Successors and Assigns. This Water Supply Agreement will bind and be for the benefit of the respective successors and assigns of the Parties, provided however, that no assignment will be effective unless approved in writing by the other Party.

IN WITNESS WHEREOF the City has executed this Water Supply Agreement with the approval of its governing body, and caused its official seal to be affixed and the District has executed this Water Supply Agreement in accordance with the authorization of its Board of Directors, and caused its official seal to be affixed.

<p>“DISTRICT” SOUTH SAN JOAQUIN IRRIGATION DISTRICT</p> <p>By: _____ Date: _____ Dave Kamper, President Board of Directors</p>	<p>“CITY” CITY OF TRACY</p> <p>By: _____ Date: _____ Robert Rickman, Mayor</p>
<p>ATTEST:</p> <p>_____ Date: _____ Peter M. Rietkerk, Secretary</p>	<p>ATTEST:</p> <p>_____ Date: _____ Adrianne Richardson, City Clerk</p>
<p>APPROVED AS TO FORM:</p> <p>_____ Mia S. Brown, General Counsel</p>	<p>APPROVED AS TO FORM:</p> <p>_____ Leticia Ramirez, City Attorney</p>

EXHIBIT A**Project Allotments and Capacities****Schedule of Project Allotments
(acre-feet per year)**

Table 1: Project Allotments Per Exhibit 1 of Amendment No. 1 to the Initial Agreement (2000)		
City	Phase I	Phase II
Escalon*	2,015	2,799
Manteca	11,500	18,500
Lathrop	8,007	11,791
Tracy*	10,000	10,000
Total	31,522	43,090

Table 2: Project Allotments After Escalon-Tracy Amendment (2006)		
City	Phase I	Phase II
Escalon*	2,015	2,799
Manteca	11,500	18,500
Lathrop	8,007	11,791
Tracy*	10,000	10,000
Total	31,522	43,090

Table 3: Project Allotments After Lathrop-Tracy Purchase, Sale and Amendment Agreement (2013)		
City	Phase I	Phase II
Escalon*	2,015	2,799
Manteca	11,500	18,500
Lathrop	6,887	10,671
Tracy*	11,120	11,120
Total	31,522	43,090

*In 2006, the City of Escalon, City of Tracy and the District entered into the Escalon-Tracy Amendment for the temporary sale of the City of Escalon's Project Allotment under Phase I to the City of Tracy. The Parties have consented to the Escalon-Tracy Amendment.

**Assigned Capacity
(million gallons per day)**

City	Phase I	Phase II
Escalon	0.0	2.5
Manteca	12.3	18.2
Lathrop	12.6	19.1
Tracy	17.0	17.0
Total	41.9	56.8

RESOLUTION 2000-168AUTHORIZATION OF AMENDMENT 1 TO WATER SUPPLY DEVELOPMENT AGREEMENT
AND JOINT DEFENSE AGREEMENT FOR THE SOUTH COUNTY
SURFACE WATER SUPPLY PROJECT

WHEREAS, In October 1995, the City of Tracy entered into the Water Supply and Development Agreement ("WSDA") with the South San Joaquin Irrigation District (SSJID) to explore the feasibility of constructing a water treatment plant and distribution pipeline to supply domestic water to the cities of Escalon, Manteca, Lathrop and Tracy, and

WHEREAS, As contemplated in the project's first construction phase, SSJID will supply up to 31,500 acre feet of surface water annually to the participating cities, and

WHEREAS, Since 1995, the project has progressed through preliminary design and a draft EIR has been prepared, and

WHEREAS, SSJID is expected to certify a Final EIR within the next few months and it is anticipated that the project will be subject of litigation, and

WHEREAS, After legal challenges have been analyzed, a determination can be made to proceed with the final design and right-of-way acquisition phase (estimated to take one year), followed by the construction phase (estimated to take approximately two years to complete) and then ideally, water would be delivered to the cities in year 2004, and

WHEREAS, Amendment 1 to the Water Supply Development Agreement modifies the 1995 agreement between the City of Tracy and SSJID to reflect changes in project financing and will allow for cash payments as proposed for the majority of Tracy's project funding, and

WHEREAS, The Joint Defense Agreement is necessary to collectively defend any actions challenging the Final EIR while at the same time preserving the respective parties' attorney's work product privilege and the parties' attorney/client privilege, and

WHEREAS, There is no fiscal impact associated with the amendment or the joint defense agreement;

NOW, THEREFORE, BE IT RESOLVED That the City Council hereby authorizes Amendment 1 to the Water Supply Development Agreement, as modified by City staff, and the Joint Defense Agreement and authorizes the Mayor to execute both agreements.

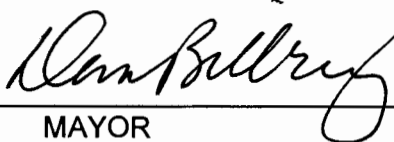
The foregoing Resolution 2000-168 was passed and adopted by the Tracy City Council on the 2nd day of May, 2000, by the following vote:

AYES: COUNCIL MEMBERS: IVES, MATTHEWS, TOLBERT, TUCKER, BILBREY

NOES: COUNCIL MEMBERS: NONE


ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE



MAYOR

ATTEST:



CITY CLERK

02-041400kl
PW

RESOLUTION 2020-_____

APPROVING THE WATER SUPPLY DEVELOPMENT AND OPERATING
AGREEMENT WITH THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND
RESCINDING RESOLUTION NO. 2000-168

WHEREAS, In 1995, the City and SSJID entered into the 1995 WSDA, and

WHEREAS, In 2006, the City and SSJID entered into the Escalon Amendment to the City's 1995 WSDA allowing the City to purchase Escalon's share of the project water supply, and

WHEREAS, In 2013, the City, SSJID, and the City of Lathrop entered into the Lathrop-Tracy Purchase, Sale and Amendment Agreement allowing Tracy to purchase a part of the Lathrop water supply, and

WHEREAS, The original 1995 WSDA currently in effect was primarily used to plan, finance, construct and operate the South Water Supply Project, and

WHEREAS, As twenty-five years have elapsed since execution of the original agreement, a large portion of the 1995 WSDA are no longer applicable, and

WHEREAS, A new WSD&OA is needed to incorporate all relevant information and requirements, and

WHEREAS, The WSD&OA was prepared jointly by the staffs of SSJID and the participating cities, and

WHEREAS, The WSD&OA will supersede the 1995 WSDA and its term will expire on December 31, 2049, and

WHEREAS, City Council authorized an amendment to the 1995 WSDA per Resolution No. 2000-168, and

WHEREAS, This amendment was never executed by the SSJID Board, and

WHEREAS, Tracy currently budgets \$3.9 million per year for SSJID treated water supply, and

WHEREAS, Due to normal increases in operational and maintenance costs of the SSJID water treatment plant and conveyance facilities, the City's budgeted amount will be adjusted accordingly every year as allowed under the agreement;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Water Supply Development and Operating Agreement with the South San Joaquin Irrigation District and rescinds Resolution No. 2000-168.

.

* * * * *

The foregoing Resolution 2020-____ was adopted by Tracy City Council on the 17th day of November, 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

November 17, 2020

AGENDA ITEM 1.E

REQUEST

APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND VANDERMYDEN MADDUX LAW CORPORATION FOR CONFIDENTIAL WORKPLACE INVESTIGATION SERVICES INCREASING THE NOT TO EXCEED AMOUNT BY \$100,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$200,000

EXECUTIVE SUMMARY

The City of Tracy and VanDermeyden Maddux entered into a Professional Services Agreement to conduct confidential workplace investigations approved by the City Manager on January 28, 2020. Due to an unanticipated vacancy of the Professional Standards Officer within the Tracy Police Department and an increase in investigation service demands, additional funding in the amount of \$100,000 is necessary to complete the current workplace investigations.

DISCUSSION

In January 2020, the City entered into a Professional Services Agreement with VanDermeyden Maddux to conduct confidential workplace investigations on various matters. During the unanticipated vacancy of the Professional Standards Officer at the Police Department, VanDermeyden Maddux provided investigation support for internal affairs investigations in addition to support for an increase in confidential workplace investigation service demands. As a result of unforeseen investigations, additional funding in the amount of \$100,000 is necessary to complete the confidential workplace investigations.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose: To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

Goal 3: Ensure continued fiscal sustainability through financial and budgetary stewardship.

FISCAL IMPACT

There is no additional General Fund fiscal impact as a result of approving this agreement. Associated costs will be absorbed by the current FY 2020-21 departmental budgets.

RECOMMENDATION

That the City Council, by resolution, approve Amendment No. 3 to the Professional Services Agreement between the City of Tracy and VanDermeyden Maddux Law Corporation for confidential workplace investigations, increasing the not to exceed amount by \$100,000, for a total not to exceed amount of \$200,000.

Prepared by: Judy Carlos, Human Resources Analyst II

Reviewed by: Kimberly Murdaugh, Human Resources Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS:

Attachment A: Amendment No. 3 to VanDermeyden Maddux Professional Services Agreement
Attachment B: Amendment No. 2 to VanDermeyden Maddux Professional Services Agreement
Attachment C: Amendment No. 1 to VanDermeyden Maddux Professional Services Agreement
Attachment D: Professional Services Agreement with VanDermeyden Maddux

**CITY OF TRACY
AMENDMENT NO. 3 TO
VANDERMYDEN MADDUX LAW CORPORATION**

This Amendment No. 3 (**Amendment**) to the Professional Services Agreement is entered into between the City of Tracy, a municipal corporation (**City**), and Vandermyden Maddux Law Corporation, a corporation (**Consultant**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A.** The City and Vandermyden Maddux Law Corporation entered into a Professional Services Agreement (**Agreement**) to conduct workplace investigations, which was approved by the City on January 28, 2020.
- B.** On July 28, 2020, the Parties amended the Agreement to increase compensation from \$20,000 to \$70,000 based on City's need for additional investigative services.
- C.** On October 30, 2020, the Parties amended the Agreement to increase compensation from \$70,000 to \$100,000 based on City's need for additional investigative services.
- D.** The City's need for additional investigative services continues and compensation under the Agreement must be increased by an additional \$100,000 to allow Consultant to continue to provide these services.
- E.** This Amendment is being executed pursuant to Resolution 2020-_____.

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 hereby amended to read as follows:

"Not to Exceed Amount. Consultant' s total compensation under this Agreement shall not exceed \$ 200,000. Consultant' s billing rates listed in Exhibit A-3 shall cover all costs and expenses for Consultant' s performance of this Agreement. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval."

- B.** Exhibit A-2 is hereby superseded and replaced by the attached Exhibit A-3.

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: _____

Consultant

By:  _____

Deborah Maddux

Title: Partner

Date: 11/4/2020

Attest:

By: _____
Adrianne Richardson, City Clerk

Approved as to form

By: _____
Leticia Ramirez, City Attorney

EXHIBIT “A-3”

Scope and Fee Schedule 2019/2020

Scope

Van Dermyden Maddux Law Corporation is retained by the City for the purpose of conducting a confidential fact-finding investigation and providing a report that will be used for employment related purposes. Ms. Deborah Maddux agrees to provide legal services to the City of Tracy in the form of an impartial workplace investigations to be submitted to the City by the date agreed upon.

All services under this Agreement shall be performed at the following rates:

Cost

Senior Partner	\$460
Partner	\$385
Senior Associate	\$310
Associate	\$275
Law Clerk	\$185
Paralegal	\$140

Expenses:

Expenses will be calculated and billed at the foregoing hourly rate for services related to conducting a workplace investigation, including travel to/from Tracy. These hourly rates apply to all time spent on investigating the claim, including, but not limited to, interviews, personal and telephone conferences; preparing, analyzing and reviewing correspondence; analyzing and reviewing documents; preparing reports and memoranda.

In no event can the total costs and expenses for service provided under this Agreement amount to more than \$200,000.

Compensation for Post-Investigative Work. This engagement shall be considered concluded after the Firm has provided a final investigation report in this matter, whether oral or written. After the conclusion of this engagement, should a need arise for the Firm to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise

perform services with respect to any matter relating to or arising out of this engagement, Client shall compensate the Firm at its then-applicable rates for time expended, including all required preparation time. Client agrees to provide necessary representation for such proceedings, either through its organization or separate counsel at its option, when the time comes.

**CITY OF TRACY
AMENDMENT NO. 2 TO
VANDERMYDEN MADDUX LAW CORPORATION**

This Amendment No. 2 (**Amendment**) to the Professional Services Agreement is entered into between the City of Tracy, a municipal corporation (**City**), and Vandermyden Maddux Law Corporation, a corporation (**Consultant**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A. The City and Vandermyden Maddux Law Corporation entered into a Professional Services Agreement (**Agreement**) to conduct workplace investigations, which was approved by the City on January 28, 2020.
- B. On July 28, 2020, the Parties amended the Agreement to increase compensation from \$20,000 to \$70,000 based on City's need for additional investigative services.
- C. The City's need for additional investigative services continues and compensation under the Agreement must be increased by an additional \$30,000 to allow for Consultant to continue to provide these services.
- D. This Amendment is being executed pursuant to Tracy Municipal Code section 2.20.090 and Urgency Ordinance No. 1285.

Now therefore, the Parties mutually agree as follows:

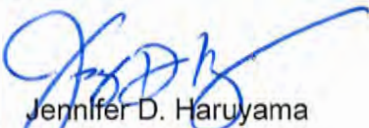
- 1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.
- 2. **Terms of Amendment.**
 - A. Section 3.1 is hereby amended to read as follows:

"Not to Exceed Amount. Consultant' s total compensation under this Agreement shall not exceed \$ 100,000. Consultant' s billing rates listed in Exhibit A-2 shall cover all costs and expenses for Consultant' s performance of this Agreement. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City's prior written approval."
 - B. Exhibit A-1 is hereby superseded and replaced by the attached Exhibit A-2.
- 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.

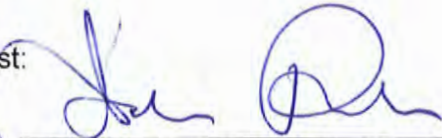
The Parties agree to the full performance of the terms set forth here.

City of Tracy

By: 
Jennifer D. Haruyama
Title: City Manager
Date: 11/4/2020

Consultant


By: _____
Deborah Maddux
Title: Partner
Date: 10/30/2020

Attest: 
By: _____
Adrianne Richardson, City Clerk

Approved as to form


By:  _____
Leticia Ramirez, City Attorney
Digitally signed by Leticia M. Ramirez
Date: 2020.11.03 11:26:06 -08'00'

EXHIBIT “A-2”

Scope and Fee Schedule 2019/2020

Scope

Van Dermeyden Maddux Law Corporation is retained by the City for the purpose of conducting a confidential fact-finding investigation and providing a report that will be used for employment related purposes. Ms. Deborah Maddux agrees to provide legal services to the City of Tracy in the form of an impartial workplace investigations to be submitted to the City by the date agreed upon.

All services under this Agreement shall be performed at the following rates:

Cost

Senior Partner	\$460
Partner	\$385
Senior Associate	\$310
Associate	\$275
Law Clerk	\$185
Paralegal	\$140

Expenses:

Expenses will be calculated and billed at the foregoing hourly rate for services related to conducting a workplace investigation, including travel to/from Tracy. These hourly rates apply to all time spent on investigating the claim, including, but not limited to, interviews, personal and telephone conferences; preparing, analyzing and reviewing correspondence; analyzing and reviewing documents; preparing reports and memoranda.

In no event can the total costs and expenses for service provided under this Agreement amount to more than \$100,000.

Compensation for Post-Investigative Work. This engagement shall be considered concluded after the Firm has provided a final investigation report in this matter, whether oral or written. After the conclusion of this engagement, should a need arise for the Firm to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise

perform services with respect to any matter relating to or arising out of this engagement, Client shall compensate the Firm at its then-applicable rates for time expended, including all required preparation time. Client agrees to provide necessary representation for such proceedings, either through its organization or separate counsel at its option, when the time comes.

ATTACHMENT C

CITY OF TRACY
AMENDMENT NO. 1 TO
VANDERMYDEN MADDUX LAW CORPORATION

This Amendment No. 1 (**Amendment**) to the Professional Services Agreement is entered into between the City of Tracy, a municipal corporation (**City**), and Vandermyden Maddux Law Corporation, a corporation (**Consultant**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A. The City and Vandermyden Maddux Law Corporation entered into a Professional Services Agreement (**Agreement**) to conduct workplace investigations, which was approved by the City on January 28, 2020.
- B. The City needs to amend the agreement to increase the not to exceed amount of the agreement to \$70,000.
- C. This Amendment is being executed pursuant to Tracy Municipal Code section 2.20.090 and Urgency Ordinance No. 1285.

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 hereby amended to read as follows:
"**Not to Exceed Amount.** Consultant' s total compensation under this Agreement shall not exceed \$ 70,000. 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 total compensation amount provided in this section without the City' s prior written approval."

Exhibit A is hereby superseded and replaced by the attached Exhibit A-1.

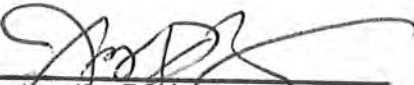
3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

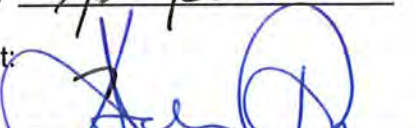

4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.

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: 
Jennifer D. Haruyama
Title: City Manager
Date: 5/25/2020

Attest: 
By: 
Adrienne Richardson, City Clerk

Consultant

By: 
Deborah Maddux
Title: Partner
Date: 7/15/20

Approved as to form


By: 
Leticia Ramirez, City Attorney
Digitally signed by Leticia
M. Ramirez
Date: 2020.07.23
11:55:28 -07'00'

EXHIBIT "A-1"

Scope and Fee Schedule 2019/2020

Scope

Van Dermeyden Maddux Law Corporation is retained by the City for the purpose of conducting a confidential fact-finding investigation and providing a report that will be used for employment related purposes. Ms. Deborah Maddux agrees to provide legal services to the City of Tracy in the form of an impartial workplace investigations to be submitted to the City by the date agreed upon.

All services under this Agreement shall be performed at the following rates:

Cost

Senior Partner	\$460
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Paralegal	\$140

Expenses:

Expenses will be calculated and billed at the foregoing hourly rate for services related to conducting a workplace investigation, including travel to/from Tracy. These hourly rates apply to all time spent on investigating the claim, including, but not limited to, interviews, personal and telephone conferences; preparing, analyzing and reviewing correspondence; analyzing and reviewing documents; preparing reports and memoranda.

In no event can the total costs and expenses for service provided under this Agreement amount to more than \$70,000.

Compensation for Post-Investigative Work. This engagement shall be considered concluded after the Firm has provided a final investigation report in this matter, whether oral or written. After the conclusion of this engagement, should a need arise for the Firm to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise perform services with respect to any matter relating to or arising out of this engagement, Client shall compensate the Firm at its then-applicable rates for time expended, including all required preparation time. Client agrees to provide necessary representation for such proceedings, either through its organization or separate counsel at its option, when the time comes.



CERTIFICATE OF LIABILITY INSURANCE

VANDE-1

OP ID: CP

DATE (MM/DD/YYYY)

01/02/2020

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 River Valley Insurance Assoc. P.O. Box 340127 Sacramento, CA 95834 Chris D. Parod		CONTACT NAME: Sue VanDermyden PHONE (A/G, No, Ext): 916-779-2402 FAX (A/G, No): 916-779-1451 E-MAIL ADDRESS: sav@vmlawcorp.com		
INSURED VanDermyden Maddux Law Corp 2820 Venture Oaks Way, Suite 450 Sacramento, CA 95833		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: Aspen American Ins. Co.		43460
		INSURER B: Valley Forge Insurance Company		002132
		INSURER C: Employers Compensation Ins.		12554
		INSURER D: Continental Casualty Company		20443
		INSURER E:		
INSURER F:				

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	ADDITIONAL INSURER	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY	X	4024361696	12/22/2019	12/22/2020	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 10,000
						PERSONAL & ADV INJURY \$ 2,000,000
	GENERAL AGGREGATE \$ 4,000,000					
	PRODUCTS - COMP/OP AGG \$ 4,000,000					
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC					
B	AUTOMOBILE LIABILITY		4024361696	12/22/2019	12/22/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS					BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS					PROPERTY DAMAGE (PER ACCIDENT) \$
D	UMBRELLA LIAB		CUP6043202138	12/22/2019	12/22/2020	EACH OCCURRENCE \$ 1,000,000
	EXCESS LIAB					AGGREGATE \$ 1,000,000
	<input type="checkbox"/> OCCUR					
	<input type="checkbox"/> CLAIMS-MADE					
	DED RETENTIONS					
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	N/A	EIG2440246-03	01/03/2020	01/03/2021	<input checked="" type="checkbox"/> NO STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
						E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liab		LPP003264-03	10/15/2019	10/15/2020	Per Claim 3,000,000
	\$10,000 retention					Aggregate 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City, including its elected officials, officers, employees, agents, and volunteers are named as additional insured per the attached company form SB146932F 6-16. 30 days notice of cancellation.

CERTIFICATE HOLDER**CANCELLATION**

CITYOTR

City of Tracy
Kim Dunnlway
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

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BLANKET ADDITIONAL INSURED
AND
LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

<u>TABLE OF CONTENTS</u>
<u>I. Blanket Additional Insured Provisions</u>
<u>A. Additional Insured -- Blanket Vendors</u>
<u>B. Miscellaneous Additional Insureds</u>
<u>C. Additional Provisions Pertinent to Additional Insured Coverage</u>
<u>1. Primary -- Noncontributory provision</u>
<u>2. Definition of "written contract."</u>
<u>II. Liability Extension Coverages</u>
<u>A. Bodily Injury -- Expanded Definition</u>
<u>B. Broad Knowledge of Occurrence</u>
<u>C. Estates, Legal Representatives and Spouses</u>
<u>D. Legal Liability -- Damage to Premises</u>
<u>E. Personal and Advertising Injury -- Discrimination or Humiliation</u>
<u>F. Personal and Advertising Injury -- Broadened Eviction</u>
<u>G. Waiver of Subrogation - Blanket</u>

I. BLANKET ADDITIONAL INSURED PROVISIONS

A. ADDITIONAL INSURED -- BLANKET VENDORS

Who Is An Insured is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "written contract" to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) The exceptions contained in Subparagraphs d. or f.; or
 - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- 2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
 - 3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
 - 4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

B. MISCELLANEOUS ADDITIONAL INSURED

- 1. Who Is An Insured is amended to include as an insured any person or organization (called additional insured) described in paragraphs 3.a. through 3.j. below whom you are required to add as an additional insured on this policy under a "written contract".
- 2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
 - a. A higher limit of insurance than required by such "written contract";
 - b. Coverage broader than required by such "written contract" and in no event greater than that described by the applicable paragraph a. through k. below; or
 - c. Coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard." But this paragraph c. does not apply to the extent coverage for such liability is provided by paragraph 3.j. below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

- 3. Only the following persons or organizations can qualify as additional insureds under this endorsement:
 - a. Controlling Interest

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) such person or organization's financial control of you; or
- (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.



b. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this Insurance but only with respect to the co-owners liability for "bodily injury", "property damage" or "personal and advertising injury" as co-owner of such premises.

c. Grantor of Franchise

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" as grantor of a franchise to you.

d. Lessor of Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your maintenance, operation or use of such equipment, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury" takes place prior to the termination of such lease.

e. Lessor of Land

Any person or organization from whom you lease land, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The Insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

f. Lessor of Premises

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The Insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

g. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, or use of a premises by you.

This Insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

h. State or Political Subdivisions

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of:

(1) The following hazards in connection with premises you own, rent, or control and to which this Insurance applies:

- (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, holstaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
- (b) The construction, erection, or removal of elevators; or
- (c) The ownership, maintenance or use of any elevators covered by this Insurance; or

(2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:

(a) "Bodily Injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or government agency or subdivision or political subdivision; or

(b) "Bodily Injury" or "property damage" included within the "products-completed operations hazard."

With respect to this provision's requirement that additional insured status must be requested under a "written contract", we will treat as a "written contract" any governmental permit that requires you to add the governmental entity as an additional insured.

I. Trade Show Event Lessor

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" cause by:

a. Your acts or omissions; or

b. Acts or omissions of those acting on your behalf;

In the performance of your ongoing operations at the trade show premises during the trade show event.

J. Other Person or Organization

Any person or organization who is not an additional insured under paragraphs a. through i. above. Such additional insured is an insured solely for "bodily injury", "property damage" or "personal and advertising injury" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

(1) For "bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering or failure to render any professional services;

(2) For "bodily injury" or "property damage" included in the "products-completed operations hazard." But this provision (2) does not apply to such "bodily injury" or "property damage" if:

(a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "written contract"; and

(b) The "written contract" requires you to make the person or organization an additional insured for such "bodily injury" or "property damage"; or

(3) Who is afforded additional insured coverage under another endorsement attached to this policy.

C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE

With respect only to additional insured coverage provided under paragraphs A. and B. above:

1. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled Other Insurance:

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "written contract" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

2. Under Liability and Medical Expense Definitions, the following definition is added:

"Written contract" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

a. Is currently in effect or becomes effective during the term of this policy; and

b. Was executed prior to:



- (1) The "bodily injury" or "property damage"; or
 - (2) The offense that caused the "personal and advertising injury";
- for which the additional insured seeks coverage.

II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the Businessowners Liability Coverage Form. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

A. Bodily Injury – Expanded Definition

Under Liability and Medical Expenses Definitions, the definition of "Bodily Injury" is deleted and replaced by the following:

"Bodily Injury" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

B. Broad Knowledge of Occurrence

Under Businessowners Liability Conditions, the Condition entitled Duties In The Event of Occurrence, Offense, Claim or Suit is amended to add the following:

Paragraphs a. and b. above apply to you or to any additional insured only when such "occurrence," offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph applies separately to you and any additional insured.

C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

D. Legal Liability – Damage To Premises

1. Under B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k. Damage To Property, is replaced by the following:

k. Damage To Property

"Property damage" to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of

such property for any reason, including prevention of injury to a person or damage to another's property;

2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the insured;
5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D -- Liability and Medical Expenses Limits of Insurance.

Paragraphs 3, 4, 5, and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

2. Under B. Exclusions, 1. Applicable to Business Liability Coverage, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph (14) of the exclusion entitled Personal and Advertising Injury:

Exclusions c, d, e, f, g, h, i, k, l, m, n, and o, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in Section D. Liability And Medical Expenses Limits Of Insurance.

3. The first Paragraph under Item 5. Damage To Premises Rented To You Limit of the section entitled Liability And Medical Expenses Limits Of Insurance is replaced by the following:

The most we will pay under Business Liability for damages because of "property damage" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

E. Personal and Advertising Injury -- Discrimination or Humiliation

1. Under Liability and Medical Expenses Definitions, the definition of "personal and advertising injury" is amended to add the following:

- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:
 - (a) The insured; or

- (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the Insured; and
 - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any Insured.
- 2. Under B. Exclusions, 1. Applicable to Business Liability Coverage, the exclusion entitled Personal and Advertising Injury is amended to add the following additional exclusions:
 - (15) Discrimination Relating to Room, Dwelling or Premises
 - Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any Insured.
 - (16) Employment Related Discrimination
 - Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any Insured.
 - (17) Fines or Penalties
 - Fines or penalties levied or imposed by a governmental entity because of discrimination.
- 3. This provision (Personal and Advertising Injury – Discrimination or Humiliation) does not apply if Personal and Advertising Injury Liability is excluded either by the provisions of the Policy or by endorsement.
- F. Personal and Advertising Injury - Broadened Eviction
 - Under Liability and Medical Expenses Definitions, the definition of "Personal and advertising injury" is amended to delete Paragraph c. and replace it with the following:
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.
- G. Waiver of Subrogation – Blanket
 - We waive any right of recovery we may have against:
 - a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.



CITY OF
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VAN DERMEDEN MADDUX LAW CORPORATION

Business License Online Renewal **Secure****PRINT THIS PAGE FOR YOUR RECORD**

Your business license renewal has been successfully submitted. Please allow up to 3 weeks for your new business license to arrive. Notice: Under federal and state law, compliance with disability access laws is a serious and significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about your legal obligations and how to comply with disability access laws at the following agencies: [The Division of the State Architect](#) or [The Department of Rehabilitation](#) or [The California Commission on Disability Access](#).

Submission Date 7/9/2020
Confirmation # 008423 (3785215369)

Account Information

Account # 06012019
Expire Date 6/30/2021
Name VAN DERMEDEN MADDUX LAW CORPORATION
Address 2520 VENTURE OAKS WAY 140
City SACRAMENTO
Phone (916) 779-2402

Summary

	Input Amount
STD	
Business License Tax: General Business Outside Flat Fee \$100 >	1 \$100.00
State of California Fee: (CASP AB-1379) >	1 \$4.00
Business License Fee: Annual Renewal Fee \$14 >	1 \$14.00
Prior Balance	\$68.00
Total Due	\$186.00

Payment Information

Bank Account # x8778
Payment Amount \$186.00

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**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
VAN DERMYDEN MADDUX LAW CORPORATION.**

This Professional Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and VAN DERMYDEN MADDUX LAW CORPORATION, a corporation (**Consultant**). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

- A. The CITY is in need of an investigator to conduct workplace investigations.
- B. CONSULTANT possesses the necessary qualifications to conduct the investigations on as needed basis.
- C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Tracy Municipal Code section 2.20.100.

Now therefore, the Parties mutually agree as follows:

1. Scope of Work. 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: Deborah Maddux. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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 time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall begin on January 1, 2020 and end on January 1, 2022, unless terminated in accordance with Section 6. *OPTION TO EXTEND: This Agreement may be extended for an additional one year by the City Manager following a written determination that Consultant has satisfactorily met all the requirements of this Agreement.*

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

3.1 Not to Exceed Amount. Consultant's total compensation under this Agreement shall not exceed \$20,000. 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 total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

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

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 duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

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

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

5.1 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

5.2 Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.

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

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

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

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

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

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

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

5.8 Insurance Certificate. Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

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

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

6. Termination. 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.

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

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

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

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

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

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

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

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

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

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

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

To City:
Kimberly Murdaugh
Human Resources Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:
Deborah Maddux
Van Dermayden Maddux
Law Corporation
2520 Venture Oaks Way Ste. 450
Sacramento, CA 95833-4227

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

13. Miscellaneous.

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

13.2 Amendments. 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. 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.

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

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

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

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

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

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

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

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

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

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

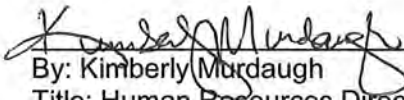
13.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by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

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

[SIGNATURES ON FOLLOWING PAGE]

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


City of Tracy


By: Kimberly Murdaugh
Title: Human Resources Director
Date: 1/28/2020


Attest:

Adrianne Richardson, City Clerk

Approved as to form:


Leticia Ramirez, City Attorney

Consultant


By: Deborah Maddux
Title: Partner
Date: January 24, 2020

Federal Employer Tax ID No. 27-3520711

Exhibits:

- A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)

EXHIBIT "A"
Scope and Fee Schedule 2019/2020

Scope

Van Dermymden Maddux Law Corporation is retained by the City for the purpose of conducting a confidential fact-finding investigation and providing a report that will be used for employment related purposes. Ms. Deborah Maddux agrees to provide legal services to the City of Tracy in the form of an impartial workplace investigations to be submitted to the City by the date agreed upon.

All services under this Agreement shall be performed at the following rates:

Cost

Senior Partner	\$460
Partner	\$385
Senior Associate	\$310
Associate	\$275
Law Clerk	\$185
Paralegal	\$140

Expenses:

Expenses will be calculated and billed at the foregoing hourly rate for services related to conducting a workplace investigation, including travel to/from Tracy. These hourly rates apply to all time spent on investigating the claim, including, but not limited to, interviews, personal and telephone conferences; preparing, analyzing and reviewing correspondence; analyzing and reviewing documents; preparing reports and memoranda.

In no event can the total costs and expenses for service provided under this Agreement amount to more than \$20,000.

Compensation for Post-Investigative Work. This engagement shall be considered concluded after the Firm has provided a final investigation report in this matter, whether oral or written. After the conclusion of this engagement, should a need arise for the Firm to respond to any subpoena or discovery, to provide testimony at deposition, trial or arbitration, or to otherwise perform services with respect to any matter relating to or arising out of this engagement, Client shall compensate the Firm at its then-applicable rates for time expended, including all required preparation time. Client agrees to provide necessary representation for such proceedings, either through its organization or separate counsel at its option, when the time comes.



CERTIFICATE OF LIABILITY INSURANCE

VANDE-1

OP ID: CP

DATE (MM/DD/YYYY)
01/02/2020

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 River Valley Insurance Assoc. P.O. Box 340127 Sacramento, CA 95834 Chris D. Parod		CONTACT NAME: Sue VanDermeyden PHONE (A/C, No, Ext): 916-779-2402 FAX (A/C, No): 916-779-1451 E-MAIL ADDRESS: sav@vmlawcorp.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Aspen American Ins. Co.	
		INSURER B: Valley Forge Insurance Company	
		INSURER C: Employers Compensation Ins.	
		INSURER D: Continental Casualty Company	
		INSURER E:	
		INSURER F:	

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 INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	4024361696	12/22/2019	12/22/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		4024361696	12/22/2019	12/22/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTIONS		CUP6043202138	12/22/2019	12/22/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
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 <input type="checkbox"/> N/A	EIG2440245-03	01/03/2020	01/03/2021	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liab \$10,000 retention		LPP003254-03 RETRO DATE . 10-15-2006	10/15/2019	10/15/2020	Per Claim 3,000,000 Aggregate 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City, including its elected officials, officers, employees, agents, and volunteers are named as additional insured per the attached company form SB146932F 6-16. 30 days notice of cancellation.

CERTIFICATE HOLDER

CANCELLATION

CITYOTR City of Tracy Kim Duniway 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
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**BLANKET ADDITIONAL INSURED
AND
LIABILITY EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

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I. BLANKET ADDITIONAL INSURED PROVISIONS

A. ADDITIONAL INSURED -- BLANKET VENDORS

Who Is An Insured is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "written contract" to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) The exceptions contained in Subparagraphs d. or f.; or
 - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- 2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
 - 3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
 - 4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

B. MISCELLANEOUS ADDITIONAL INSUREDS

- 1. **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs 3.a. through 3.j. below whom you are required to add as an additional insured on this policy under a "written contract".
- 2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
 - a. A higher limit of insurance than required by such "written contract";
 - b. Coverage broader than required by such "written contract" and in no event greater than that described by the applicable paragraph a. through k. below; or
 - c. Coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard." But this paragraph c. does not apply to the extent coverage for such liability is provided by paragraph 3.j. below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

- 3. Only the following persons or organizations can qualify as additional insureds under this endorsement:
 - a. **Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) such person or organization's financial control of you; or
- (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

b. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for "bodily injury", "property damage" or "personal and advertising injury" as co-owner of such premises.

c. Grantor of Franchise

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" as grantor of a franchise to you.

d. Lessor of Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your maintenance, operation or use of such equipment, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury" takes place prior to the termination of such lease.

e. Lessor of Land

Any person or organization from whom you lease land, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

f. Lessor of Premises

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

g. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

h. State or Political Subdivisions

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of:

- (1) The following hazards in connection with premises you own, rent, or control and to which this insurance applies:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance or use of any elevators covered by this insurance; or

- (2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or government agency or subdivision or political subdivision; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

With respect to this provision's requirement that additional insured status must be requested under a "written contract", we will treat as a "written contract" any governmental permit that requires you to add the governmental entity as an additional insured.

i. Trade Show Event Lessor

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" cause by:

- a. Your acts or omissions; or
- b. Acts or omissions of those acting on your behalf;

in the performance of your ongoing operations at the trade show premises during the trade show event.

j. Other Person or Organization

Any person or organization who is not an additional insured under paragraphs a. through i. above. Such additional insured is an insured solely for "bodily injury", "property damage" or "personal and advertising injury" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

- (1) For "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services;
- (2) For "bodily injury" or "property damage" included in the "products-completed operations hazard." But this provision (2) does not apply to such "bodily injury" or "property damage" if:
 - (a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "written contract"; and
 - (b) The "written contract" requires you to make the person or organization an additional insured for such "bodily injury" or "property damage"; or
- (3) Who is afforded additional insured coverage under another endorsement attached to this policy.

C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE

With respect only to additional insured coverage provided under paragraphs A. and B. above:

1. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "written contract" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

2. Under **Liability and Medical Expense Definitions**, the following definition is added:

"Written contract" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

- a. Is currently in effect or becomes effective during the term of this policy; and
- b. Was executed prior to:



- (1) The "bodily injury" or "property damage"; or
 - (2) The offense that caused the "personal and advertising injury";
- for which the additional insured seeks coverage.

II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

A. Bodily Injury – Expanded Definition

Under **Liability and Medical Expenses Definitions**, the definition of "Bodily injury" is deleted and replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

B. Broad Knowledge of Occurrence

Under **Businessowners Liability Conditions**, the Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended to add the following:

Paragraphs a. and b. above apply to you or to any additional insured only when such "occurrence," offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph applies separately to you and any additional insured.

C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

D. Legal Liability – Damage To Premises

1. Under **B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k. Damage To Property**, is replaced by the following:

k. Damage To Property

"Property damage" to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of

such property for any reason, including prevention of injury to a person or damage to another's property;

2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
3. Property loaned to you;
4. Personal property in the care, custody or control of the insured;
5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D -- Liability and Medical Expenses Limits of Insurance.

Paragraphs 3, 4, 5, and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph (14) of the exclusion entitled **Personal and Advertising Injury**:

Exclusions c, d, e, f, g, h, i, k, l, m, n, and o, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance**.

3. The first Paragraph under item 5, **Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "property damage" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

E. Personal and Advertising Injury – Discrimination or Humiliation

1. Under **Liability and Medical Expenses Definitions**, the definition of "personal and advertising injury" is amended to add the following:
 - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
 - (1) Not done intentionally by or at the direction of:
 - (a) The insured; or

- (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
 - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.
 - 2. Under B. Exclusions, 1. Applicable to Business Liability Coverage, the exclusion entitled **Personal and Advertising Injury** is amended to add the following additional exclusions:
 - (15) **Discrimination Relating to Room, Dwelling or Premises**

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.
 - (16) **Employment Related Discrimination**

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any insured.
 - (17) **Fines or Penalties**

Fines or penalties levied or imposed by a governmental entity because of discrimination.
 - 3. This provision (**Personal and Advertising Injury – Discrimination or Humiliation**) does not apply if **Personal and Advertising Injury Liability** is excluded either by the provisions of the Policy or by endorsement.
- F. Personal and Advertising Injury - Broadened Eviction**
- Under **Liability and Medical Expenses Definitions**, the definition of "Personal and advertising injury" is amended to delete Paragraph c. and replace it with the following:
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.
- G. Waiver of Subrogation – Blanket**
- We waive any right of recovery we may have against:
- a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.

RESOLUTION 2020-_____

APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF TRACY AND VANDERMYDEN MADDUX LAW CORPORATION FOR
CONFIDENTIAL WORKPLACE INVESTIGATION SERVICES INCREASING THE NOT TO
EXCEED AMOUNT BY \$100,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$200,000

WHEREAS, The City and VanDermeyden Maddux entered into a Professional
Services Agreement to conduct workplace investigations in January 2020, and

WHEREAS, Additional funding in the amount of \$100,000 is necessary to complete
the confidential workplace investigations resulting from an unanticipated vacancy in the
Police Department in addition to support for an increase in confidential workplace
investigation service demands, and

WHEREAS, The total not to exceed amount of the Professional Services Agreement
will now be \$200,000;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Tracy
hereby approves Amendment No. 3 to the Professional Services Agreement between the
City of Tracy and VanDermeyden Maddux for confidential workplace investigations increasing
the not to exceed amount by \$100,000 for a total not to exceed amount of \$200,000.

* * * * *

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council
on the 17th day of November, 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.F

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1298, AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS VILLAGE 7C PROJECT APPLICATION NUMBER SPA20-0003

EXECUTIVE SUMMARY

Ordinance 1298 was introduced at the regular Council meeting held on October 20, 2020. Ordinance 1298 is before Council for adoption.

DISCUSSION

On May 5, 2020, an application was submitted for a proposed amendment to the Tracy Hills Specific Plan for the Tracy Hills Village 7C project, which consists of approximately 28 acres located within Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive, Application Number SPA20-0003. The proposed Tracy Hills Specific Plan Amendment (SPA) includes rezoning the Village 7C area from Low Density Residential (LDR-TH) to Medium Density Residential (MDR-TH), and also includes a series of updates to the development standards for the MDR-TH zoning district to allow for duets, which is a building type involving two attached single-family homes on separate lots. Additionally, the proposed SPA includes revisions to allow more flexibility related to design specifications for the lighting standards. The proposed SPA is consistent with the General Plan designation of Residential Medium, as amended. Allowing a greater variety of lot types, building types and densities within residential neighborhoods is beneficial to accommodating a wide range of housing objectives, buyer needs, and affordability, and is encouraged by the General Plan.

Ordinance 1298 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Priorities.

FISCAL IMPACT

The costs of these development applications were funded by application fees and a Cost Recovery Agreement

RECOMMENDATION

That the City Council waive the reading of the full text and adopt Ordinance 1298 approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills Village 7C Project Application Number SPA20-0003.

Prepared by: Necy Lopez, Deputy City Clerk

Reviewed by: Adrienne Richardson, City Clerk
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1298

Attachment B: Tracy Hills Specific Plan Amendment

ORDINANCE 1298

AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS VILLAGE 7C PROJECT
APPLICATION NUMBER SPA20-0003

WHEREAS, The Tracy Hills Specific Plan consists of approximately 2,732 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580; and

WHEREAS, On April 5, 2016, City Council certified an Environmental Impact Report and approved a General Plan Amendment, a comprehensive update to the Tracy Hills Specific Plan, and a Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, which consists of approximately 417 acres and includes approximately 1,160 single-family residential lots; and

WHEREAS, All residential areas within Tracy Hills Phase 1A are currently zoned as Low Density Residential; and

WHEREAS, On May 5, 2020, an application was submitted for a proposed amendment to the Tracy Hills Specific Plan for the Tracy Hills Village 7C Project, which consists of approximately 28 acres located within Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive, Application Number SPA20-0003; and

WHEREAS, The proposed Tracy Hills Specific Plan Amendment (SPA) includes rezoning the Village 7C area from Low Density Residential (LDR-TH) to Medium Density Residential (MDR-TH); and

WHEREAS, The proposed SPA also includes a series of updates to the development standards for the MDR-TH zoning district to allow for duets, which is a building type involving two attached single-family homes on separate lots; and

WHEREAS, Additionally, the proposed SPA includes revisions to allow more flexibility related to design specifications for the lighting standards; and

WHEREAS, The proposed rezoning of Village 7C from Low Density Residential to Medium Density Residential would allow a greater range of lot types, building types and densities within Tracy Hills Phase 1A; and

WHEREAS, The proposed SPA is consistent with the General Plan designation of Residential Medium, as amended; and

WHEREAS, Allowing a greater variety of lot types, building types and densities within residential neighborhoods is beneficial to accommodating a wide range of housing objectives,

buyer needs, and affordability, and is encouraged by the General Plan, as stated in the following General Plan policies:

LU-4.1 Policy P1: Residential neighborhoods should contain a mix of housing types including single-family homes on a range of lot sizes; townhomes; duplexes, triplexes and fourplexes; and apartments.

CC-6 Policy P2: Neighborhoods shall be designed to provide a mix of housing types such as single-family, duplex, triplex, fourplex, townhomes and apartments; and

WHEREAS, An Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. An Initial Study has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines to document the finding that none of the conditions or circumstances that would require preparation of a subsequent EIR, pursuant to Sections 15162 and 15168 of the CEQA Guidelines, exist in connection with the proposed Tracy Hills Village 7C Project. Therefore, pursuant to Section 15168(c)(2), no further environmental document is required; and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on September 23, 2020 and recommended that the City Council introduce this ordinance approving a Tracy Hills Specific Plan Amendment for the Tracy Hills Village 7C Project, Application Number SPA20-0003; and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on October 20, 2020;

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby approves the Tracy Hills Specific Plan Amendment for the Tracy Hills Village 7C Project, Application Number SPA20-0003, as attached to the October 20, 2020 City Council staff report as Attachment "B."

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. 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.)

* * * * *

This Ordinance 1298 was introduced at a regular meeting of the Tracy City Council on the 20th day of October, 2020, and finally adopted on the _____ day of November, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK



Tracy Hills Specific Plan

Approved April 5, 2016 (Tracy Resolution 2016-063)
Amended June 18, 2019, incorporated herein (Tracy Ordinance 1270)
Amended May 19, 2020, incorporated herein (Tracy Ordinance 1286)
Amended July 21, 2020, incorporated herein (Tracy Ordinance 1294)
Draft Amendment September 16, 2020



VILLAGE 7C AMENDMENT DRAFT

September 16, 2020

0 1,500 3,000 6,000 Feet



Legend

- Specific Plan Boundary
- Single Family Homes: Large Lot
- Single Family Homes: Medium Lot
- Single Family Homes: Small Lot
- Multi-Family Homes
- Mixed Use
- Commercial
- Light Industrial
- Neighborhood Park
- Community Park
- Recreation Open Space
- Conservation Easements/Open Space
- Roads
- Elementary School
- Retention Basin
- Pipeline Easement Multi-Use Trail

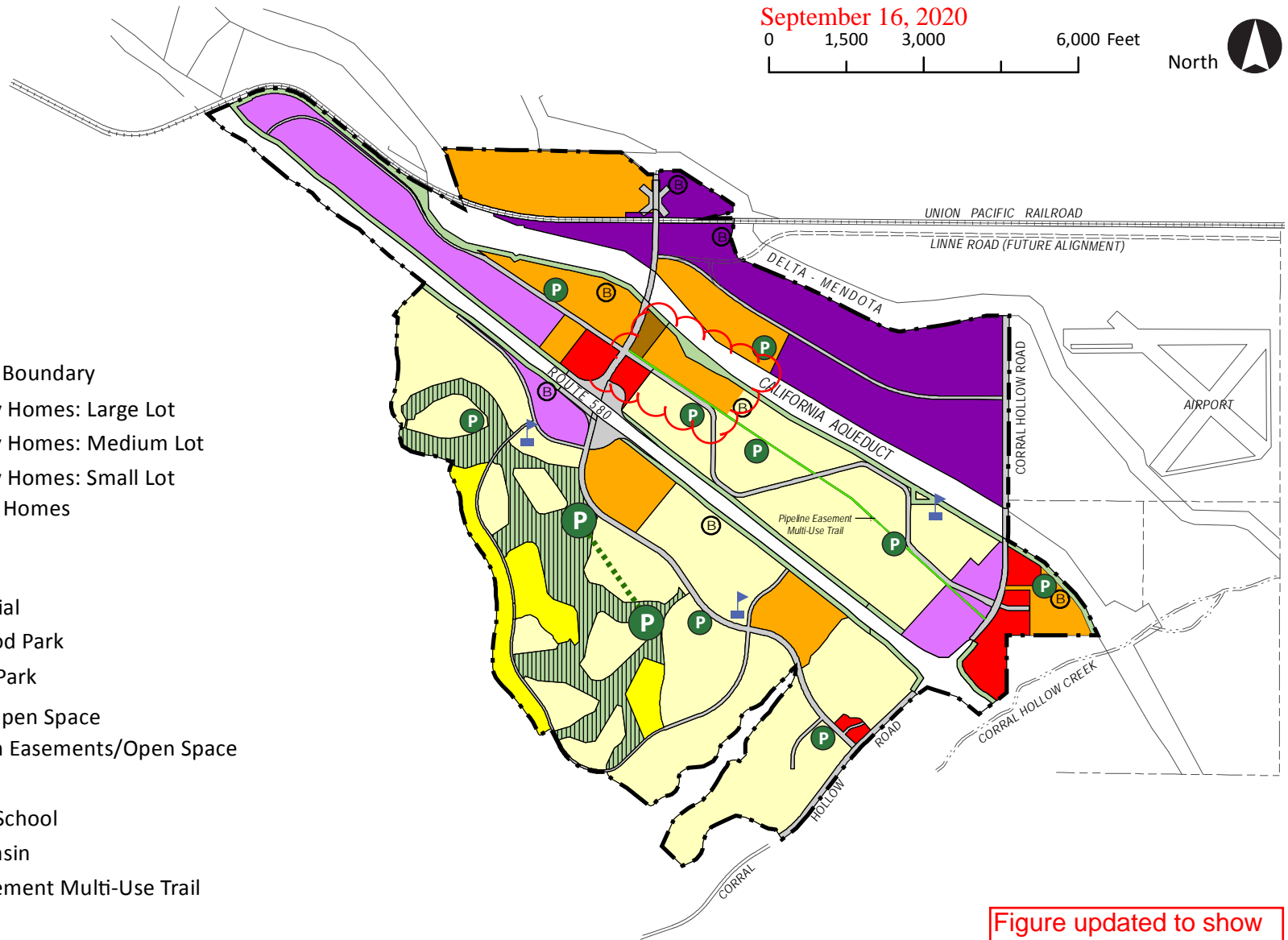


Figure updated to show
Small Lot land use at
Village 7C.

NOTES:

1. The locations, numbers, and configurations of public schools, park sites, and public utilities are conceptual and subject to change.
2. This exhibit is for conceptual purposes to show approximate locations.



TRACY HILLS
Specific Plan

Figure 1-3
Land Use Concept



Tracy Hills Specific Plan

1. INTRODUCTION

TABLE 1-1
LAND USE PLAN BUILDOUT EXAMPLE

Zoning District or Land Use	Approximate Gross Acres ¹	Approximate Adjusted Developable Acres ^{1, 2, 3}	Target Density Range or F.A.R.	Projected Dwelling Units or Square Feet ¹
Residential Estate	95.6	81.3	(0.5-2.0 DU's/ac.)	122 DU's
Low Density Residential	1,216.01 1,188	876.38 52.5	(2.1-5.8 DU's/ac.)	3,238 150 DU's
Medium Density Residential	348.1 376.1 ⁴	295.9 319.7	(5.9-12.0 DU's/ac.)	2,204 2,381 DU's
High Density Residential	9.2	7.8	(12.1-25.0 DU's/ac.)	125 DU's
Mixed Use Business Park	211.1	179.4	0.20 F.A.R.	1,562,933 s.f.
General Highway Commercial	72.4 ⁴	61.5	0.20 F.A.R.	535,788 s.f.
Light Industrial	363.1	308.6	0.25 F.A.R.	3,360,654 s.f.
Conservation Easements	123.3		n/a	
Subtotal:	2,438.8	1,810.8		
Interstate 580 Interchange and ROW	137.5			
California Aqueduct ROW	143.1			
Union Pacific Rail Road	12.2			
TOTAL:	2,731.6	1,810.8		5,689 5,778 DU's 5.5 mil s.f.

1 All Acreages, dwelling units, and square footage examples shown herein are approximate.

2 Adjusted Developable Acres - Residential, Mixed Use Business Park, General Highway Commercial, and Light Industrial acreages have been adjusted to show that an estimated 15% of the land area is used for infrastructure such as roads and utilities, and/or public facilities such as neighborhood parks/amenities, schools, and/or public facilities such as retention basins as noted in the General Plan. Actual numbers will vary depending on site specific characteristics.

3 180 to 185 acres of General Plan mandated Open Space taken out of Low Density Residential land use category.

4 8.7 acres of General Highway Commercial will be zoned with a Medium Density Residential Overlay and is anticipated to be developed with residential uses. As such this acreage is accounted for in the Medium Density Residential zoning district.

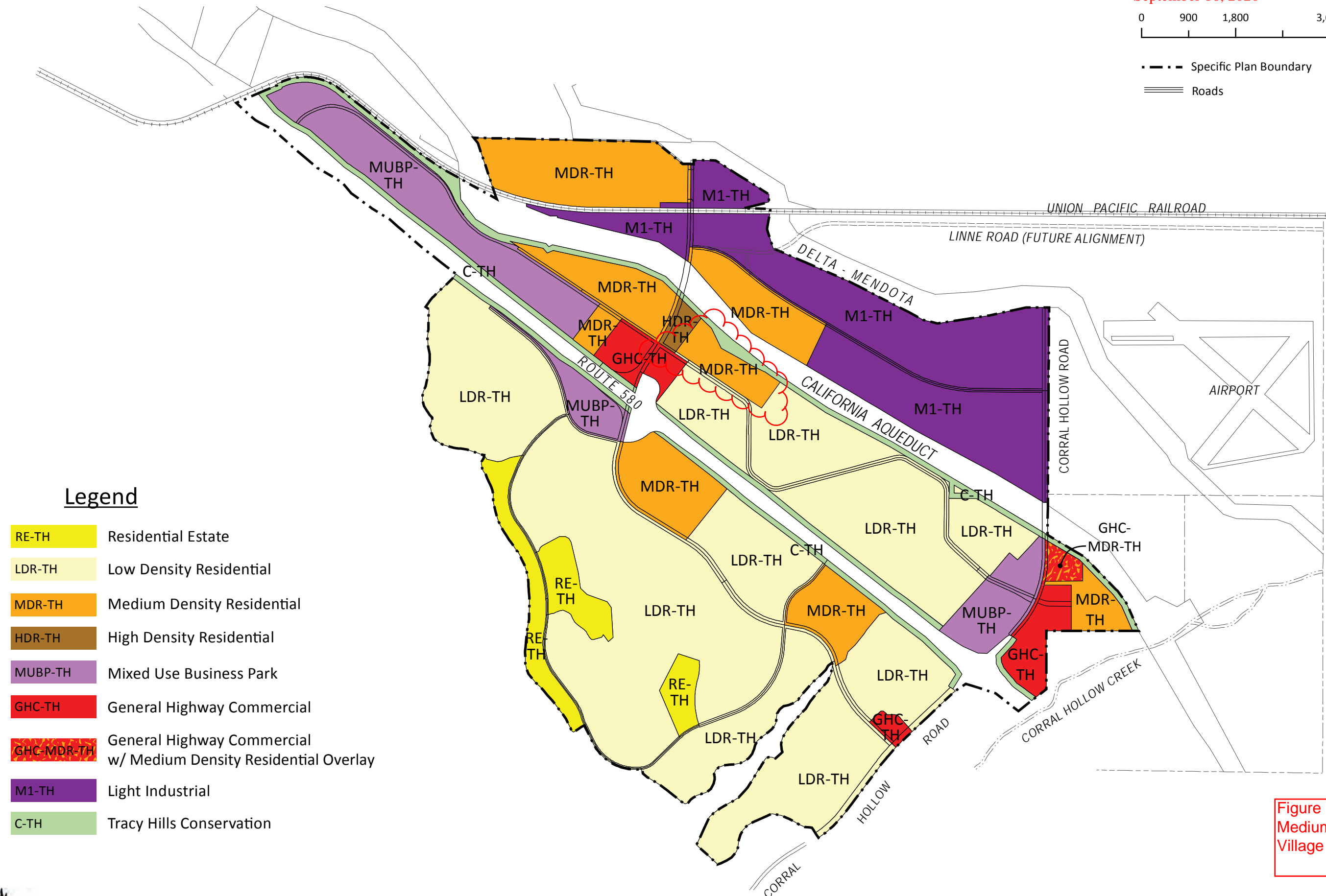
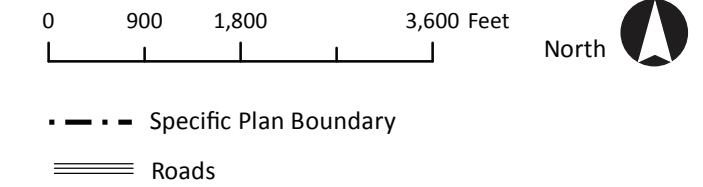


Figure updated to show
Medium Density at
Village 7C.



2. ZONING AND DEVELOPMENT STANDARDS

TABLE 2-1
PERMITTED AND CONDITIONALLY PERMITTED USES

USES	RE-TH	LDR-TH	MDR-TH	HDR-TH	MUBP-TH	GHC-TH	M1-TH
Public Utilities	P	P	P	P	P	P	P
Crop and tree farming (the raising of tree, vine, field forage, and other plant life crops of all kinds), specialty crops (primarily conducted within structures), and community gardens	P	P	P	P	P	P	P
Single-family dwellings	P	P	P	P	NP	NP	NP
Duet (Two attached dwelling units on separate lots. See Figure 2-6 for illustration)	NP	P	P	P	NP	NP	NP
Duplex (Two attached dwelling units on one lot. See Figure 2-6 for illustration) Two-family dwellings	NP	P	P	P	NP	NP	NP
Multi-family dwellings:	NP	NP	P	P	C	C	NP
Boarding and Rooming Houses	NP	NP	NP	P	NP	NP	NP
Institutional uses with residential accommodations (occupancy load of six or less), such as: <ul style="list-style-type: none"> Foster homes Homes for the aged 	P	P	P	P	C	NP	NP
Educational and institutional uses with residential accommodations (occupancy load of over six), including but not limited to: <ul style="list-style-type: none"> Hospitals Nursing homes 	C	C	C	C	C	C	NP
Public Facilities such as: <ul style="list-style-type: none"> Fire stations Park and neighborhood recreation (playgrounds) Schools Art galleries and museums Court house and public agency administrative offices Libraries Meeting halls Recreational centers Athletic fields 	P	P	P	P	P	P	P
Educational, cultural, institutional, and recreational uses, such as: <ul style="list-style-type: none"> Private Schools and day care centers Places of assembly Golf course (private or public) Private recreation facilities, such as fitness clubs Private meeting halls Private museums 	C	C	C	C	P	P	C
Specialized recreational and instructional uses such as: <ul style="list-style-type: none"> Arts Athletics 	NP	NP	NP	NP	C	P	C

2. ZONING AND DEVELOPMENT STANDARDS



2.1 RESIDENTIAL ZONING DISTRICTS

2.1.1 Purpose

Tracy Hills will provide a variety of housing types that accommodate a range of housing objectives, buyer needs, and affordability. It is expected that, once fully developed, Tracy Hills will accommodate approximately 5,689 dwelling units and an estimated population of approximately 18,260-547 (the California State Department of Finance estimates an average of 3.21 persons per household, as cited in the City's General Plan).

Figure 2-1, Zoning Districts, identifies four residential zoning districts. These zoning districts are Residential Estate (RE-TH, 0.5 to 2.0 dwelling units per acre), Low Density Residential (LDR-TH, 2.1 to 5.8 dwelling units per acre), Medium Density Residential (MDR-TH, 5.9 to 12.0 dwelling units per acre), and High Density Residential (HDR-TH, 12.1 to 25.0 dwelling units per acre).

The land use and development standards for the residential zoning districts of the Tracy Hills Specific Plan shall comply with all requirements that apply to the corresponding residential zoning districts in the Tracy Municipal Code, except as modified within this Specific Plan. (Refer to **Table 2-2, Residential Zoning Districts**).

TABLE 2-2
RESIDENTIAL ZONING DISTRICTS

Tracy Hills Specific Plan Residential Zoning Districts	Tracy Municipal Code Corresponding Zoning Districts
RE-TH	RE
LDR-TH	LDR
MDR-TH	MDR
HDR-TH	HDR

2.1.2 Permitted and Conditionally Permitted Uses Within Residential Zoning Districts

Table 2-1, Permitted and Conditionally Permitted Uses, indicates uses permitted within each residential zoning district of the Tracy Hills Specific Plan. The table also lists conditional uses that are subject to the granting of a Conditional Use Permit.



2. ZONING AND DEVELOPMENT STANDARDS

2.1.3 Development Standards for RE-TH, LDR-TH, MDR-TH, and HDR-TH

TABLE 2-3
DEVELOPMENT STANDARDS - RESIDENTIAL ZONING DISTRICTS

Development Standard	RE-TH	LDR-TH	MDR-TH ⁽¹²⁾	HDR-TH
Allowable Density Range	0.5 to 2.0 DU/AC	2.1 to 5.8 DU/AC	5.9 to 12.0 DU/AC	12.1 to 25.0 DU/AC
Maximum Lot Coverage	45%	45% ⁽⁸⁾	70%	45%
Minimum Lot Size	15,000 s.f.	3,900 s.f.	(1)	(1)
Minimum Lot Width	45' minimum at street frontage	45' minimum at street frontage	(1)	(1)
Minimum Front Yard Setback ⁽²⁾⁽³⁾⁽⁴⁾	30 feet	10 feet	10 feet ⁽¹¹⁾	15 feet
Minimum Front Yard Setback ⁽²⁾⁽³⁾⁽⁴⁾ Garage	30 feet	20 feet ⁽¹⁰⁾	18 feet ⁽¹⁰⁾	
Minimum Side Yard Setback ⁽²⁾⁽³⁾⁽⁶⁾⁽⁹⁾	10 feet	5 feet	3'-4" feet opposite garage side ⁽¹³⁾ 3'-8" on garage side ⁽¹³⁾	15 feet, street side; 10 feet interior side
Minimum Rear Yard Setback ⁽²⁾⁽³⁾	30 feet	10 feet	7 feet	10 feet
Maximum Building Height ⁽⁷⁾	35 feet	35 feet	35 feet	35 feet

(1) To be determined upon approval of the Tentative Subdivision Map: The developer shall demonstrate that every lot has size and dimensions capable of meeting the land use, public utilities, and development standards of this Specific Plan.

(2) Any building / structure shall maintain minimum setbacks from the following pipelines:

(refer to figure 1-4, Existing Conditions, for general location of pipeline easements)

- Phillips 66: minimum 16.25 feet from the edge of the pipeline easement
- Shell: minimum 10 feet from the edge of the pipeline easement
- PG&E and Chevron: minimum 15 feet from the edge of northeast side the pipeline easement and minimum 20 feet from the edge of the southwest side of the pipeline easement.

(3) All setbacks measured from property line.

(4) There shall be no parking in the front yard between the house and the public right-of-way, except in the driveway.

(5) For rear yard, minimum setback is 5 feet for detached garage.

(6) For all corner lots, the minimum street side yard setback is 10 feet.

(7) Detached accessory structures that encroach into the rear or side yard setbacks shall have a maximum height of 10 feet.

(8) Maximum Lot Coverage up to 55% shall be permitted for single story elevation.

(9) AC condenser units may encroach into the minimum rear or side yard setback. At least one side yard of the lot shall maintain the minimum setback.

(10) The minimum front yard setback to a side swing garage is 10 feet, if the garage door does not face a street.

(11) Front porches, balconies, and bay windows may encroach up to 5 feet into the minimum front setback

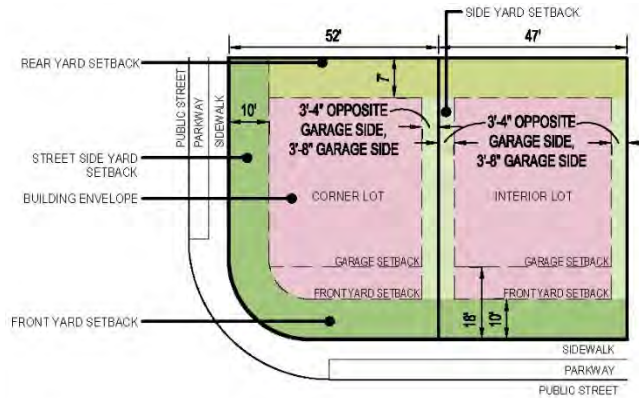
(12) In the MDR-TH zoning district, lots may be created with access provided by a private court or lane, as shown by the examples in Figure 2-6. For such cases where the front of a house faces a private court or lane, the property line dividing the lot from the private court or lane shall be the front lot line.

(13) [The minimum side yard setback may be reduced to zero on the side of an attached duet residential unit.](#)

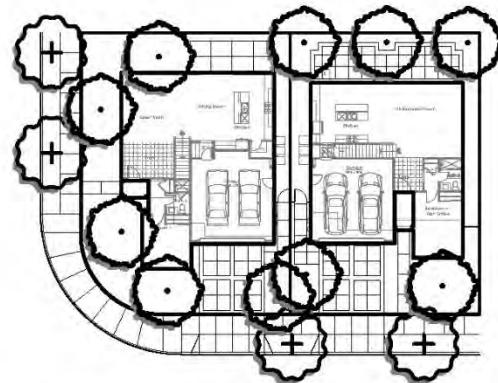


2. ZONING AND DEVELOPMENT STANDARDS

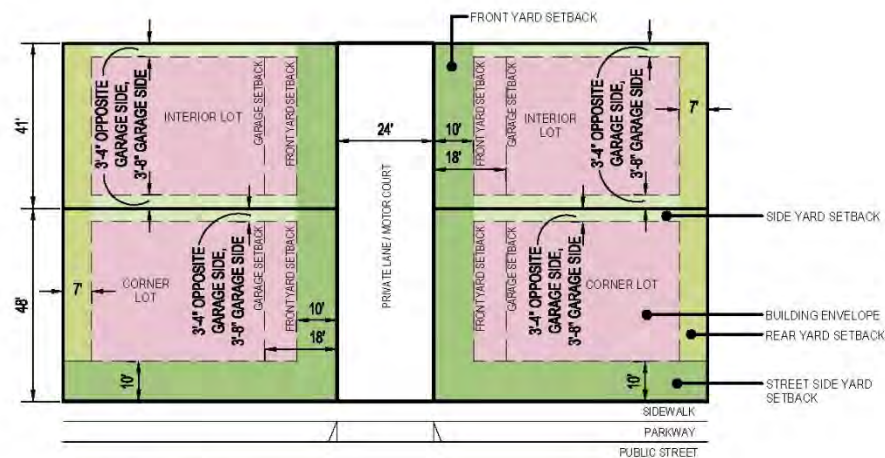
FIGURE 2-6
MEDIUM DENSITY RESIDENTIAL SETBACK EXHIBITS



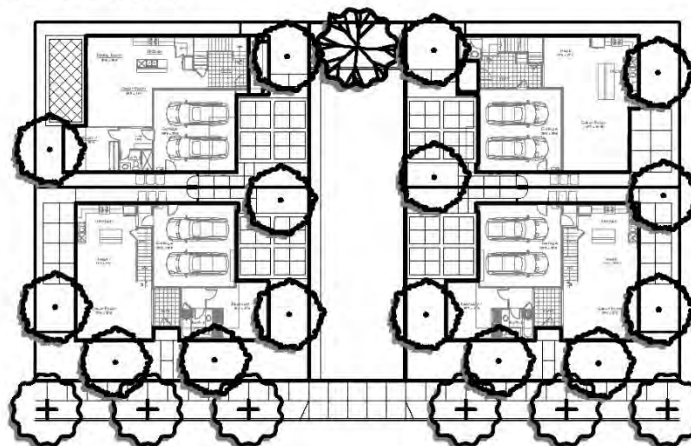
**MEDIUM DENSITY RESIDENTIAL
TRADITIONAL LOTS EXAMPLE
PLAN OF SETBACKS & ZONES**



**MEDIUM DENSITY RESIDENTIAL
TRADITIONAL LOTS EXAMPLE
ILLUSTRATIVE PLAN**



**MEDIUM DENSITY RESIDENTIAL
COURT LOTS EXAMPLE
PLAN OF SETBACKS & ZONES**

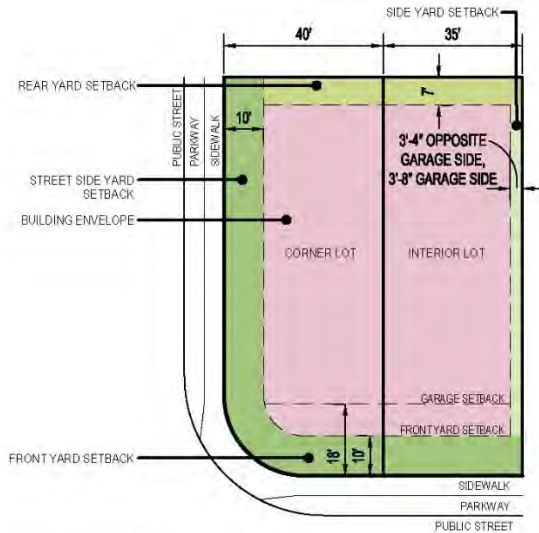


**MEDIUM DENSITY RESIDENTIAL
COURT LOTS EXAMPLE
ILLUSTRATIVE PLAN**

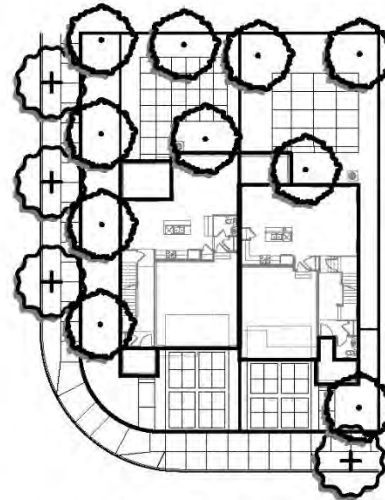


2. ZONING AND DEVELOPMENT STANDARDS

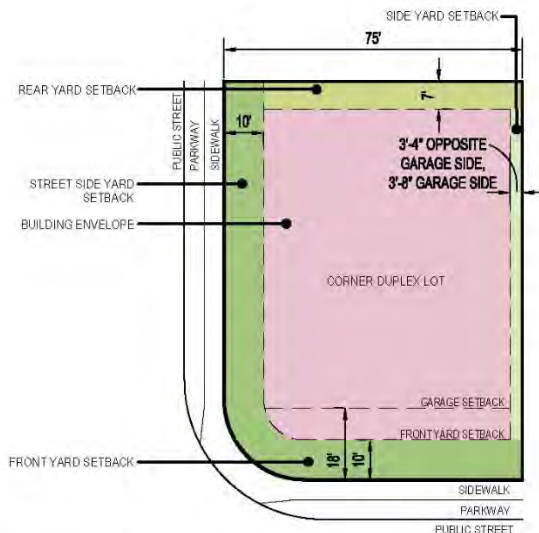
FIGURE 2-6
MEDIUM DENSITY RESIDENTIAL SETBACK EXHIBITS



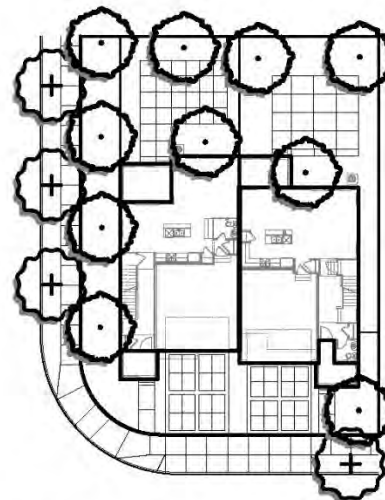
MEDIUM DENSITY RESIDENTIAL
DUET LOTS EXAMPLE (Attached units on separate lots)
PLAN OF SETBACKS & ZONES



MEDIUM DENSITY RESIDENTIAL
DUET LOTS EXAMPLE (Attached units on separate lots)
ILLUSTRATIVE PLAN



MEDIUM DENSITY RESIDENTIAL
DUPLEX LOT EXAMPLE (Attached units on one lot)
PLAN OF SETBACKS & ZONES



MEDIUM DENSITY RESIDENTIAL
DUPLEX LOT EXAMPLE (Attached units on one lot)
ILLUSTRATIVE PLAN



3.2.1 Scale

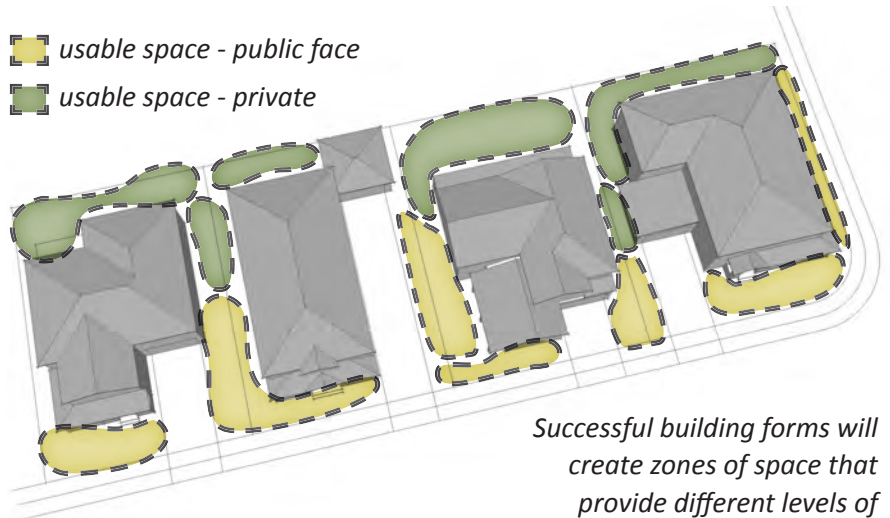
Scale refers to the massing and form of a building and includes elements such as building height and footprint. Depending on how a building is designed, it can either positively or negatively affect the character of a neighborhood and quality of the streetscape experience.

The guidelines below provide for the ability to create an inviting environment that considers the pedestrian and motorist experience throughout the neighborhood as it relates to visual interest and comfort in a space.

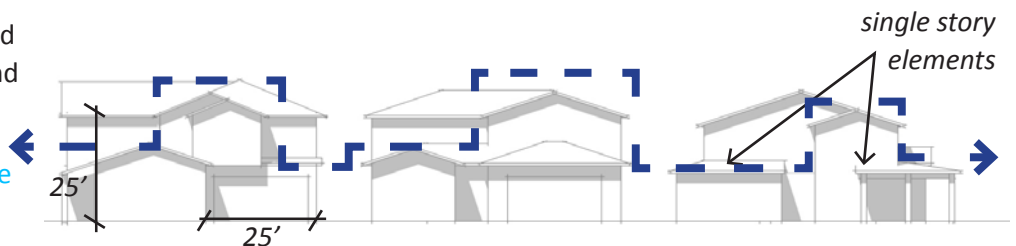
1. Massing and Building Form

- In general, building form shall allow for the creation of multiple usable zones that offer private and public spaces for residents.
- To create interest along the streetscape, building massing shall be varied through the staggering of horizontal and vertical planes. To this end, no building wall shall extend more than 25' vertically or horizontally without a visual break created by a 2' minimum offset or architectural detail.
- At least 25% of buildings within a neighborhood shall have a building mass which combines single and two story forms. Examples of forms include, but are not limited to a one story porch and a second level pop-out.
- In low density subdivisions, there shall be at least one single-story floor plan designed within a subdivisions used on approximately 25% of the lots. There is no single-story requirement for medium and high density subdivisions.

- usable space - public face
- usable space - private



Successful building forms will create zones of space that provide different levels of privacy.



Breaks in massing along vertical and horizontal planes provide interest along the streetscape.



2. Garages

- Within a neighborhood (defined as up to 200 dwelling units) there shall be a minimum of three garage door designs provided to avoid monotony along the streetscape. Each garage door design shall be used in at least 25% of the neighborhood.
- To minimize building bulk and the focus on vehicular elements, a maximum of two car garage bays shall front to the street on single-family dwellings that have a front elevation width of less than 60 feet. For single-family dwellings that have a front elevation width of 60 feet or greater, a maximum of three car garage bays shall front to the street.
- Garages shall be designed so they are not the primary focus in the streetscape and will be complementary to the rest of the home.
- Driveways shall have a maximum width of 18' for two car garages and 30' for three car garages (measured at property line) so that it will not negatively impact the streetscape and walkability of the neighborhood. *Driveways for duet and duplex buildings may have reduced separation from each other (4' minimum separation but may be reduced to 0' at cul-de-sacs, knuckles, and other street curves).*
- Driveway approaches measured at curb face shall have a maximum width of 18' for two car garages and 30' for three car garages. *For duet and duplex buildings, the maximum permitted driveway approach width may be 38'. Maximum widths do not include approach flares.*



Garages are setback and designed to complement overall design.



Variation in garage locations provides interest in the streetscape.



3.2.5 Residential Design Guidelines Checklist

This checklist is intended to be used as quick reference of the Residential Design Guidelines for designers, developers, builders, and City Staff.

SCALE	
Massing and Building Form	<ul style="list-style-type: none">• No building wall shall extend more than 25' vertically or horizontally without a visual break created by a 2' minimum offset or architectural detail.• At least 25% of buildings within a subdivision shall have a building mass which combines single and two story forms.• In low density subdivisions, approximately 25% of the lots shall be a single-story floor plan.
Roof Forms, Materials, and Colors	<ul style="list-style-type: none">• Create a diversity of roof forms for an articulated streetscape by providing at a minimum three different roof plans per building plan.• Flat roofs are not allowed.• Roof materials can include concrete or clay tile or architectural grade composition shingle.
ARCHITECTURAL STREETSCAPE	
Windows	<ul style="list-style-type: none">• All windows shall have trim surrounds, headers, or sills.• Buildings with the same window locations, regardless of different elevation style, shall not be located next to each other.
Garages	<ul style="list-style-type: none">• Within a neighborhood there shall be a minimum of three garage door designs provided to avoid monotony along the streetscape. Each garage door design shall be used in at least 25% of the neighborhood.• A maximum of two car garage bays shall front to the street on single-family dwellings that have a front elevation width of less than 60 feet. For single-family dwellings that have a front elevation width of 60 feet or greater, a maximum of three car garage bays shall front to the street.• Driveways shall have a maximum width of 18' for two car garages and 30' for three car garages. Driveways for duet and duplex buildings may have reduced separation from each other (4' minimum separation but may be reduced to 0' at cul-de-sacs, knuckles, and other street curves).• Driveway approaches measured at curb face shall have a maximum width of 18' for two car garages and 30' for three car garages. For duet and duplex buildings, the maximum permitted driveway approach width may be 38'. Maximum widths do not include approach flares.
Building Materials and Colors	<ul style="list-style-type: none">• Materials and colors palette shall be comprised of three or more complementary options that cover a base color, trim color, and accent color.• Material and color blocking shall not terminate at outside corners of buildings and shall wrap to appropriate transition points.
Details	<ul style="list-style-type: none">• Building details shall be consistent with the architectural style and overall building design.

Tracy Hills Specific Plan

3. DESIGN GUIDELINES



3.4.9 Lighting

The site furnishings and lighting will be used to enhance, unify and reinforce the character of the overall site design. The site furnishings and lighting shall be made of natural materials/elements that can be tied to the color and texture of the proposed monuments, walls/fences and architecture.

Lighting shall incorporate the following:

- All exterior light fixtures and fixture placement shall comply with the standards specified in the City's design documents. Use of energy-efficient technology is encouraged.
- Streets and intersections should be well-lit in accordance with the City standard illumination levels. Low-level lighting for pedestrian safety should be installed where appropriate. Intersections should have increased light levels for definition and to mitigate automobile/ pedestrian conflicts.
- Accent lights should be installed at all community monumentation locations.
- Street lights shall conform to the overall project theme and City standards.
- All exterior lighting for project identification, water features, and landscaping should be subdued and indirect to prevent spill over onto adjacent lots and streets.
- Lit bollards are proposed for pedestrian safety and should be provided in public open spaces.
- Removable bollards are proposed to provide a barrier at the driveway aprons to access easements.

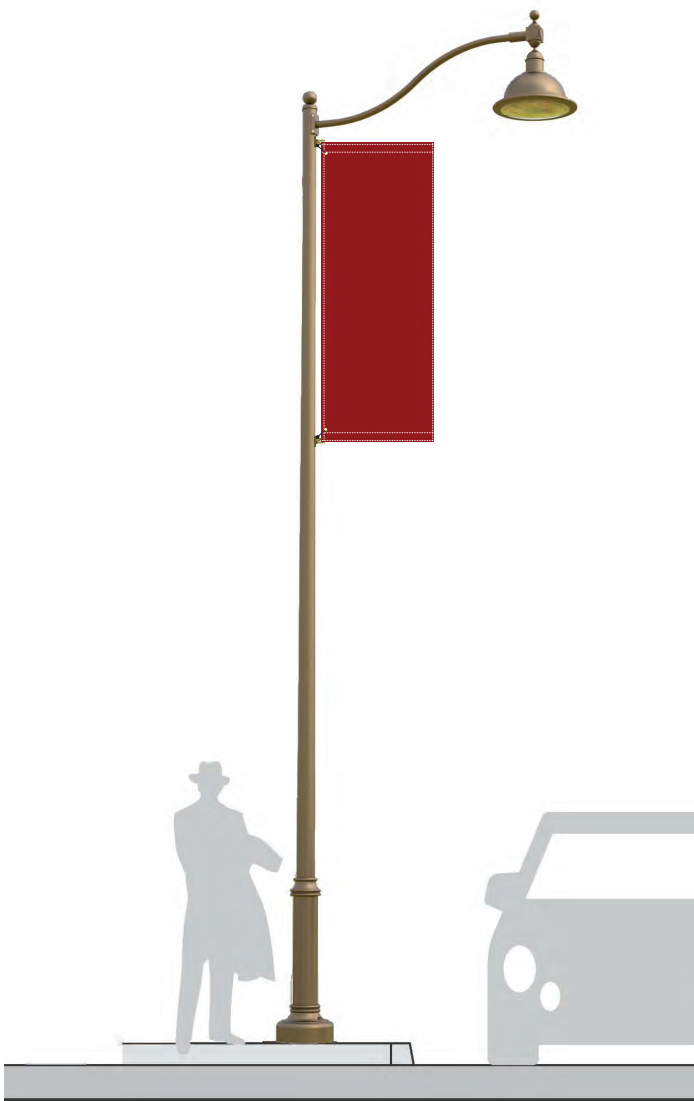




Tracy Hills Specific Plan

3. DESIGN GUIDELINES

- The type and location of building lighting should prevent direct glare onto adjacent property, streets and skyward by the use and application of shields.
- Pedestrian scale fixtures are encouraged over “high mast” poles, especially within neighborhoods.
- Consistent lighting fixtures shall be used throughout the Specific Plan Area to enhance community character.
- Light shall be confined on-site through orientation, the use of shading/directional controls, and/or landscape treatment.
- Light standard banners are encouraged to promote community awareness and activities. Banners may be located along Tracy Hills Drive.



Lighting Family shown as conceptual design intent. Available through Associated Lighting Reps., Inc. (510) 638-3800, [South Coast Lighting](#) (714) 931-4597, or equivalent



Banner shown as conceptual design intent.



- Pedestrian scale fixtures are encouraged over “high mast” poles, especially within neighborhoods.
- Consistent lighting fixtures shall be used throughout the Specific Plan Area to enhance community character.
- House-side shields shall be utilized where applicable to prevent light source glare onto adjacent property.



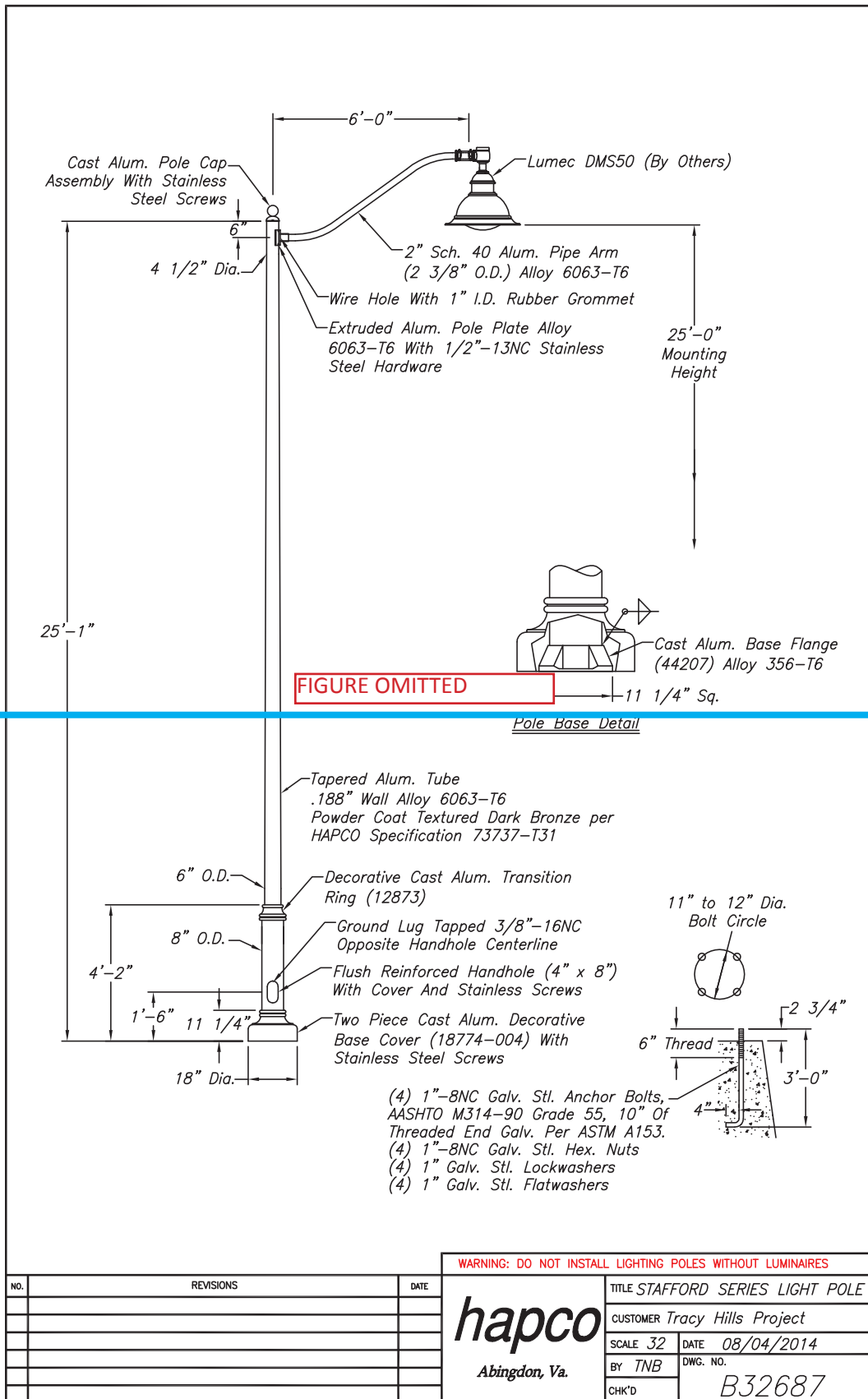
Lighting Family shown as conceptual design intent. Available through Associated Lighting Reps., Inc. (510) 638-3800, [South Coast Lighting \(714\) 931-4597](#), or equivalent

Tracy Hills Specific Plan

3. DESIGN GUIDELINES



Spine Road
Light Standard

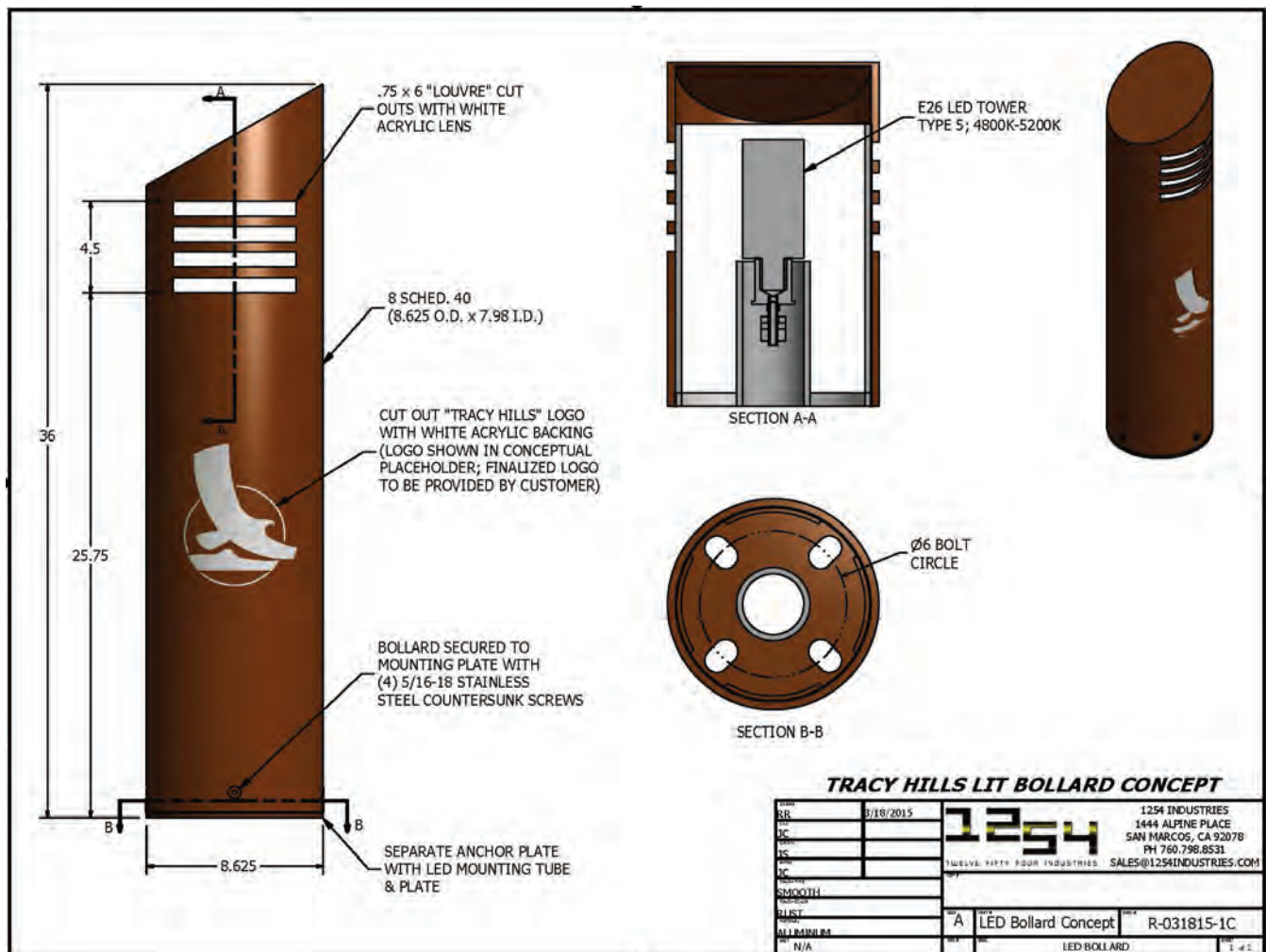


Lighting Family shown as conceptual design intent. Available through Associated Lighting Reps., Inc. or equivalent (510) 638-3800



Tracy Hills Specific Plan

3. DESIGN GUIDELINES

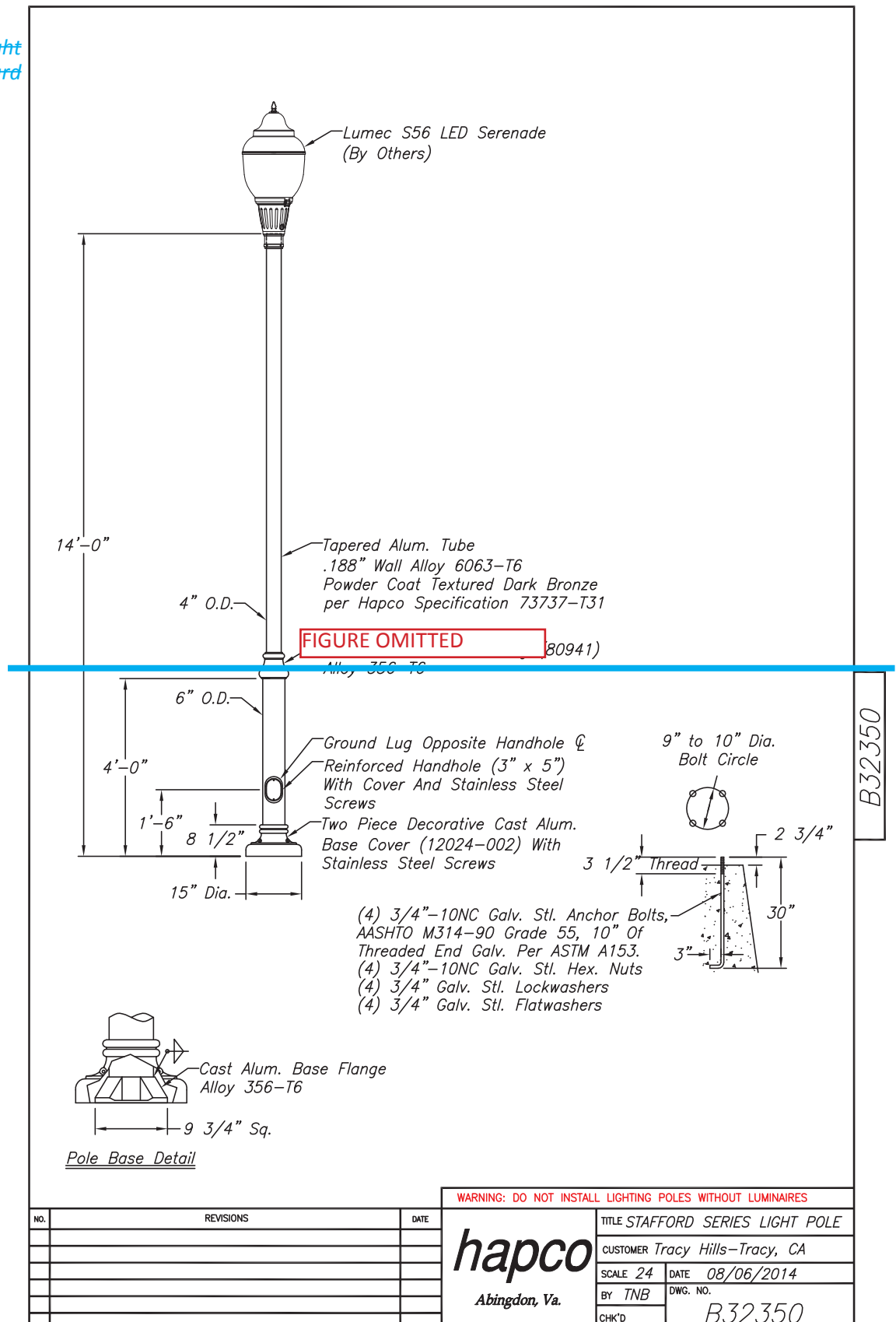


Lighting Family shown as conceptual design intent.

Tracy Hills Specific Plan

3. DESIGN GUIDELINES

In-Tract Light
Standard



Lighting Family shown as conceptual design intent. Available through Associated Lighting Reps., Inc. or equivalent (510) 638-3800



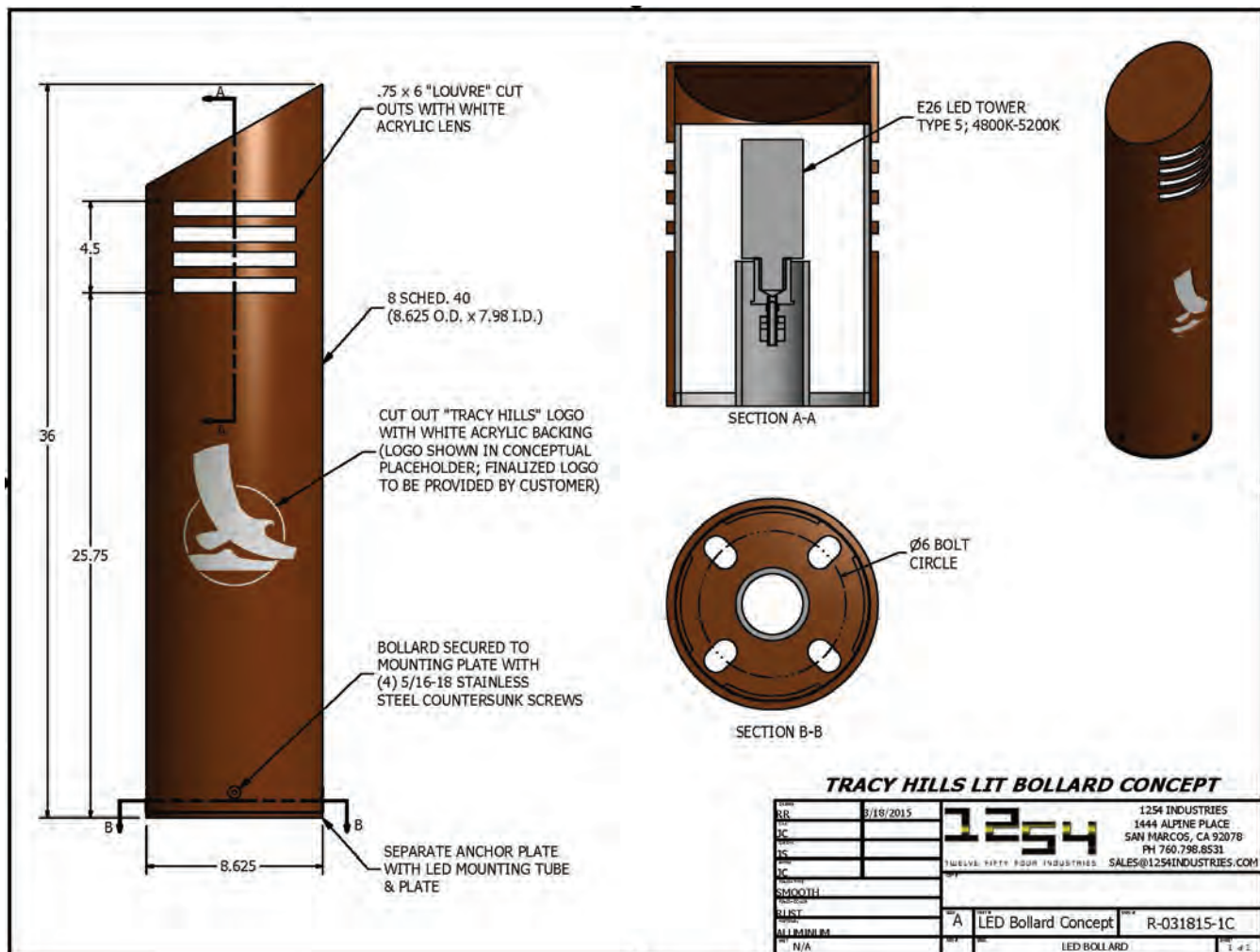
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Tracy Hills Specific Plan

3. DESIGN GUIDELINES



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AND THIS PAGE LEFT BLANK.



Lighting Family
shown as
conceptual design
intent.



4. INFRASTRUCTURE AND SERVICES

4.5 WASTEWATER COLLECTION AND TREATMENT

Wastewater will be collected in a community-wide sewer system with treatment and disposal as described in the City of Tracy Wastewater Master Plan. In general, on-site wastewater will be conveyed to a City pump station to be built within the first phase of development. This facility will pump wastewater up Corral Hollow Road to a point after which gravity will convey the project wastewater to the City treatment plant for treatment and disposal.

4.5.1 Wastewater Collection System and Treatment

Using the Tracy Hills **Land Use Concept, Figure 1-3**, and aerial topography, an initial delineation of sanitary sewer flow shed areas has been determined. Using these shed areas, the sewer main paths and primary collection locations were established. These collection locations, when evaluated in context with existing topography, dictated the route of the sewer mains towards the proposed sewer pump station.

All public utility mains will be installed in public rights-of-way or easements, unless specifically approved by the City Engineer. [Sanitary sewer service laterals may be located under residential driveways.](#)

Layout of the sewer collection facilities is premised upon design of a complete gravity flow system west of I-580. Numerous constraints (I-580, California Aqueduct and Delta-Mendota Canal) exist that complicate gravity service. It will be necessary to provide one pump station between I-580 and the California Aqueduct and the potential for additional lift stations between the Aqueduct and the Delta-Mendota Canal and east of Corral Hollow Road depending on final site design. **Figure 4-10, Wastewater Collection System**, provides the probable layout of the collection facilities and the required pump station.

Average daily wastewater flows are estimated using the land use summary approved herein and unit generation factors from the City of Tracy Wastewater Master Plan. Refer to the approved Tracy Hills Phase 1A and Phase 1B sewer study dated October 6, 2014, for additional information.

4.5.2 Wastewater Treatment

Sewer generated from the Tracy Hills development will be treated at the Wastewater Treatment plant per the City of Tracy Wastewater Master Plan.

The main sewer conveyance pipelines will be installed from approximately W. Schulte Road, south in Corral Hollow Road to the project. The entire project will gravity flow to a proposed sewer pump station within the first phase of development. The pump station will convey wastewater via force main north in Corral Hollow Road to past the California Aqueduct where it will gravity flow north.

4.5.3 Trench Requirements

Changes to existing City standards pertaining to hillside development resulting from different geotechnical and site condition requirements will be addressed to update applicable existing City standards. Any associated costs will be paid for by the developer requesting the update. Use of native material for bedding or backfill will be based on geotechnical recommendations.

AGENDA ITEM 1.G

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1299, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE MAXIMUM BUILDING HEIGHT AND THE MINIMUM BUILDING SETBACK IN THE NORTHEAST INDUSTRIAL SPECIFIC PLAN

EXECUTIVE SUMMARY

Ordinance 1299 was introduced at a special Council meeting held on November 10, 2020. Ordinance 1299 is before Council for adoption.

DISCUSSION

Proposed Ordinance 1299 was introduced at a special Council meeting held on November 10, 2020, to amend the maximum building height and the minimum building setback in the Northeast Industrial Specific Plan. The amendment to the Northeast Industrial Specific Plan would increase the building height maximum to 125 feet and establish a building setback of 250 feet for buildings exceeding 60 feet in height, to be applicable only to industrial buildings on the project site located on the south side of Grant Line Road, between Chrisman Road and Skylark Way, and north of the future Paradise Road extension.

The project is exempt from CEQA pursuant to CEQA Guidelines Section 15162(a) and 15168(c)(2), which pertains to projects with a certified Environment Impact Report (EIR) where a project does not propose substantial changes that will result in a major revision of the previous EIR. On May 8, 1996, the City of Tracy certified the Northeast Industrial EIR (SCH# 95102050). The project does not propose new significant changes to the environment that was not analyzed in the Northeast Industrial EIR, including the areas of traffic, air quality, utilities, and aesthetics. Therefore, no further environmental assessment is needed.

Ordinance 1299 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Priorities.

FISCAL IMPACT

This agenda item will not require any expenditure of funds. The applicant paid the application processing fees established by the City Council for the specific plan amendment and development review permit applications and entered into a Cost Recovery Agreement for the consultant and staff time that was required to prepare the technical studies and environmental analysis documentation in accordance with CEQA.

The applicant will also pay all of the appropriate building permit and development impact fees upon the commencement of project improvements.

RECOMMENDATION

That the City Council waive the second reading of the full text and adopt Ordinance 1299 an ordinance of the City of Tracy amending the maximum building height and the minimum building setback in the Northeast Industrial Specific Plan.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1299

ORDINANCE 1299

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE MAXIMUM BUILDING HEIGHT
AND THE MINIMUM BUILDING SETBACK IN THE NORTHEAST INDUSTRIAL SPECIFIC
PLAN

WHEREAS, The Northeast Industrial Specific Plan establishes the development standards for properties within the Specific Plan area, and

WHEREAS, The amendment to the Northeast Industrial Specific Plan would increase the building height maximum to 125 feet and establish a building setback of 250 feet for buildings exceeding 60 feet in height, to be applicable only to industrial buildings on the project site located on the south side of Grant Line Road, between Chrisman Road and Skylark Way, and north of the future Paradise Road extension, and

WHEREAS, The project is exempt from CEQA pursuant to CEQA Guidelines Section 15162(a) and 15168(c)(2), which pertains to projects with a certified Environmental Impact Report (EIR) where the project does not propose substantial changes that will result in a major revision of the previous EIR. On May 8, 1996, the City of Tracy certified the Northeast Industrial EIR (SCH# 95102050). The project does not propose new significant changes to the environment that was not analyzed in the Northeast Industrial EIR, including the areas of traffic, air quality, utilities, and aesthetics. Therefore, no further environmental assessment is needed, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 28, 2020 and recommended that City Council amend the Tracy Municipal Code Sections 10.08.3560(c) and (d) regarding landscaping requirements for parking areas by a 4:1 vote, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on November 10, 2020;

NOW THEREFORE, The Tracy City Council does ordain as follows:

SECTION 1. The Northeast Industrial Specific Plan, Building Floor Area Ratio and Height and Building Setbacks sections on page 24 are amended to read as follows:

“Building Floor Area Ratio and Height

<i>Land Use</i>	<i>Max. Floor Area Ratio</i>	<i>Max. Building Height</i>
General Commercial	0.35	46 ft.
Office	0.35	60 ft.
Light Industrial	0.50	60 ft. *except as noted below

* The maximum building height for Light Industrial uses is 60 feet, except in the area bounded by Grant Line Rd. to the north, Chrisman Rd. to the east, Skylark Way to the west, and Paradise Road to the south, where the maximum building height is 125 feet.

Building Setbacks

The following shall be the minimum building and parking setbacks required for all building types. Figure 14 illustrates these guidelines.

1. Building setback from any property line adjacent to a street or Caltrans right-of-way shall be 25 feet minimum. Rear and side yard building setbacks from property lines not adjacent to a street or Caltrans right-of-way shall be 15 feet minimum.
Building setback from any property line for buildings exceeding 60 feet in height located in the area bounded by Grant Line Rd. to the north, Chrisman Rd. to the east, Skylark Way to the west, and Paradise Road is 250 feet minimum.
2. A 5 foot wide landscape setback is required along property lines not adjacent to a right-of-way. On the property lines perpendicular to the street frontage on industrial streets, the landscaped setback is only required to a point 150 feet onto the parcel from the street right-of-way or 50 feet back of building face, whichever is greater.
3. Parking setback from any property line along a public street or the Caltrans right-of-way for commercial land uses shall be 10 feet and for industrial uses shall be 15 feet.
4. Parking shall not be permitted within 10 feet of the building entry face of any commercial structure. In the event the building has an arcade or other shade structure along this frontage, the structure can be located within this required setback. Parking shall not be permitted within 15 feet of the office face or portion of a building. On industrial buildings, a 15 foot setback to the parking area shall be provided at building entries.
5. Commercial buildings shall be sited so as to create and enhance the streetscape. This can only be accomplished if all or a portion of the buildings are located near the street. On commercial sites of over 4 acres, at least one building must be located with a minimum setback from public-right-of-way to building face of 50 feet. On corner sites adherence to this requirement is encouraged on both frontages, however, only required on the major street frontage."

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 1299 was introduced at a special meeting of the Tracy City Council on the 10th day of November, 2020, and finally adopted on the 17th day of November, 2020, by the following vote:

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

ATTEST:

MAYOR

CITY CLERK

AGENDA ITEM 1.H

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1300, AN ORDINANCE OF THE CITY OF TRACY APPROVING THE FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT AGREEMENT AMENDMENT BY AND BETWEEN THE CITY OF TRACY AND THE TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE 1, LLC, APPLICATION NUMBER DA20-0001

EXECUTIVE SUMMARY

Ordinance 1300 was introduced at a special Council meeting held on November 10, 2020. Ordinance 1300 is before Council for adoption.

DISCUSSION

Tracy Hills Project Owner, LLC submitted a request to negotiate an amendment to the Development Agreement (DA) they have with the City. This amendment relates to the financing and timing of public infrastructure delivery, clarifications on how to obtain reimbursements from other benefitting developments, and clarifying certain provisions of the Residential Growth Allotment (RGA) process.

The proposed amendment to the DA would:

- Make changes to the construction timing of various Corral Hollow Road Improvements, and
- Include provisions to allow Developer to accelerate when reimbursements are provided for completing certain traffic infrastructure improvements, and
- Allow the developer to prioritize Impact Fee funding to certain traffic improvements listed in the existing DA, with the exception of the Linne Road-Corral Hollow Road intersection improvements, which would be capped at \$1.6 million of Tracy Hills impact fees, and
- Clarify that Developer may obtain reimbursements from third parties (not the City) that benefit from Developer's funding of certain improvements, and
- Clarify certain aspects of the granting of Residential Growth Allotments under the City's existing Growth Management Ordinance and implementation guidelines

Proposed Ordinance 1300 was introduced at a special Council meeting held on November 10, 2020, to approve the First Amendment to the certain Development Agreement Amendment by and between the City of Tracy and the Tracy Hills Project Owner, LLC.

Ordinance 1300 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Priorities.

FISCAL IMPACT

This agenda item required staff and outside counsel, and consultant work, which was funded through a Cost Recovery Agreement with the applicant. Accordingly, there is no impact to the General Fund for processing the DA amendment. The DA amendment itself contains provisions related to the timing of infrastructure, which are funded through the collection of development impact fees. The Public Safety fees are advanced to the City and the Developer is receiving fee credits.

Should Council approve the proposed Tracy Hills DA Amendment, there may be some additional administrative costs to developing and directing Traffic Impact Fees to the various traffic improvement projects. There should not be any additional staff cost related to the other DA Amendment requests.

RECOMMENDATION

That the City Council waive the second reading of the full text and adopt Ordinance 1300 an ordinance of the City of Tracy approving the First Amendment to that certain Development Agreement Amendment by and between the City of Tracy and the Tracy Hills Project Owner, LLC. And Tracy Phase 1, LLC., Application Number DA20-0001.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1300

ORDINANCE 1300

AN ORDINANCE OF THE CITY OF TRACY APPROVING THE FIRST AMENDMENT
TO THAT CERTAIN DEVELOPMENT AGREEMENT AMENDMENT
BY AND BETWEEN THE CITY OF TRACY AND THE TRACY HILLS PROJECT OWNER, LLC
AND TRACY PHASE 1, LLC, APPLICATION NUMBER DA20-0001

WHEREAS, On April 5, 2016, the City Council of the City of Tracy adopted the Tracy Hills Specific Plan (the "**THSP**"), and also approved that certain Development Agreement By And Between The City Of Tracy, The Tracy Hills Project Owner, LLC, And Tracy Phase I, LLC recorded in the official records of San Joaquin County as Document Number 2016-066658 (the "**DA**"), and

WHEREAS, At the same time, the City Council also approved a Large Lot Vesting Tentative Subdivision Map (Application Number T0S0M116) and a Small Lot Vesting Tentative Subdivision Map (Application Number T0S0M0153), the approvals of which were subject to various Conditions of Approval relating to development of the THSP area (the "**Conditions of Approval**"), and

WHEREAS, The THSP, the DA and the Conditions of Approval (collectively, the "**Project Approvals**") impose various obligations on The Tracy Hills Project Owner, LLC and Tracy Phase I, LLC (together, "**Developer**") relating to development of the THSP area including, among other things, the construction of various transportation infrastructure improvements, and

WHEREAS, Among the transportation infrastructure improvements required by the Project Approvals are certain interim improvements at the intersection of Corral Hollow Road and Linne Road, which are described in Condition of Approval Number C.2.7.8.c and are hereinafter referred to as the "**Interim Road Improvements**". The Interim Road Improvements are described in the exhibits to that certain City of Tracy, Deferred Improvement Agreement, Tracy Hills – Phase 1A, recorded in the official records of San Joaquin County as Document Number 2018-016153, in Exhibit B-2 (page 31 of 45) and also in Exhibit C (Section II.S.c on page 11 of 14), and

WHEREAS, On December 17, 2019, the City, Developer, and certain affiliates of Developer entered into a Settlement Agreement to resolve disputes between the City, Developer and the affiliates relating to the application to the Project of the San Joaquin Council of Governments Regional Transportation Impact Fee and the Tracy Infrastructure Master Plan's Development Impact Fees. Under the Settlement Agreement, the City and Developer agreed that the City would assume the obligation to construct the Interim Road Improvements, and

WHEREAS, On January 9, 2020, Developer submitted a written application to the City to amend the DA to modify its provisions relating to (a) the timing and construction of Corral Hollow Road improvements, (b) benefit districts to recover fair share costs of program and non-program public improvements, (c) provisions for recycled water infrastructure, and (d) Residential Growth Allotments ("**RGAs**") and the life of building permits, and

WHEREAS, Between July 7 and October 28, 2020, the City and Developer negotiated, refined and modified Developer's proposal to amend the DA, which modified proposal is reflected in that certain First Amendment to Development Agreement By And Between The City

Of Tracy, The Tracy Hills Project Owner, LLC, And Tracy Phase I, LLC, a copy of which is attached as Exhibit "A" hereto (hereafter, the "**First Amendment**"), and

WHEREAS, The City has evaluated the potential effects of this First Amendment on the environment and considered its consistency with City policies in accordance with applicable requirements of the California Environmental Quality Act ("**CEQA**"), its implementing regulations (the "**CEQA Guidelines**"), and applicable provisions of the Tracy Municipal Code, and determined that the First Amendment is within the scope of the development program evaluated in the Final Supplemental Environmental Impact Report certified by the City on April 5, 2016 (State Clearinghouse # 2013102053) (the "**FSEIR**") in connection with its adoption of the THSP and approval of the DA, and

WHEREAS, On October 28, 2020, the City of Tracy's Planning Commission conducted a duly noticed public hearing on Developer's application to amend the DA as set forth in this First Amendment in accordance with all applicable requirements of the State law and the City of Tracy Municipal Code, and

WHEREAS, On November 10, 2020, the City Council of the City of Tracy conducted a duly noticed public hearing on the proposed First Amendment, and performed its first reading of the proposed First Amendment, in accordance with all applicable requirements of the State law and the City of Tracy Municipal Code, and

WHEREAS, On December ___, 2020, the City Council conducted its second reading of Ordinance approving the First Amendment;

NOW, THEREFORE, BE IT RESOLVED, As follows:

The City Council of the City of Tracy does ordain as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.
2. Compliance with CEQA. The potential changes to the DA and the Project are within the scope of the development program that was described and evaluated in the FSEIR and therefore, pursuant to the applicable requirements of CEQA and the CEQA Guidelines, no further environmental review is required for the First Amendment.
3. Findings regarding Development Agreement. The City Council finds that the proposed Development Agreement:
 - a. is consistent with the objectives, policies, general land uses and programs specified in the City General Plan (attached hereto as Exhibit "2" Consistency findings between the General Plan and the Development Agreement) and the Tracy Hills Specific Plan, as amended;
 - b. is in conformity with public convenience, general welfare, and good land use practices;
 - c. will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or

persons in the general neighborhood or to the general welfare of the residents of the City as a whole;

- d. will not adversely affect the orderly development of property or the preservation of property values, and
- e. is consistent with the provisions of Government Code Sections 65864 et seq.

4. Approval of First Amendment to Development Agreement. The City Council hereby approves the First Amendment to Development Agreement by and between the City of Tracy, The Tracy Hills Project Owner, LLC, and Tracy Phase 1, LLC, in the form attached hereto as Exhibit "A".

5. Effective Date. This Ordinance takes effect 30 days after its final passage and adoption.

6. Publication. 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 1300 was introduced at a special meeting of the Tracy City Council on the 10th day of November 2020, and finally adopted on the 17th day of November, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Recording Requested By:

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

And When Recorded Mail To:

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

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY
FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF
TRACY AND THE TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE I, LLC**

This **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND AMONG THE CITY OF TRACY, THE TRACY HILLS PROJECT OWNER, LLC, AND TRACY PHASE I, LLC**, (hereinafter "**First Amendment**") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "**City**"), on one hand, and **TRACY PHASE I, LLC**, a Delaware limited liability company, **TRACY PHASE IB, LLC**, a Delaware limited liability company, **TRACY PHASE 2, LLC**, a Delaware limited liability company, **TRACY PHASE 3, LLC**, a Delaware limited liability company, **TRACY PHASE 4, LLC**, a Delaware limited liability company, and **TRACY BPS, LLC**, a Delaware limited liability company, on the other hand (collectively, "**Developer**").

RECITALS

- A. On April 5, 2016, the City Council of the City of Tracy adopted the Tracy Hills Specific Plan (the "**THSP**"), and also approved that certain Development Agreement between City and Developer (more specifically, Tracy Phase I, LLC and The Tracy Hills Project Owner, LLC, the predecessor-in-interest to Tracy Phase 1B, LLC, Tracy Phase 2, LLC, Tracy Phase 3, LLC, Tracy Phase 4, LLC, and Tracy BPS, LLC) recorded in the official records of San Joaquin County as Document Number 2016-066658 (the "**DA**").
- B. At the same time, the City Council also approved a Large Lot Vesting Tentative Subdivision Map (Application Number T0S0M116) and a Small Lot Vesting Tentative Subdivision Map (Application Number T0S0M0153), the approvals of which were subject to various Conditions of Approval relating to development of the THSP area (the "**Conditions of Approval**").
- C. The THSP, the DA and the Conditions of Approval (collectively, the "**Project Approvals**") impose various obligations on Developer relating to development of the THSP area including, among other things, the construction of various transportation infrastructure improvements.

- D. On December 17, 2019, City, Developer, and certain affiliates of Developer entered into a Settlement Agreement to resolve disputes between City, Developer and the affiliates relating to the application to the Project of the San Joaquin Council of Governments Regional Transportation Impact Fee and the Tracy Infrastructure Master Plan's Development Impact Fees. Under the Settlement Agreement, City and Developer agreed that City would assume the obligation to construct the certain road Improvements on Linne Road from Corral Hollow Road to McArthur Boulevard identified in the DA in Section 3.3(b)(iii).
- E. On January 9, 2020, Developer submitted a written application to City to amend the DA to modify its provisions relating to (a) the timing and construction of Corral Hollow Road improvements in Section 3.4(d), (b) benefit districts to recover fair share costs of program and non-program public improvements, (c) provisions for recycled water infrastructure, and (d) Residential Growth Allotments ("RGAs") and the life of building permits.
- F. Between July 8 and October 28, 2020, City and Developer negotiated, refined and modified Developer's proposal to amend the DA, which modified proposal is reflected in this First Amendment, and City evaluated the potential effects of this First Amendment on the environment and considered its consistency with City policies in accordance with applicable requirements of the California Environmental Quality Act, State laws, and the City of Tracy Municipal Code.
- G. On October 28, 2020, the City of Tracy's Planning Commission conducted a duly noticed public hearing on Developer's application to amend the DA as set forth in this First Amendment in accordance with all applicable requirements of the State law and the City of Tracy Municipal Code, after which the Planning Commission recommended to the City Council that the City Council _____ this First Amendment.
- H. On the ____ day of _____, 2020, the City Council of the City of Tracy conducted a duly noticed public hearing on and conducted the first reading of Ordinance _____ to approve Developer's proposed First Amendment to the DA, after which the City Council voted by a majority of its members to approve said Ordinance and the proposed First Amendment.
- I. On the ____ day of _____, 2020, the City Council conducted its second reading of and approved Ordinance _____, which took effect on the ____ day of _____, 2021.
- J. With this First Amendment, City and Developer hereby amend the DA as provided herein.

NOW THEREFORE, CITY AND DEVELOPER MUTUALLY AGREE AS FOLLOWS:

1. AMENDMENTS TO THE DEVELOPMENT AGREEMENT.

- 1.1. Amendment to Section 3.3. Section 3.3 is deleted and replaced in its entirety with the following:

“3.3 Fees, Credits and Reimbursements

(a) Developer shall pay all applicable City fees, including without limitation those set forth in the City’s Municipal Code (including but not limited to the Development Impact Fees) and the Master Plans as set forth in this Section 3.3. The time for Developer’s payment of applicable Development Impact Fees shall be established by and set forth in a contract executed by the City and Developer pursuant to Government Code section 66007(c).

(b) At the time of Developer’s payment of all City Traffic Impact Fees (i.e., TIMP—Traffic), Developer shall make such payments, and City shall allocate such payments, as follows:

(i) Developer will pay to City in cash fifteen percent (15%) of Developer’s gross Traffic Impact Fee (TIF) obligation. Such 15% of Developer’s TIF payments shall be allocated to master plan transportation improvement projects and master plan program management costs as the City deems appropriate, in its sole and exclusive discretion;

(ii) To the extent that Developer has accrued credits against its TIF payment obligations, Developer may (in Developer’s sole and exclusive discretion) apply all or any portion of such credits against the remaining eighty-five percent (85%) balance of Developer’s then-outstanding gross TIF obligation; and

(iii) To the extent that Developer’s credits are not sufficient to fully satisfy such 85% balance, or to the extent that Developer does not elect to apply its accrued credits to such 85% balance, Developer shall pay the remainder of such 85% balance in cash to the City. Until the City’s completion of its final inspection of the structure that is projected in the EIR to generate the two thousand five hundred and eighty-eighth (2,588th) am peak hour trip within the Tracy Hills Specific Plan area, the City shall, at the direction of Developer, appropriate such cash payments into one or more of the Capital Improvement Program (CIP) fund(s) created for the following improvements:

- All I-580 interchange improvements at Corral Hollow Road;
- All required improvements to Corral Hollow Road from Linne Road to the southern Property boundary, including railroad and canal crossings;
- All I-580 interchange improvements at Lammers Road;
- All required improvements to Lammers Road from Old Schulte Road to I-580, including railroad and canal crossings; and
- Linne Road improvements from Corral Hollow Road to McArthur Boulevard.

Notwithstanding the foregoing, the first one million six hundred thousand dollars (\$1,600,000) of cash payments by Developer to satisfy the remainder of the 85% balance of Developer’s TIF payment obligation described above shall be appropriated into the CIP fund for the portion of the Corral Hollow Road and Linne

Road widening projects that are associated with the intersection of those two roads. From and after the City's completion of its final inspection of the structure that is projected in the EIR to generate the two thousand five hundred and eighty-eighth (2,588th) am peak hour trip within the Tracy Hills Specific Plan area, the City shall, in consultation with the Developer, appropriate such cash payments into one or more of the Capital Improvement Program (CIP) fund(s) indicated immediately hereinabove.

(iv) Prior to initiating construction of each improvement described in Section 3.3(b)(iii), the City and Developer shall enter into an Off-Site Improvement Agreement ("OIA") to provide for and govern the construction of such improvement. Among other things, and notwithstanding any contrary provisions in this Agreement or the City of Tracy Municipal Code, the OIA shall advance the date upon which Developer is eligible for reimbursement of costs incurred in connection with the design, permitting and construction of the improvement to the date that the City Council accepts the completed improvement.

(c) Subject to Developer's compliance with the requirements of Section 4.8 below, Developer shall be eligible for a credit against Developer's obligation to pay Public Safety Facilities Impact fees consistent with the provisions and requirements of this Section 3.3, Section 3.4 and Section 4.8 below.

(d) Except as specifically set forth in Section 3.3(b)(iii) and (iv), all credits and reimbursements available to Developer, including without limitation credits and reimbursements available as a result of Developer's election to fund, design and/or construct Master Plan Infrastructure under Section 3.4 below, shall be determined and granted according to the Existing Rules. City hereby agrees that, where Developer is eligible under the Existing Rules, based upon any specific expenditure, for both credit against future fees and reimbursement, Developer may elect to receive credit (consistent with applicable Existing Rules) against future fees paid for Project development rather than reimbursement. Developer and City shall enter into improvement agreements as required by T.M.C. § 13.08.010 to allocate credits, identify the amount of credits, and to allocate credit to specific developments. Developer is not required to allocate such credit pro rata or via any specific formula, but may allocate, pursuant to the procedures in § 13.08.010, in such manner and pursuant to such formula as it deems appropriate in its sole and absolute discretion, subject to all other requirements such as availability of credits and use of credits only for "like-kind" impact fees. Given the scale of the Project and the large initial investment in many improvements that will qualify for credit, it is anticipated that Developer shall have balances of available credits confirmed by improvement agreements in advance of actual building permit issuance. In such event, Developer may allocate such credits to specific lots by a subsequent written direction to the City Engineer indicating the available credits being applied to specific lots."

- 1.2. Amendment to Section 3.4(d). Section 3.4(d) of the DA is deleted and replaced in its entirety with the following:

“(d) Construction of Corral Hollow Road Improvements. Any and all other language in this Agreement, the EIR or the MMRP to the contrary notwithstanding, Developer and City hereby agree that Developer shall complete the Corral Hollow Road widening and associated improvements at the following times: (A) upon approval by the City of designs prepared by Developer, Developer shall use commercially reasonable efforts to proceed to install (i) roadway widening within existing City right-of-way between the CalTrans right-of-way and the future location of the southern terminus of the planned Corral Hollow bridge at the California Aqueduct, (ii) sidewalks along the roadway described in the preceding subsection (i) which are adjacent to Developer’s land zoned mixed use business park or adjacent to the KT Project or where they can be installed within existing City right-of-way, and (iii) upon approval by Caltrans (to be obtained by City), the traffic control improvements on the eastbound side of I-580 at the Corral Hollow/Interstate I-580 off ramps, subject to approval by Caltrans, and (B) upon the City’s completion of the final inspection of the structure that will contain the two thousand six hundredth (2,600th) dwelling unit in the Project, Developer shall commence construction of the widening of Corral Hollow Road from the southern terminus of the bridge crossing the California Aqueduct to the intersection with Linne Road, as described in Mitigation Measure 4.13-5b of the EIR (collectively, the “CH Widening Work”). Upon execution of an Offsite Improvement Agreement with appropriate security (as determined by the City) for the CH Widening Work or a portion thereof consistent with the Transportation Master Plan (as determined by the City Engineer), Developer shall be entitled to a credit against subsequently-due Transportation Impact Fees in an amount equal to one-third (1/3) of the costs of the sidewalks completed as part of the CH Widening Work, as well as such credits as may be available to Developer for the non-sidewalk components of the CH Widening Work under Section 3.3(d) of this Agreement. At the appropriate time, as determined by the City, Developer shall cooperate with the City to form a Benefit District to secure reimbursement to the City of one-third (1/3) of the costs of the sidewalks from the benefitting property owners. At the appropriate time, as determined by Developer, City shall cooperate with Developer to secure reimbursement to Developer of two-thirds (2/3) of the costs of the sidewalks and the costs of all right-of-way acquisitions, which reimbursements may be through a Benefit District or may be through some other mechanism for reimbursement consistent with then-existing City policies and requirements for reimbursements.”

- 1.3. Amendment to Section 3.4(e)(v). Section 3.4(e)(v) of the DA is deleted and replaced in its entirety with the following:

“(v) Developer hereby acknowledges and agrees that Developer is not, and shall not be, eligible for any credits(s) against any City fees, or any reimbursement(s) from City of any costs incurred by Developer in funding, designing or constructing non-Master Plan infrastructure, based on Developer’s election fund, design and/or construct non-Master Plan infrastructure pursuant to this Section 3.4(e). This section (v) does not limit Developer’s rights to seek reimbursement from other benefitted property owners.”

- 1.4. Addition of Section 3.9. A new Section 3.9 is hereby added to the DA as follows:

“3.9 Residential Growth Allotment Procedures.

(a) Each Residential Growth Allotment (“RGA”) properly allocated to Developer pursuant to the applicable provisions of the City’s adopted Growth Management Ordinance (“GMO”) Guidelines (Resolution 2014-145, adopted September 2, 2014), as they may be amended, shall be deemed by the City to be “perfected” when a “building permit” is issued consistent with the provisions of this Section 3.9.

(b) For purposes of this Section 3.9, the type of “building permit” that will be effective to “perfect” a RGA may be a plumbing permit or may be another type of permit approved by the City, provided that if Developer wishes to rely on a plumbing permit to perfect an RGA, the following requirements must be met:

(i) The lot that corresponds to the plumbing permit is within a residential subdivision described on a tentative subdivision map that has been approved by the City;

(ii) The application for the plumbing permit is accompanied by a plot plan that clearly identifies and describes (a) the land on which the proposed work is to be done by legal description, street address or similar description, and (b) locations of the water and sewer service lines for each dwelling unit proposed to be constructed and any other work that may be completed pursuant to the plumbing permit.

(iii) An inspection fee is paid in an amount sufficient to fund the City’s inspection of the work authorized by the plumbing permit. Said fee shall be based on the City’s Master Fee Schedule adopted by City Council.”

- 1.5. Amendment to Section 4.8(a). Section 4.8(a) is deleted and replaced in its entirety with the following:

(a) Fire Station

The following provisions shall be implemented by the City and Developer for construction of the first fire station on the Property, unless otherwise agreed to in writing by City and Developer. In the absence of such other written agreement, Developer shall design and construct the first fire station within twenty-four (24) months of the Effective Date of this Agreement according to the following terms and conditions:

(i) Not later than thirty (30) days from the Effective Date of this Agreement, City and Developer shall execute an improvement agreement providing for City’s and Developer’s site acquisition, design and construction of the first fire station (the “Fire Station Agreement”) consistent with the following:

(1) Developer shall commence work on the design and construction documents for the fire station within ten (10) days following City’s

selection of a fire station site, and construction documents shall be completed no later than nine (9) months (270 days) from the execution of the Fire Station Agreement.

(2) City shall select the fire station site no later than sixty (60) days from the execution of the Fire Station Agreement.

(3) City shall approve the construction documents no later than three (3) months (ninety (90) days) from Developer's submittal of the construction documents.

(4) Not later than sixty (60) days from the date that the City has approved the construction documents for the fire station, Developer shall commence construction of the fire station.

(ii) The fire station shall be complete one year after the commencement of construction.

(iii) The fire station shall be built in accordance with all requirements of the Public Safety Master Plan (as may be amended by the City).

The Developer shall pay the first six million nine hundred thousand dollars (\$6.9 million) of costs associated with the site acquisition, design and construction of the fire station. The City shall pay all remaining costs associated with completion of the fire station.

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

3. **EFFECT OF AMENDMENT.** This First Amendment hereby affirms all terms and conditions set forth in the DA unless specifically modified by this First Amendment. In the event of a conflict between this First Amendment and the DA, this First Amendment shall control. All terms and conditions set forth in the DA not specifically modified by this First Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, City and Developer hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY,
a municipal corporation

By: Robert Rickman

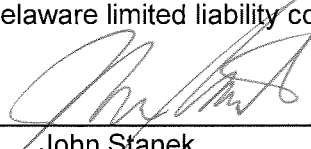
Title: MAYOR

Date: _____

Attest:

DEVELOPER:

Tracy BPS, LLC,
a Delaware limited liability company

By: 

Title: Authorized Representative

Date: _____

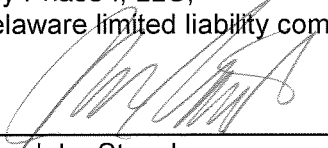
CITY OF TRACY – FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
TRACY HILLS
Page 8 of 8

By: Adrienne Richardson
Title: CITY CLERK
Date: _____

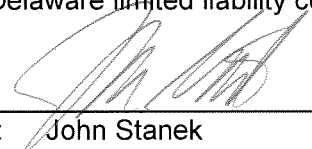
Approved as to Form:

By: Leticia Ramirez
Title: CITY ATTORNEY
Date: _____

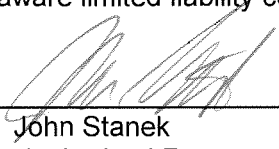
Tracy Phase I, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: _____

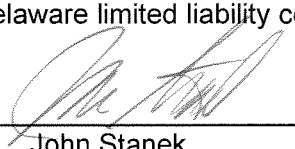
Tracy Phase IB, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: _____

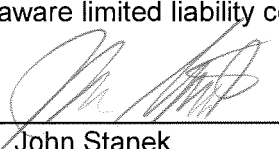
Tracy Phase 2, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: _____

Tracy Phase 3, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: _____

Tracy Phase 4, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: _____

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

State of California)
County of Orange)

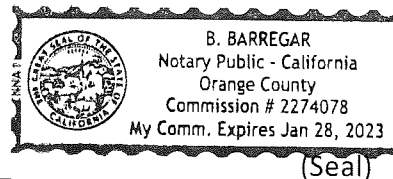
On November 5, 2020, before me, B. Barregar,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature B. Barregar



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State of California)
County of Orange)

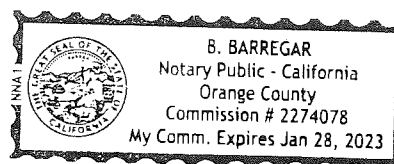
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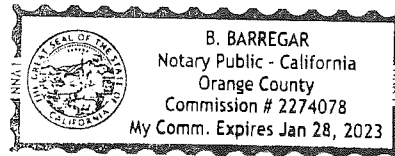
State of California)
County of Orange)

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(insert name and title of the officer)

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Signature B. Barregar (Seal)

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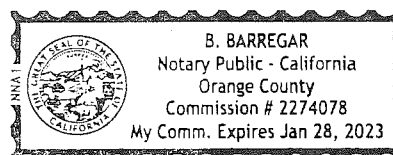
State of California)
County of Orange)

On November 5, 2020, before me, B. Barregar
(insert name and title of the officer)

Notary Public, personally appeared John Stanek,
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Signature B. Barregar (Seal)

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State of California)
County of Orange)

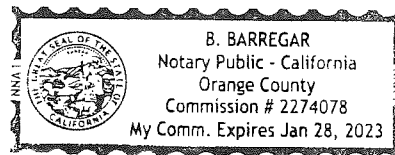
On November 5, 2020, before me, B. Barregar
(insert name and title of the officer)

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

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WITNESS my hand and official seal.

Signature B. Barregar



(Seal)

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State of California)
County of Orange)

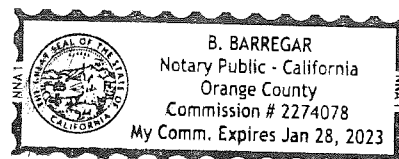
On November 5, 2020, before me, B. Barregar
(insert name and title of the officer)

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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 B. Barregar



(Seal)

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State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

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 _____

(Seal)

AGENDA ITEM 1.I

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1301 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS PHASE 1B/1C PROJECT APPLICATION NUMBER SPA19-0002

EXECUTIVE SUMMARY

Ordinance 1301 was introduced at a special Council meeting held on November 10, 2020. Ordinance 1301 is before Council for adoption.

DISCUSSION

The proposed Tracy Hills Specific Plan Amendment (SPA) includes rezoning land in a manner consistent with the proposed General Plan Amendment. The SPA includes decreasing the Mixed Use Business Park Zone District (MUBP-TH) by approximately 132 acres, decreasing the Light Industrial Zone District (M1-TH) by approximately 27 acres, and decreasing the General Highway Commercial Zone District (GHC-TH) by approximately 19 acres. The SPA includes increasing the Low Density Residential Zone District (LDR-TH) by approximately 129 acres, increasing the Medium Density Residential Zone District (MDR-TH) by approximately 46 acres, and increasing the Tracy Hills Conservation Zone District (C-TH) by approximately 3 acres.

The proposed SPA would result in Phase 1B zoned primarily as Low Density Residential and Phase 1C zoned primarily as Medium Density Residential. Phase 1B also includes areas zoned High Density Residential and General Highway Commercial, located east of the future Lammers Road extension, which would be unchanged by the proposed SPA.

The proposed SPA also includes updates to the development standards for the LDR-TH zoning district to allow flexibility for small lots, by reducing the minimum lot size to 3,200 square feet and reducing minimum lot width to 35 feet on knuckles and cul-de-sacs.

The proposed SPA also includes the addition of Appendix C, the Phase 1B Landscape Design Guidelines. The landscape design guidelines contained in Section 3.4 of the Tracy Hills Specific Plan apply Specific Plan-wide; however, implementation details are only shown for Phase 1A. The purpose of Appendix C is to provide landscape design guidelines and implementation details for Phase 1B. Similar details for Phase 1C will be proposed when the Phase 1C small-lot Vesting Tentative Subdivision Map is proposed.

Appendix C includes the following components for Phase 1B landscape design guidelines:

- Community Monumentation
- Circulation

- Streetscape and Trails
- Edge Conditions/Easements
- Conceptual Overall Illustrative Parks and Landscape Plan
- Lighting
- Walls and Fences
- Landscape Master Tree Plan

Ordinance 1301 was introduced at the special Council meeting held on November 10, 2020. Ordinance 1301 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Priorities.

FISCAL IMPACT

The costs of these development applications were funded by application fees and a Cost Recovery Agreement.

RECOMMENDATION

That the City Council waive the second reading of the full text and adopt Ordinance 1301 an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills Phase 1B/1C Project – Application Number SPA19-0002.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1301

Attachment B: Tracy Hills Specific Plan Amendment

ORDINANCE 1301

AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY
HILLS SPECIFIC PLAN FOR THE TRACY HILLS PHASE 1B/1C PROJECT
APPLICATION NUMBER SPA19-0002

WHEREAS, The Tracy Hills Specific Plan consists of approximately 2,732 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580; and

WHEREAS, On April 5, 2016, City Council certified an Environmental Impact Report and approved a General Plan Amendment, a comprehensive update to the Tracy Hills Specific Plan, and a Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, which consists of approximately 417 acres and includes approximately 1,160 single-family residential lots; and

WHEREAS, On April 8, 2019, an application was submitted for a proposed amendment to the Tracy Hills Specific Plan for the Tracy Hills Phase 1B/1C Project, which consists of approximately 310 acres located west of Phase 1A in the vicinity of Tracy Hills Drive, Application Number SPA19-0002; and

WHEREAS, The proposed Tracy Hills Specific Plan Amendment (SPA) includes rezoning land within the Tracy Hills Phase 1B/1C area; and

WHEREAS, The proposed SPA includes decreasing the Mixed Use Business Park Zone District (MUBP-TH) by approximately 132 acres, decreasing the Light Industrial Zone District (M1-TH) by approximately 27 acres, and decreasing the General Highway Commercial Zone District (GHC-TH) by approximately 19 acres; and

WHEREAS, The proposed SPA includes increasing the Low Density Residential Zone District (LDR-TH) by approximately 129 acres, increasing the Medium Density Residential Zone District (MDR-TH) by approximately 46 acres, and increasing the Tracy Hills Conservation Zone District (C-TH) by approximately 3 acres; and

WHEREAS, The proposed SPA would result in Phase 1B zoned primarily as Low Density Residential and Phase 1C zoned primarily as Medium Density Residential; and

WHEREAS, Phase 1B also includes areas zoned High Density Residential and General Highway Commercial, located east of the future Lammers Road extension, which would be unchanged by the proposed SPA; and

WHEREAS, The proposed SPA also includes updates to the development standards for the LDR-TH zoning district to allow flexibility for small lots, by reducing the minimum lot size to 3,200 square feet and reducing minimum lot width to 35 feet on knuckles and cul-de-sacs; and

WHEREAS, The proposed SPA also includes the addition of Appendix C, the Phase 1B Landscape Design Guidelines; and

WHEREAS, Due to proposed reductions in land zoned as Mixed Use Business Park, Light Industrial, and General Highway Commercial, the City conducted an economic study to

analyze whether the remaining areas zoned for commercial and industrial uses would be sufficient to satisfy anticipated market demands; and

WHEREAS, The economic study concluded that the proposed rezoning of non-residential to residential uses would not constrain the future economic development of the City because there would still be more than sufficient land remaining for future commercial/retail, business park/office, and industrial development; and

WHEREAS, The proposed SPA is consistent with the General Plan, as amended; and

WHEREAS, An Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. An Initial Study has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines to document the finding that none of the conditions or circumstances that would require preparation of a subsequent EIR, pursuant to Sections 15162 and 15168 of the CEQA Guidelines, exist in connection with the proposed Tracy Hills Phase 1B/1C Project. Therefore, pursuant to Section 15168(c)(2), no further environmental document is required; and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 14, 2020 and recommended that the City Council introduce and adopt this ordinance to approve the proposed Tracy Hills Specific Plan Amendment for the Tracy Hills Phase 1B/1C Project, Application Number SPA19-0002; and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on November 10, 2020;

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby approves the Tracy Hills Specific Plan Amendment for the Tracy Hills Phase 1B/1C Project, Application Number SPA19-0002, as attached to the November 10, 2020 City Council staff report as Attachment "B".

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. 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.)

* * * * *

This Ordinance 1301 was introduced at a special meeting of the Tracy City Council on the 10th day of November 2020, and finally adopted on the 17th day of November, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK



Tracy Hills Specific Plan

Approved April 5, 2016 (Tracy Resolution 2016-063)
Amended June 18, 2019, incorporated herein (Tracy Ordinance 1270)
Amended May 19, 2020, incorporated herein (Tracy Ordinance 1286)
Amended July 21, 2020, incorporated herein (Tracy Ordinance 1294)
Draft Amendment September 16, 2020, Village 7C (Pending Approval)
Draft Amendment October 1 2020, Phase 1B & 1C



PHASE 1B/C AMENDMENT DRAFT

October 1, 2020

0 1,500 3,000 6,000 Feet



Legend

- Specific Plan Boundary
- Single Family Homes: Large Lot
- Single Family Homes: Medium Lot
- Single Family Homes: Small Lot
- Multi-Family Homes
- Mixed Use
- Commercial
- Light Industrial
- Neighborhood Park
- Community Park
- Recreation Open Space
- Conservation Easements/Open Space
- Roads
- Elementary School
- Retention Basin
- Pipeline Easement Multi-Use Trail

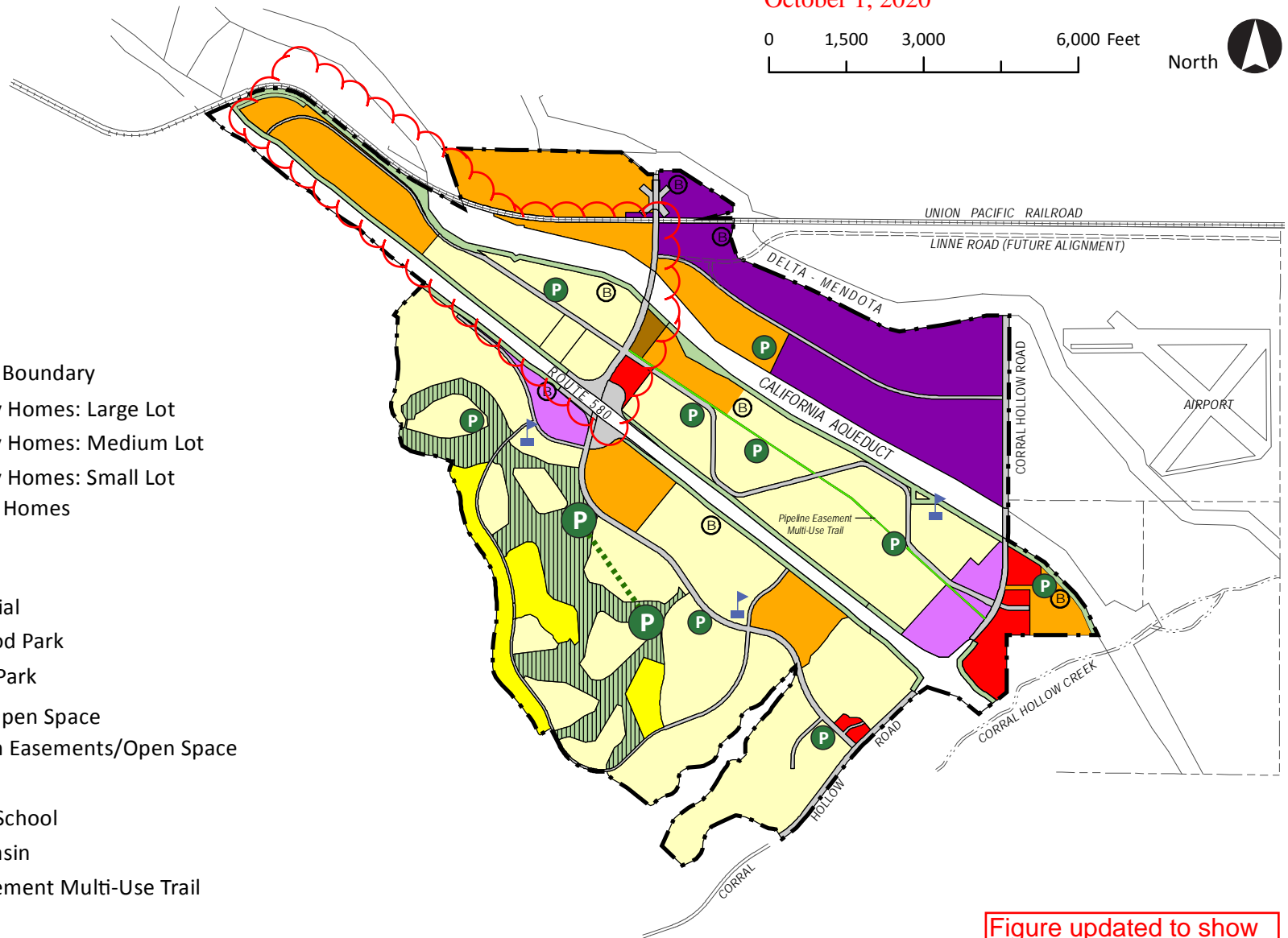


Figure updated to show numerous land use changes in Phase 1B/1C

NOTES:

1. The locations, numbers, and configurations of public schools, park sites, and public utilities are conceptual and subject to change.
2. This exhibit is for conceptual purposes to show approximate locations.



TRACY HILLS
Specific Plan

Figure 1-3
Land Use Concept



TABLE 1-1
LAND USE PLAN BUILDOUT EXAMPLE

Zoning District or Land Use	Approximate Gross Acres ¹	Approximate Adjusted Developable Acres ^{1, 2, 3}	Target Density Range or F.A.R.	Projected Dwelling Units or Square Feet ¹
Residential Estate	95.6	81.3	(0.5-2.0 DU's/ac.)	122 DU's
Low Density Residential	1,188 <u>1,316.2</u>	852.5 <u>961.5</u>	(2.1-5.8 DU's/ac.)	3,150 <u>3,558</u> DU's
Medium Density Residential	376.1 <u>422.1</u> ⁴	319.7 <u>358.8</u>	(5.9-12.0 DU's/ac.)	2,381 <u>2,672</u> DU's
High Density Residential	9.2	7.8	(12.1-25.0 DU's/ac.)	125 DU's
Mixed Use Business Park	211.1 <u>179.0</u>	179.4 <u>67.2</u>	0.20 F.A.R.	1,562,933 <u>585,446</u> s.f.
General Highway Commercial	72.4 <u>53.8</u> ⁴	61.5 <u>45.7</u>	0.20 F.A.R.	535,788 <u>398,499</u> s.f.
Light Industrial	363.1 <u>336.4</u>	308.6 <u>285.9</u>	0.25 F.A.R.	3,360,654 <u>3,113,887</u> s.f.
Conservation Easements	123.3 <u>126.5</u>		n/a	
Subtotal:	2,438.8	1,810.8<u>1,808.2</u>		
Interstate 580 Interchange and ROW	137.5			
California Aqueduct ROW	143.1			
Union Pacific Rail Road	12.2			
TOTAL:	2,731.6	1,810.8<u>1,808.2</u>		5,778 <u>6,477</u> DU's 5.54 <u>1</u> mil s.f.

1 All Acreages, dwelling units, and square footage examples shown herein are approximate.

2 Adjusted Developable Acres - Residential, Mixed Use Business Park, General Highway Commercial, and Light Industrial acreages have been adjusted to show that an estimated 15% of the land area is used for infrastructure such as roads and utilities, and/or public facilities such as neighborhood parks/amenities, schools, and/or public facilities such as retention basins as noted in the General Plan. Actual numbers will vary depending on site specific characteristics.

3 180 to 185 acres of General Plan mandated Open Space taken out of Low Density Residential land use category.

4 8.7 acres of General Highway Commercial will be zoned with a Medium Density Residential Overlay and is anticipated to be developed with residential uses. As such this acreage is accounted for in the Medium Density Residential zoning district.



1.3 EXISTING CONDITIONS

The Specific Plan area has ground elevations that begin at approximately 195 feet above sea level on the north east side of the site, and rise to over 1,200 feet in the south west corner. The area southwest of the California Aqueduct is primarily used for grazing. Other uses include row crop agriculture and orchards, with open space on the steep upland portions. Vegetation that occurs on site is primarily grassland dominated by non-native species and contains little undisturbed habitat in the flatter lowland areas. The riparian woodland along Corral Hollow Creek has been degraded by historical grazing. Scrub grows in areas of rock outcrops and shallow soil. The area between I-580 and the Union Pacific Railroad/California Aqueduct is vacant with an abandoned structure formerly used in relation with the livestock operation. The portion of the site bound by the California Aqueduct, Union Pacific Rail Road, Delta-Mendota Canal and Corral Hollow Road is utilized as agriculture with three existing residences. (Refer to **Figure 1-4, Existing Conditions Map.**)

1.3.1 Conservation Easement(s) and Protected Open Space

The Specific Plan contains approximately [420-425](#) acres of open space in 100-foot wide conservation easements that are located adjacent to I-580 and the southern side of the California Aqueduct. These open space conservation easement areas were granted to the San Joaquin Council of Governments (SJCOG).

Adjacent to the Specific Plan's western boundary and outside of the City limits, over 3,500 acres of open space has been set aside for the conservation of wildlife habitat. A conservation easement was recorded on the open space in July 2012 and granted to SJCOG. The conservation easement ensures that the lands will be preserved for habitat in perpetuity.

1.3.2 Interstate 580 and Pipeline Easements

Interstate 580 is a four-lane, limited-access interstate highway that bisects the property on a northwest to southeast axis. Interstate 580 connects to I-205 and the western extension of I-580 to the north and to I-5 to the south. The freeway is also fronted by the 100-foot wide, open space conservation easements.

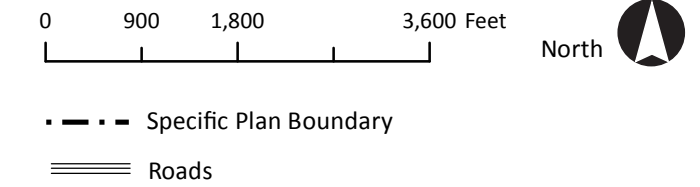
Paralleling and adjacent to the freeway right-of-way are two easements that contain pipelines. A third pipeline easement transects the northeastern corner of the Specific Plan. Refer to Figure 1-4, Existing Conditions Map, for the general locations of pipeline easements.

1.3.3 California Aqueduct and the Delta-Mendota Canal

The California Aqueduct bisects the Specific Plan area north of I-580 in a general northwest-to-southeast direction. Located outside the northern Specific Plan boundary, the Delta-Mendota Canal (DMC), also runs in a northwest to southeast direction and abuts the northern Specific Plan boundary. This segment of the DMC is also located outside of City limits. The two aqueducts carry water south for agricultural use and further south into the Los Angeles basin.

1.3.4 Union Pacific Railroad Line

A segment of the Union Pacific Railroad line crosses the northwest corner of the Specific Plan area in an east-west direction and is an active railway.



- Legend**
- RE-TH Residential Estate
 - LDR-TH Low Density Residential
 - MDR-TH Medium Density Residential
 - HDR-TH High Density Residential
 - MUBP-TH Mixed Use Business Park
 - GHC-TH General Highway Commercial
 - GHC-MDR-TH General Highway Commercial w/ Medium Density Residential Overlay
 - M1-TH Light Industrial
 - C-TH Tracy Hills Conservation

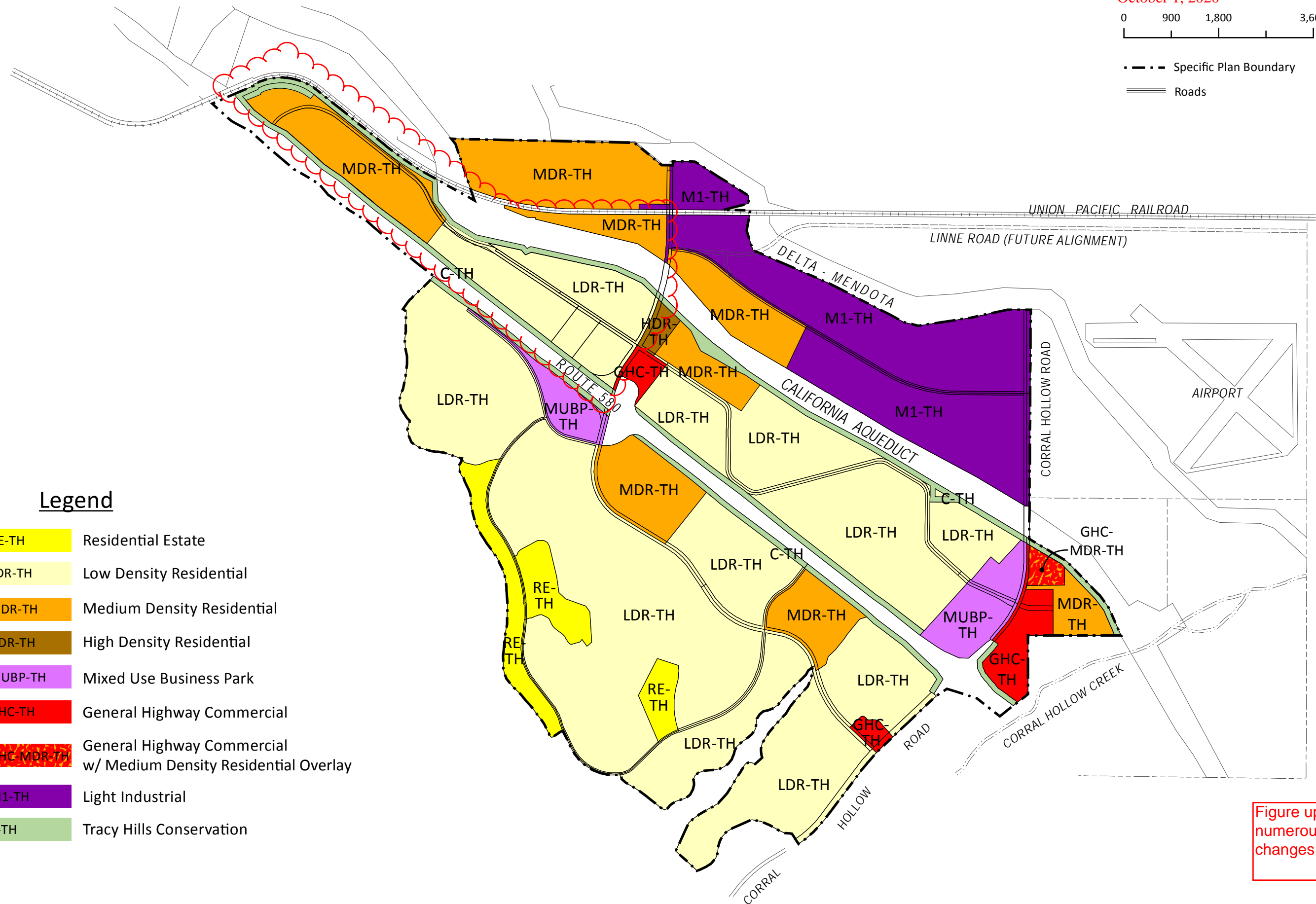


Figure updated to show numerous zoning changes in Phase 1B/1C

2. ZONING AND DEVELOPMENT STANDARDS



2.1 RESIDENTIAL ZONING DISTRICTS

2.1.1 Purpose

Tracy Hills will provide a variety of housing types that accommodate a range of housing objectives, buyer needs, and affordability. It is expected that, once fully developed, Tracy Hills will accommodate approximately ~~5,778~~6,477 dwelling units and an estimated population of approximately ~~18,547~~20,791 (the California State Department of Finance estimates an average of 3.21 persons per household, as cited in the City's General Plan).

Figure 2-1, Zoning Districts, identifies four residential zoning districts. These zoning districts are Residential Estate (RE-TH, 0.5 to 2.0 dwelling units per acre), Low Density Residential (LDR-TH, 2.1 to 5.8 dwelling units per acre), Medium Density Residential (MDR-TH, 5.9 to 12.0 dwelling units per acre), and High Density Residential (HDR-TH, 12.1 to 25.0 dwelling units per acre).

The land use and development standards for the residential zoning districts of the Tracy Hills Specific Plan shall comply with all requirements that apply to the corresponding residential zoning districts in the Tracy Municipal Code, except as modified within this Specific Plan. (Refer to **Table 2-2, Residential Zoning Districts**).

TABLE 2-2
RESIDENTIAL ZONING DISTRICTS

Tracy Hills Specific Plan Residential Zoning Districts	Tracy Municipal Code Corresponding Zoning Districts
RE-TH	RE
LDR-TH	LDR
MDR-TH	MDR
HDR-TH	HDR

2.1.2 Permitted and Conditionally Permitted Uses Within Residential Zoning Districts

Table 2-1, Permitted and Conditionally Permitted Uses, indicates uses permitted within each residential zoning district of the Tracy Hills Specific Plan. The table also lists conditional uses that are subject to the granting of a Conditional Use Permit.



2. ZONING AND DEVELOPMENT STANDARDS

2.1.3 Development Standards for RE-TH, LDR-TH, MDR-TH, and HDR-TH

TABLE 2-3
DEVELOPMENT STANDARDS - RESIDENTIAL ZONING DISTRICTS

Development Standard	RE-TH	LDR-TH	MDR-TH ⁽¹²⁾	HDR-TH
Allowable Density Range	0.5 to 2.0 DU/AC	2.1 to 5.8 DU/AC ⁽¹⁴⁾	5.9 to 12.0 DU/AC	12.1 to 25.0 DU/AC
Maximum Lot Coverage	45%	45% ⁽⁸⁾	70%	45%
Minimum Lot Size	15,000 s.f.	3,900 3,200 s.f.	(1)	(1)
Minimum Lot Width	45' minimum at street frontage	45' minimum at street frontage ⁽¹⁵⁾	(1)	(1)
Minimum Front Yard Setback ⁽²⁾⁽³⁾⁽⁴⁾	30 feet	10 feet	10 feet ⁽¹¹⁾	15 feet
Minimum Front Yard Setback ⁽²⁾⁽³⁾⁽⁴⁾ Garage	30 feet	20 feet ⁽¹⁰⁾	18 feet ⁽¹⁰⁾	
Minimum Side Yard Setback ⁽²⁾⁽³⁾⁽⁶⁾⁽⁹⁾	10 feet	5 feet	3'-4" opposite garage side ⁽¹³⁾ 3'-8" on garage side ⁽¹³⁾	15 feet, street side; 10 feet interior side
Minimum Rear Yard Setback ⁽²⁾⁽³⁾	30 feet	10 feet	7 feet	10 feet
Maximum Building Height ⁽⁷⁾	35 feet	35 feet	35 feet	35 feet

(1) To be determined upon approval of the Tentative Subdivision Map: The developer shall demonstrate that every lot has size and dimensions capable of meeting the land use, public utilities, and development standards of this Specific Plan.

(2) Any building / structure shall maintain minimum setbacks from the following pipelines:

(refer to figure 1-4, Existing Conditions, for general location of pipeline easements)

- Phillips 66: minimum 16.25 feet from the edge of the pipeline easement
- Shell: minimum 10 feet from the edge of the pipeline easement
- PG&E and Chevron: minimum 15 feet from the edge of northeast side the pipeline easement and minimum 20 feet from the edge of the southwest side of the pipeline easement.

(3) All setbacks measured from property line.

(4) There shall be no parking in the front yard between the house and the public right-of-way, except in the driveway.

(5) For rear yard, minimum setback is 5 feet for detached garage.

(6) For all corner lots, the minimum street side yard setback is 10 feet.

(7) Detached accessory structures that encroach into the rear or side yard setbacks shall have a maximum height of 10 feet.

(8) Maximum Lot Coverage up to 55% shall be permitted for single story elevation.

(9) AC condenser units may encroach into the minimum rear or side yard setback. At least one side yard of the lot shall maintain the minimum setback.

(10) The minimum front yard setback to a side swing garage is 10 feet, if the garage door does not face a street.

(11) Front porches, balconies, and bay windows may encroach up to 5 feet into the minimum front setback

(12) In the MDR-TH zoning district, lots may be created with access provided by a private court or lane, as shown by the examples in Figure 2-6. For such cases where the front of a house faces a private court or lane, the property line dividing the lot from the private court or lane shall be the front lot line.

(13) The minimum side yard setback may be reduced to zero on the side of an attached duet residential unit.

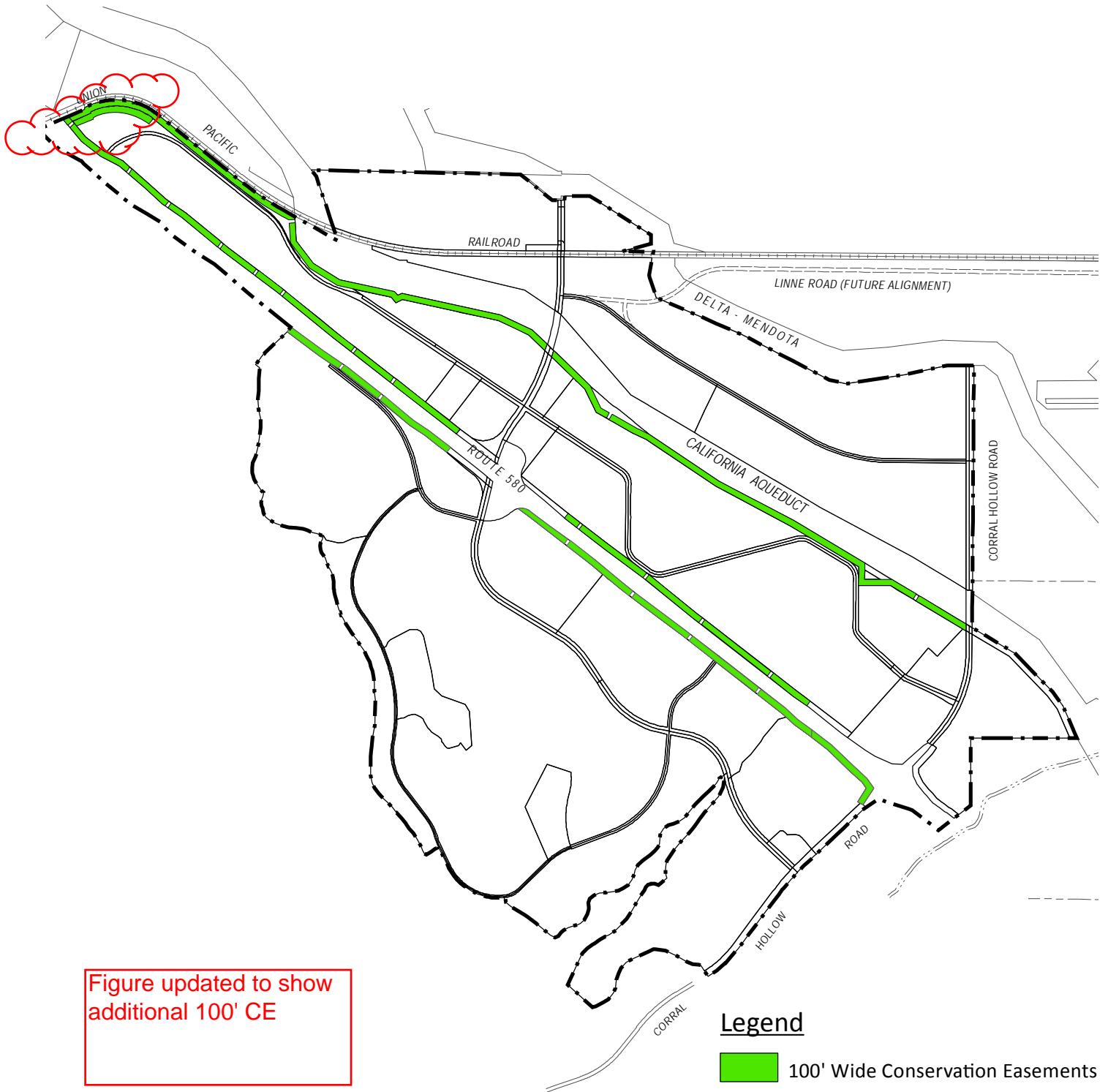
⁽¹⁴⁾ Density shall be calculated using the gross area of the overall subdivision.

⁽¹⁵⁾ Lots on cul-de-sacs or knuckles shall have a minimum lot width of 35 feet at the front property line.

0 1,500 3,000 6,000 Feet



PHASE 1B/C AMENDMENT DRAFT
October 1, 2020





Appendix C. Phase 1B Landscape Design Guidelines

APPENDIX C

PHASE 1B LANDSCAPE DESIGN GUIDELINES

1. PURPOSE AND SCOPE

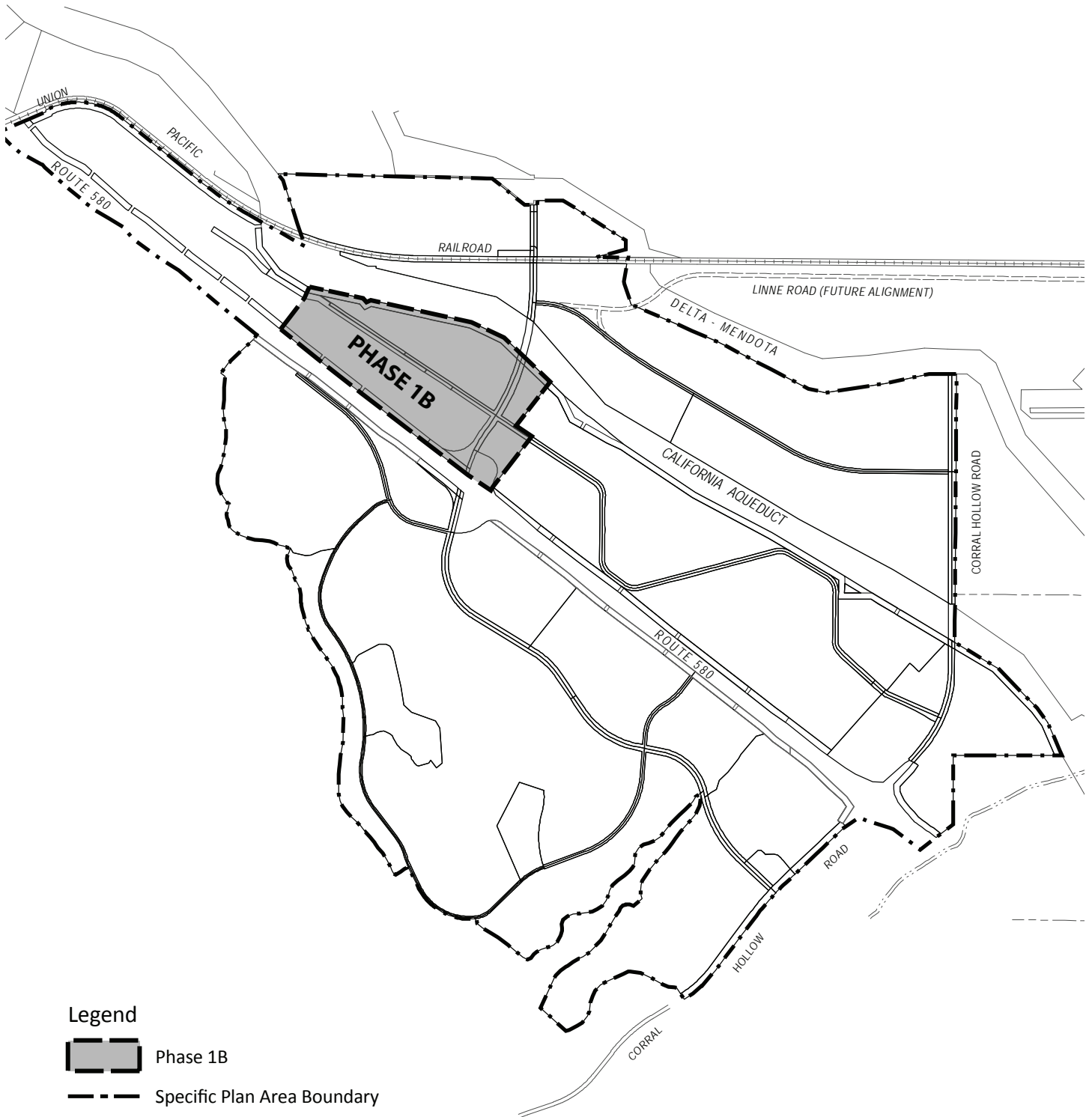
The landscape design guidelines contained in Section 3.4 of the Tracy Hills Specific Plan apply Specific Plan-wide; however, implementation details are only shown for Phase 1A. The purpose of Appendix C is to provide landscape design guidelines and implementation details for Phase 1B of Tracy Hills. The Phase 1B landscape design guidelines include the following components:

- Community Monumentation
- Circulation
- Streetscape and Trails
- Edge conditions/ Easements
- Conceptual Overall Illustrative Parks and Landscape Plan
- Lighting
- Walls and Fences
- Landscape Master Tree Plan

2. LOCATION

Phase 1B of the Specific Plan Area encompasses approximately 158 acres located generally west of Phase 1A, south of the California Aqueduct and north of Interstate 580. Refer to Figure C-1, Location Map - Phase 1B for additional information.

0 1,500 3,000 6,000 Feet



Legend



Phase 1B



Specific Plan Area Boundary



TRACY HILLS
Specific Plan

Figure C-1
LOCATION MAP - PHASE 1B



Appendix C. Phase 1B Landscape Design Guidelines

3. COMMUNITY MONUMENTATION

Phase 1B shall continue the Tracy Hills themes established in Phase 1A through the consistent application and use of monument signage. Monumentation will be consistent with the character of the project, but flexible enough to respond to individual project context. Logos, type styles, color schemes, and architectural features should be consistent throughout the area being identified. Monumentation may vary in size and detail in a manner that reflects their relative importance within the signage hierarchy, but will incorporate all the materials proposed within the monumentation. Refer to Figure C-2 Community Identity Signage/Monumentation Key Map - Phase 1B for preliminary signage locations.

3.1. Community Monumentation Detail Reference

Community monumentation utilized in Phase 1B were originally used and detailed in Phase 1A. Monumentation shall reference the details used in Phase 1A to ensure consistency throughout the Tracy Hills Specific Plan area. Please refer to the list below for detail references of the monumentation shown in Figure C-2 Community Identity Signage/Monumentation Key Map - Phase 1B.



Primary Neighborhood Entry Signage - Refer to Figure 3-3



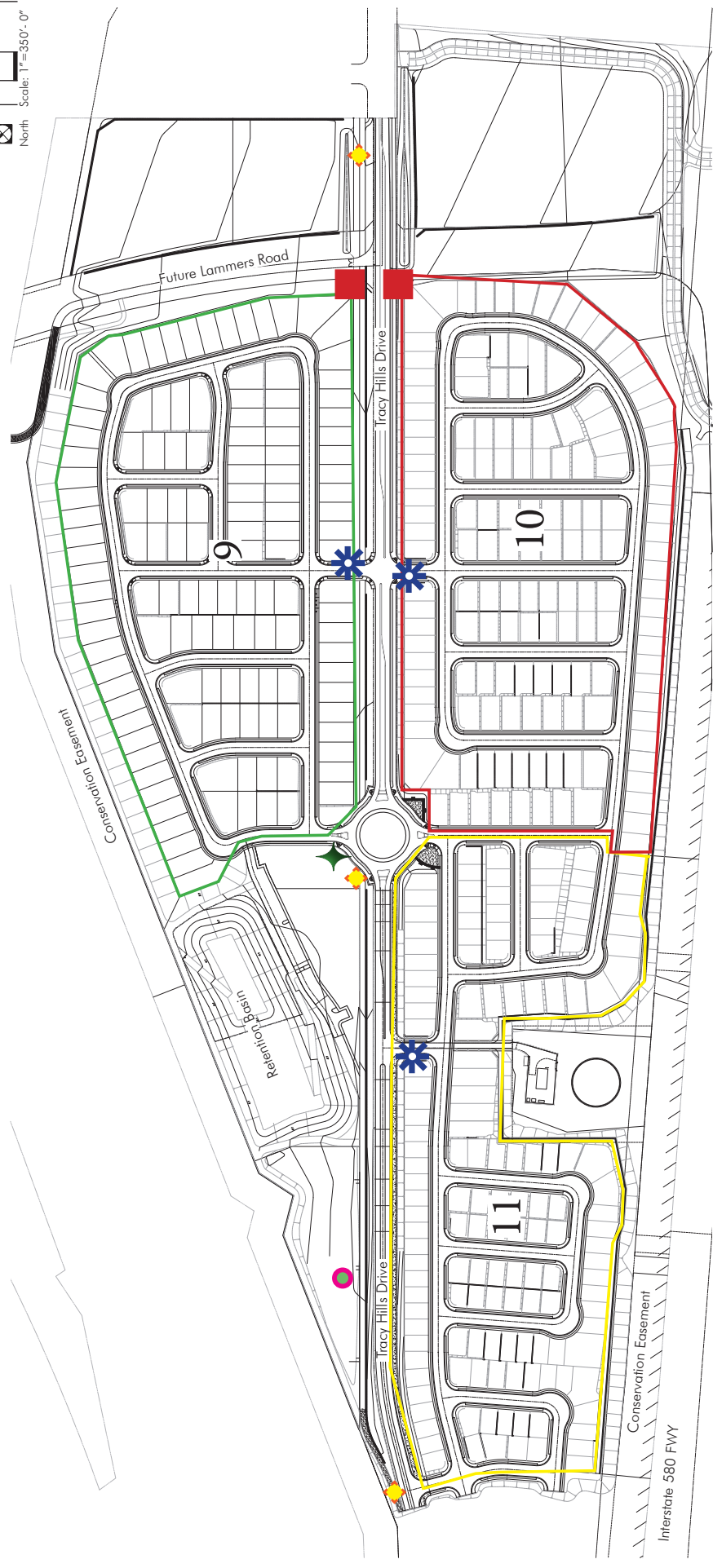
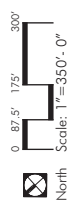
Park Signage - Refer to Figure 3-4



Trailhead Marker - Refer to Figure 3-5



Dog Park Sign - Refer to Figure 3-5



Legend

Symbol	Description/Location	Symbol	Description/Location
	Tertiary Community Monumentation - Smaller version of existing Primary Community Monumentation at corner of Tracy Hills Drive and Corral Hollow (4 total - one monument on each corner)		Primary Neighborhood Entry Signage- Identifies entries of the neighborhoods off main arterial roads (one sign per symbol)
	Village 9 boundary		Park Signage- Similar to Neighborhood Entries but at a smaller scale and identifies main park entry.
	Village 10 boundary		Trailhead Marker- Signage at a smaller scale to blend into surroundings. It identifies location of trail access where it connects to a roadway.
	Village 11 boundary		Dog Park Sign- Signage at a smaller scale, matching Trailhead Marker.



TRACY HILLS
Specific Plan

Figure C-2
COMMUNITY IDENTITY SIGNAGE/MONUMENTATION KEY MAP - PHASE 1B



Appendix C. Phase 1B Landscape Design Guidelines

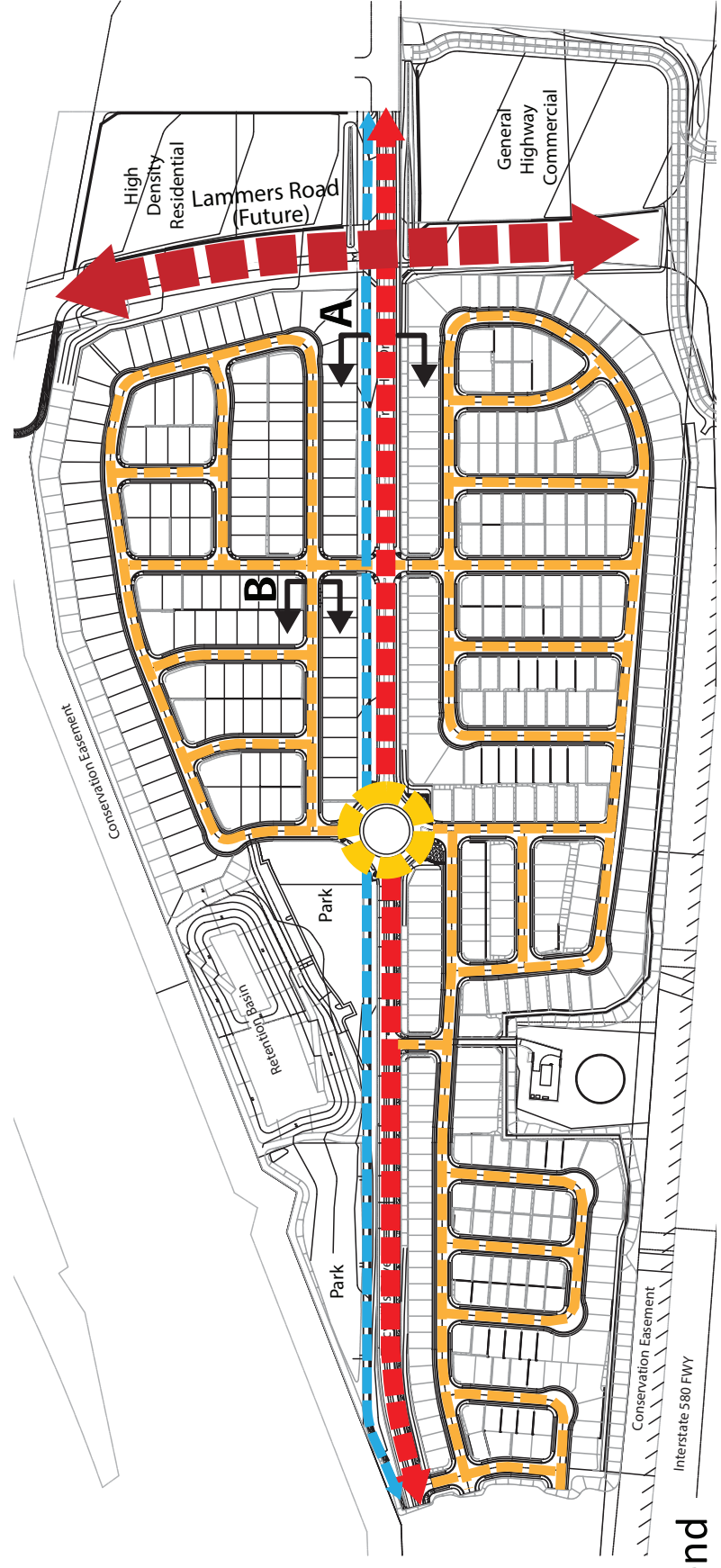
4. CIRCULATION

A hierarchy of streets and trails are proposed within Phase 1B which provide separate facilities for vehicles, cyclists, and pedestrians. Primary access is provided by the Tracy Hills Drive extension from Phase 1A. The Tracy Hills Drive extension will be a two lane divided road with a 6' wide sidewalk on one side of the street and a 16.5' wide decomposed granite paved trail over a pipeline easement on the other side of the street. Refer to Figure C-4 for a typical section of the spine road extension. Residential streets serving the villages in Phase 1B take access from Tracy Hills Drive with the central primary intersection being controlled with a roundabout. Refer to Figure C-5 for a typical section of the residential street. Refer to Figure C-3 Circulation Map - Phase 1B for additional information on the proposed circulation for this phase of Tracy Hills

Future access will be provided by the Lammers Road extension and new Interstate 580 interchange at the Lammers Road extension.

3.1. Streetscape and Trails

The following figures illustrate a hierarchy of streetscapes and circulation which provide distinctive landscape treatments for each planned roadway and trail. Landscape and hardscape treatments include elements such as landscaped medians, sidewalks, enhanced paving at pedestrian crossings and primary/secondary entries, trails and parkway trees with backdrops to enhance roadways. Consistent with Phase 1A, enhanced paving used is defined as any paving other than natural gray concrete or asphaltic concrete and the use of enhanced paving is strongly encouraged. Streetscapes and trails are shown in Figures C-4 to C-5 depict conceptual landscape application. Street trees shall be consistent with those shown in Figure C-11. Shrub and groundcover plant material shall be consistent with the species in the Landscape Plant Matrix in Section 3.4.15. of the Specific Plan.



Legend

- | Symbol | Description/Location |
|--------|---|
| | Future Lammers Road Extension (Not Installed with Phase 1B) |
| | Tracy Hills Drive (See Figure C-4 For Typical Section) |
| | Residential Street (See Figure C-5 For Typical Section) |
| | 16.5' Multi-Use trail (See Figure C-4 For Typical Section) |
| | Roundabout |



TRACY HILLS
Specific Plan



Figure C-4
Section A, Tracy Hills Drive & 16.5' Pipeline Easement

Notes:

- Street section is preliminary and subject to change.
- Landscape shown for illustrative purposes only. Refer to Master Tree Plan for specified street trees.

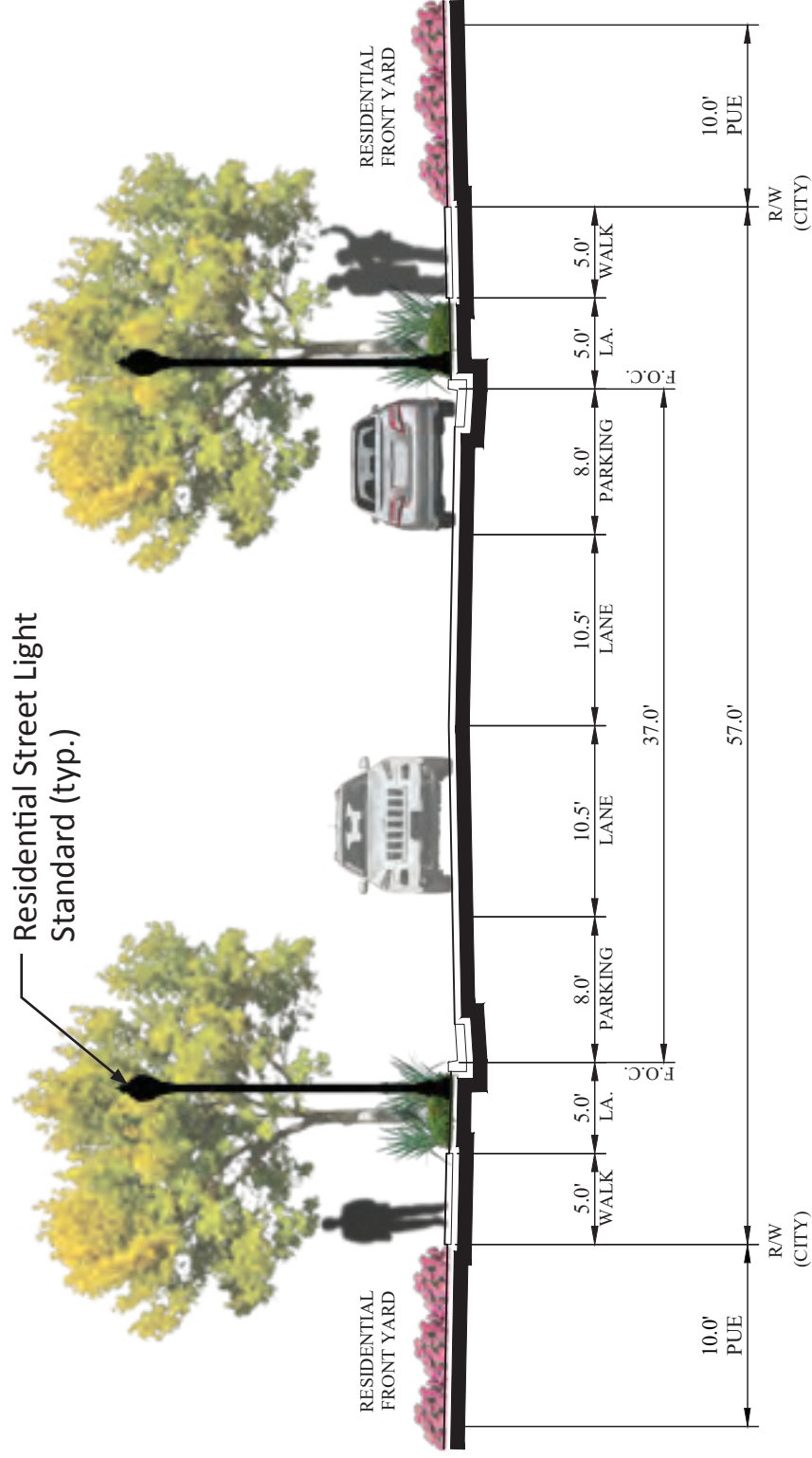


Figure C-5
Section B, Residential Street

Notes:

- Street section is preliminary and subject to change.
- Landscape shown for illustrative purposes only. Refer to Master Tree Plan for specified street trees.



Tracy Hills Specific Plan Appendix C. Phase 1B Landscape Design Guidelines

5. EDGE CONDITIONS/EASEMENTS

One hundred foot wide conservation easements are recorded within Phase 1B along I-580 and the south side of the California Aqueduct. These easements were dedicated to the San Joaquin Council of Governments in 2012. The total amount of conservation easement in Phase 1B is approximately 16 acres. The purpose of the conservation easements is to provide permanent wildlife habitat. These conservation easements will be owned and maintained by the project's HOA and zoned Tracy Hills Conservation (C-TH). No development within these areas will be allowed except for installation of landscape materials, irrigation and protective fencing. Signs will be attached to the fencing advising the public to “stay out of the conservation easement areas.”

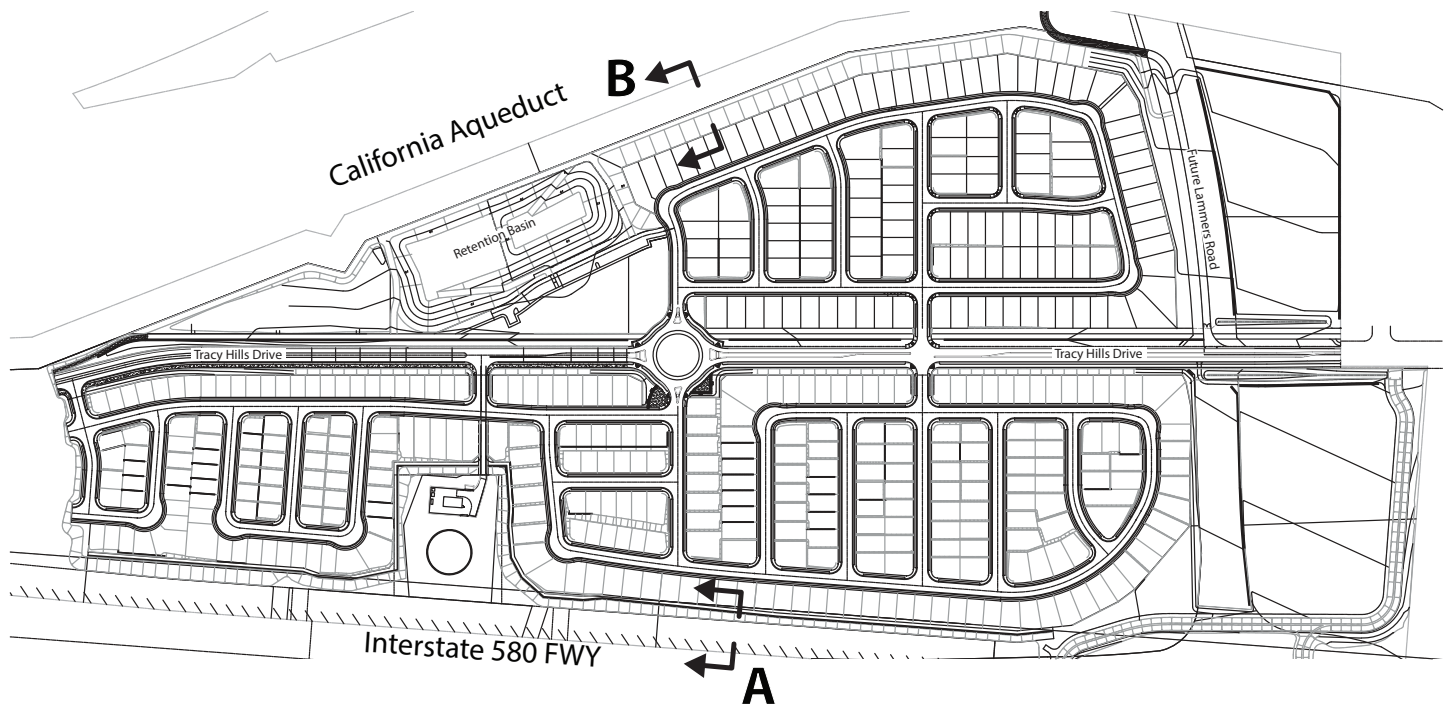


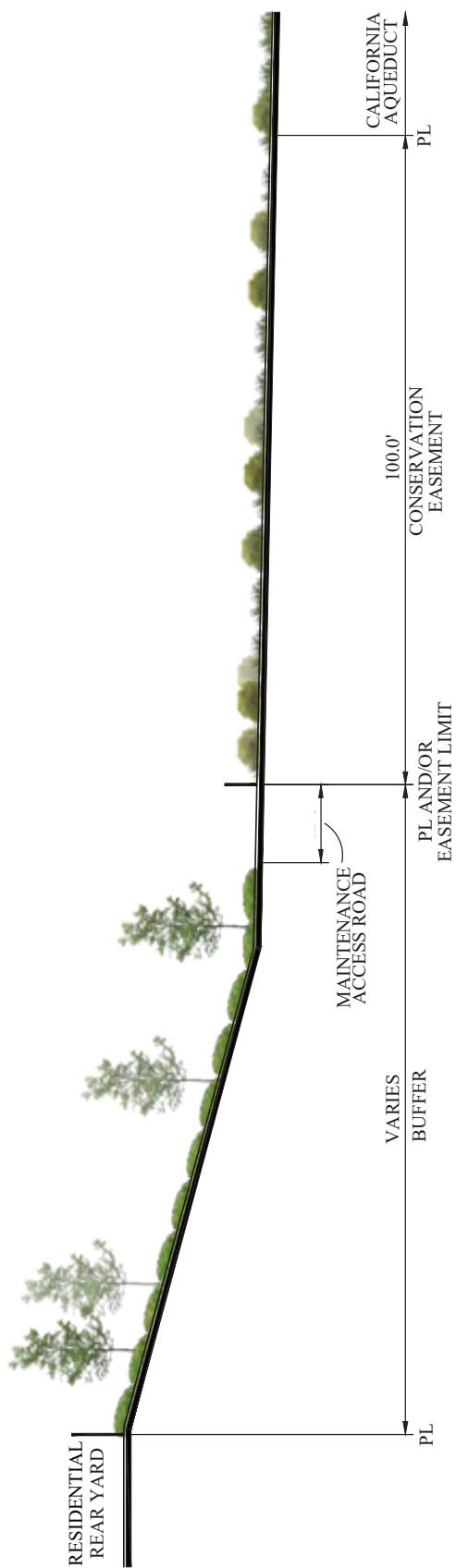
Figure C-6
Edge Conditions/Easements Key Map



Figure C-7
Section A



Tracy Hills Specific Plan Appendix C. Phase 1B Landscape Design Guidelines



**Figure C-8
Section B**



6. CONCEPTUAL OVERALL ILLUSTRATIVE PARKS AND LANDSCAPE PLAN

Within the residential villages located in this phase of Tracy Hills, there is a variety of parks and trails which provide opportunities for both passive and active recreational activities. The parks shown herein are conceptual in nature and subject to design refinement. Parks will be designed and improved by the Developer in accordance with the Citywide Parks Master Plan and this Specific Plan.

The park within this phase includes a neighborhood park which is centrally located within the low density residential. The decomposed granite multi-use trail fronts the neighborhood park on the south side with the conservation easement and retention basin along the north side of the park. A residential street fronts the park on the east side which will be the primary access to the park from the residential villages.

The parks within the community, amongst other things, shall incorporate the following design elements:

- Landscaping should consider the use of drought tolerate species and be planted to conserve water and reduce irrigation needs. Use of reclaimed water or other water conserving strategies is encouraged.
- Use appropriate lighting in high use areas for safety purposes.
- The use of drought-tolerant landscaping and hydrozoning irrigation systems should be designed effectively.



*Park as shown is CONCEPTUAL. Park design depicts possible programming based on the size of the park and in no way proposes or commits to specific amenities to be included in the final design of the park or HOA recreation facility. Neighborhood Park, Joint Use Basin, and any other element for which Tracy Phase 1B, LLC seeks park credits shall be reviewed and approved by the Parks Commission.

Figure C-9
Conceptual, Overall Illustrative, Parks and Landscape Plan - Phase 1B



7. LIGHTING

The site furnishings and lighting design for the residential villages located within Phase 1B shall be consistent with the themes and standards established in Phase 1A of Tracy Hills. Refer to section 3.4.9 the Specific Plan for the site furnishings and lighting standards which shall be applied to this phase of the Specific Plan.

8. WALLS AND FENCES

Consistent with Phase 1A, walls and fences within this phase of the Specific Plan are intended to maintain the quality and character of the public realm. Wall and fence materials shall provide variety, privacy and consistency within the community.









The following types of walls and fences were selected for use within different areas of the project site, consistent with their application in Phase 1A. All wall and fence heights are measured from the higher grade elevation on either side of the wall or fence. Refer to Figure C-10 Master Wall and Fence Plan - Phase 1B for general wall and fence locations. Wall and fence policies below as established in Phase 1A shall be applicable to Phase 1B.

- Decorative walls and/or screen walls shall be integrated with the community design intent, as well as the overall landscape design.
- All community theme walls and fences shall be consistent in design as outlined herein.
- View fencing of full height tubular steel may be used and pilasters incorporated into steel fencing.
- Shrubs are encouraged to be planted along community walls to soften the visual character.
- Continuous fencing or walls shall have pilasters located at corners, at change in wall/fencing materials and significant redirections in the fence line.

*All Wall and Fencing materials and colors specified are for design intent. Should materials and/or colors not be available at time of installation, alternative materials and/or colors shall be substituted as specified "or equal" and shall be approved by City staff. Design intent is for Walls and Fences to be consistent community-wide.

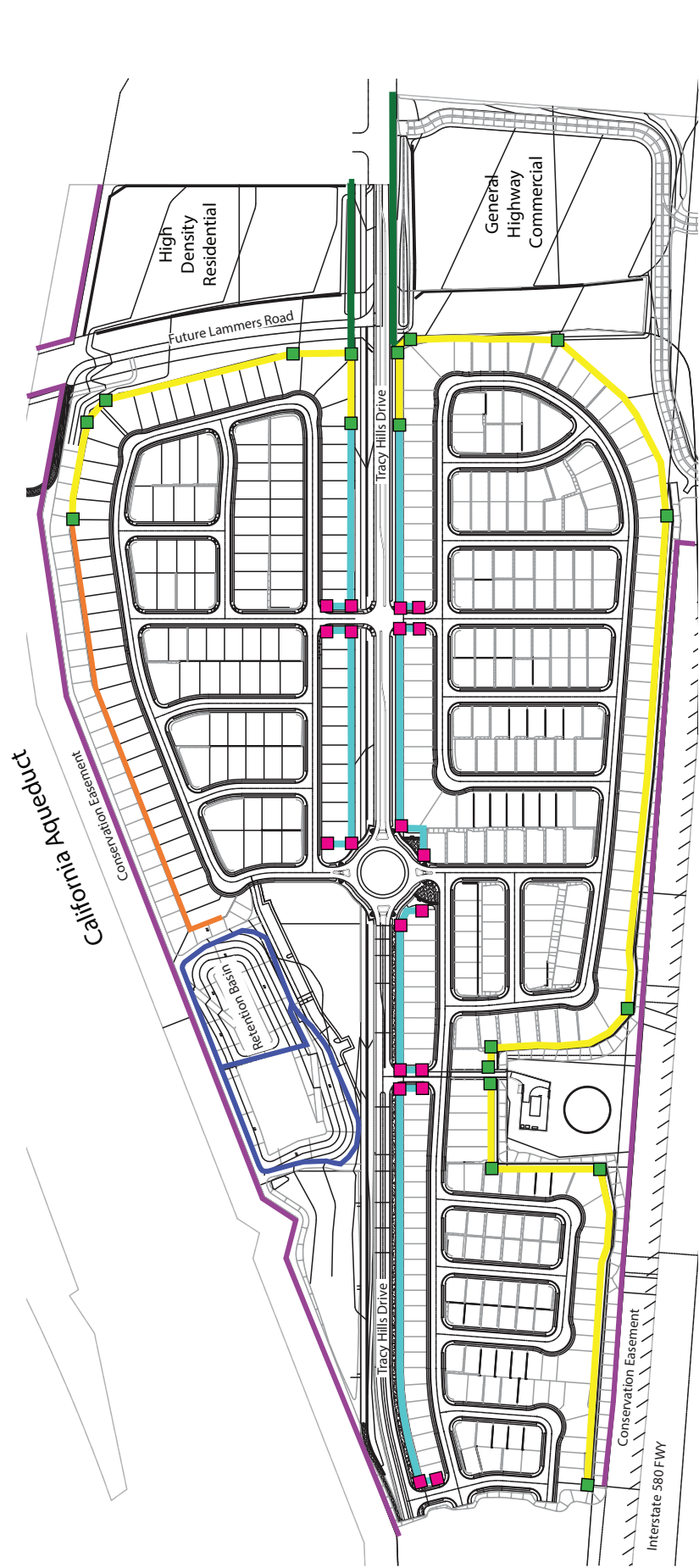
8.1. Wall and Fence Detail References

Majority of the wall and fence types utilized in Phase 1B were originally used and detailed in Phase 1A. Such fencing shall reference the details used in Phase 1A to ensure consistency throughout the Tracy Hills Specific Plan area. Please refer to the list below for detail references for the fencing shown in Figure C-10 Master Wall and Fence Plan - Phase 1B.

-  6'-0" Min. Proto II Block Decorative Wall- Split Face Block w/Cap - Refer to Figure 3-34
-  6'-0" Min. Builder Determined Wall/Fence
-  6'-0" or 8'-0" Sound Wall- Split Face Block w/Cap - Refer to Figure 3-35
-  4'-7" Conservation Easement Fence - No Finish- allow to rust naturally - Refer to Figure 3-31
-  Fence height and type to be determined
-  3'-3" Concrete Split Rail Fence - Refer to Figure 3-33
-  6'-6" Min. Pilaster - Split Face Block w/ Cap -Refer to Figures 3-34
-  6'-6" Min. Pilaster - Split Face Block w/ Cap - Refer to Figure 3-35



0 250 500 1,000 Feet



LEGEND		LEGEND	
Symbol	Description of Community Theme Walls/Locations	Symbol	Description of Community Theme Walls/Locations
—	6'-0" Min. Proto II Block Decorative Wall- Split Face Block w/cap.	—	Fence height and type to be determined
—	6'-0" Builder Determined Wall/Fence	—	3'-3" Concrete Split Rail Fence
—	6'-0" or 8'-0" Sound Wall- Split Face Block w/cap.	■	6'-6" Min. Pilaster- Split face Block w/cap.
—	4'-7" Conservation Easement Fence- No Finish- allow to rust naturally	■	6'-6" Min. Pilaster- Split face Block w/cap.
			Approximate Pilaster location shown



TRACY HILLS
Specific Plan

Figure C-10
MASTER WALL AND FENCE PLAN - PHASE 1B



9. LANDSCAPE MASTER TREE PLAN

The plant list for this project was developed to reinforce the community theme and to create some seasonal change with a mixture of deciduous and evergreen plants while maintaining a well-balanced landscape. Many plants on this list are considered low water and drought tolerant species and were chosen based on their specific growth characteristics, including flowering and foliage color, texture and form. Refer to Figure C-11 Master Tree Plan - Phase 1B for the street tree plan for this Phase of Tracy Hills.

The following items should be considered in the community landscape design process:

- Consistent street tree themes should be related to the hierarchy of the street system.
- Extensive use of trees, vines and shrubs to soften community theme wall and fencing.
- Recognition of existing natural conditions and situations.
- Use of both “formal” and “informal” planting arrangements, depending upon the particular condition.
- “Layering” or the shrub understory to create depth, variety and interest.
- Refer to local codes for spacing distance from utilities, light poles, etc.

9.1. Landscape Irrigation

All landscaped areas will be permanently irrigated using an automatic, underground irrigation system or bubbler low-flow systems. Large turf areas may be irrigated with overhead spray and/or rotor irrigation. Please refer to Section 3.4.13 of the Specific Plan for additional information.

9.2. Utility and Equipment Screening

All utilities above/below ground providing service to the residential villages and commercial areas shall be screened to prevent unsightly conditions that detract from the overall aesthetics. Refer to Section 3.4.14. of the Specific Plan for utility screening guidelines.

9.3. Landscape Plant Matrix

Refer to Section 3.4.15 of the Specific Plan for the Landscape Plant Matrix.



Tracy Hills Specific Plan

Appendix C. Phase 1B Landscape Design Guidelines



Legend	Symbol	Description/Location
Village 9 Parkway Trees*		
		Primary Tree - <i>Pistacia chinensis</i> 'Keith Davey' (Chinese Pistache-male)
		Secondary Tree - <i>Acer rubrum</i> 'Redpointe' (Redpointe Red Maple)
		*Minimum 15 Gallon at 30' O.C. (staked)
Village 10 Parkway Trees*		
		Primary Tree - Zelkova 'Village Green' (Village Green Zelkova)
		Secondary Tree - <i>Lagerstroemia</i> (Pink Var.) (Crape Myrtle)
		Secondary Tree - <i>Lagerstroemia</i> (White Var.) (Crape Myrtle)
		*Minimum 15 Gallon at 30' O.C. (staked)
Village 11 Parkway Trees*		
		Primary Tree - <i>Ulmus parvifolia</i> 'Drake' (Drake Chinese Elm)
		Secondary Tree - Zelkova 'Village Green' (Village Green Zelkova)
		Secondary Tree - <i>Acer rubrum</i> 'Redpointe' (Redpointe Red Maple)
		*Minimum 15 Gallon at 30' O.C. (staked)
Tracy Hills Drive		
		Parkway Tree - <i>Platanus x acerifolia</i> 'Columbia' at 35' O.C.
		*24" Box Std. (staked)
		Backdrop Tree - <i>Pinus eldarica</i> (Informal massing) *Mix of 24" Box and 36" Box
		Median Tree - <i>Ulmus parvifolia</i> 'Drake' at 35' O.C. *36" Box Std. (staked)
		Roundabout Tree - <i>Cedrus deodara</i> (3 per Roundabout) *60" Box Std. (staked)
Frontyard Trees		
Each lot is required to receive (1) 15 Gallon tree in addition to the street trees/parkway trees shown in the Master Tree Plan. Tree species to be determined by the builders' Landscape Architects, in accordance with the enclosed Plant Matrix, and should be associated with the various architectural elevations and take into consideration size/growth/maturity of tree as it relates to the front yard lot size.		
NOTE: If, during the City's review of improvement plans or subsequent tree replacements, there is a conflict between a tree species shown in the Tracy Hills Specific Plan and a later adopted Urban Forestry Management Plan (UFMP), then the tree species shown in the UFMP shall prevail, subject to the review and approval of the City Urban Forestry Supervisor/Arborist or other designee of the Public Works Director.		

Figure C-11
Master Tree Plan - Phase 1B

AGENDA ITEM 1.J

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1302 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS KT PROJECT APPLICATION NUMBER SPA20-0008

EXECUTIVE SUMMARY

Ordinance 1302 was introduced at a special Council meeting held on November 10, 2020. Ordinance 1302 is before Council for adoption.

DISCUSSION

On September 9, 2020, an application was submitted for a Tracy Hills Specific Plan Amendment regarding revisions to the Tracy Hills KT Project (Application Number SPA20-0008). The proposed amendment consists of revisions to several exhibits in Appendix A of the Tracy Hills Specific Plan that show the subdivision design for the Tracy Hills KT Project. The proposed revisions would increase the number of lots in the Tracy Hills project from 185 to 214. The proposed changes are consistent with all other parts of the Tracy Hills Specific Plan, including the zoning of Medium Density Residential (MDR-TH). The small-lot design would expand the diversity of lot sizes and house types in the Tracy Hills area, which is beneficial to accommodating a wide range of housing objectives, buyer needs, and affordability and is encouraged by the General Plan.

An Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. An Initial Study has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines to document the finding that none of the conditions or circumstances that would require preparation of a subsequent EIR, pursuant to Sections 15162 and 15168 of the CEQA Guidelines, exist in connection with the proposed Tracy Hills KT Project. Therefore, pursuant to Section 15168(c)(2), no further environmental document is required. Further, the Initial Study documents that the KT Project is consistent with the development density established by an approved community plan, for which an EIR is certified, and that no project-specific impacts would result from implementation of the KT Project. Therefore, pursuant to Section 15183 of the CEQA Guidelines, no further environmental document is required.

Ordinance 1302 was introduced at the special Council meeting held on November 10, 2020. Ordinance 1302 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Priorities.

FISCAL IMPACT

The costs of these development applications were funded by application fees and a Cost Recovery Agreement.

RECOMMENDATION

That the City Council waive the second reading of the full text and adopt Ordinance 1302 an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills KT Project - Application Number SPA20-0008.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1302

Attachment B: Tracy Hills Specific Plan Amendment

ORDINANCE 1302

AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY
HILLS SPECIFIC PLAN FOR THE TRACY HILLS KT PROJECT
APPLICATION NUMBER SPA20-0008

WHEREAS, The Tracy Hills Specific Plan consists of approximately 2,732 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580; and

WHEREAS, On April 5, 2016, City Council certified an Environmental Impact Report and approved a General Plan Amendment, a comprehensive update to the Tracy Hills Specific Plan, and a Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, which consists of approximately 417 acres and includes approximately 1,160 single-family residential lots; and

WHEREAS, On June 2, 2020, City Council approved a General Plan Amendment, a Tracy Hills Specific Plan Amendment, and a Vesting Tentative Subdivision Map for the Tracy Hills KT Project to create 185 single-family residential lots and two commercial parcels on approximately 45 acres located east of Corral Hollow Road in the vicinity of Tracy Hills Drive; and

WHEREAS, On September 9, 2020, an application was submitted for a Tracy Hills Specific Plan Amendment regarding revisions to the Tracy Hills KT Project (Application Number SPA20-0008); and

WHEREAS, The proposed Tracy Hills Specific Plan Amendment consists of revisions to several exhibits in Appendix A of the Tracy Hills Specific Plan that show the subdivision design for the Tracy Hills KT Project; and

WHEREAS, The proposed revisions would increase the number of lots in the Tracy Hills KT project from 185 to 214; and

WHEREAS, The proposed changes to the exhibits are consistent with all other parts of the Tracy Hills Specific Plan, including the zoning of Medium Density Residential (MDR-TH); and

WHEREAS, The small-lot design would expand the diversity of lot sizes and house types in the Tracy Hills area, which is beneficial to accommodating a wide range of housing objectives, buyer needs, and affordability, and is encouraged by the General Plan; and

WHEREAS, An Environmental Impact Report (EIR) was certified by the City Council on April 5, 2016 for the Tracy Hills Specific Plan. An Initial Study has been prepared in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines to document the finding that none of the conditions or circumstances that would require preparation of a subsequent EIR, pursuant to Sections 15162 and 15168 of the CEQA Guidelines, exist in connection with the proposed Tracy Hills KT Project. Therefore, pursuant to Section 15168(c)(2), no further environmental document is required. Further, the Initial Study documents that the KT Project is consistent with the development density established by an approved community plan, for which an EIR is certified, and that no project-specific impacts would result from implementation of the KT Project. Therefore, pursuant to Section 15183 of the CEQA Guidelines, no further environmental document is required; and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 14, 2020 and recommended that the City Council introduce this ordinance approving a Tracy Hills Specific Plan Amendment for the Tracy Hills KT Project, Application Number SPA20-0008; and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on November 10, 2020;

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby approves the Tracy Hills Specific Plan Amendment for the Tracy Hills KT Project, Application Number SPA20-0008, as attached to the November 10, 2020 City Council staff report as Attachment "A".

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. 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.)

* * * * *

This Ordinance 1302 was introduced at a special meeting of the Tracy City Council on the 10th day of November, 2020, and finally adopted on the 17th day of November, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK



Appendix A. KT Project Landscape Design Guidelines

APPENDIX A KT LANDSCAPE DESIGN GUIDELINES

1. PURPOSE AND SCOPE

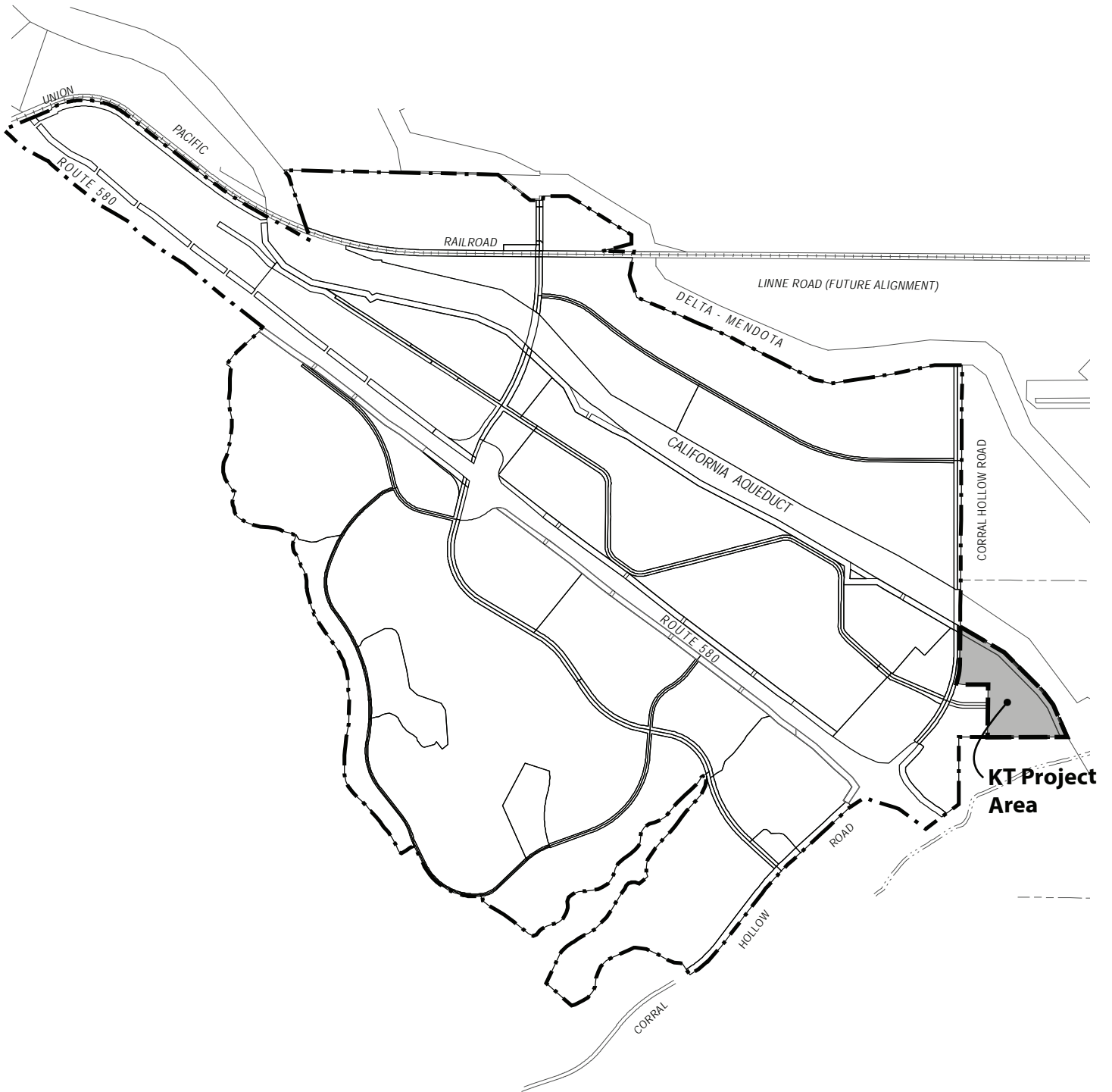
The landscape design guidelines contained in Section 3.4 of the Tracy Hills Specific Plan apply Specific Plan-wide; however, implementation details are only shown for Phase 1A. The purpose of Appendix A is to provide landscape design guidelines and implementation details for the KT Project Phase. The KT landscape design guidelines include the following components:

- Community Monumentation
- Circulation
- Streetscape and Trails
- Edge conditions/ Easements
- Conceptual Overall Illustrative Parks and Landscape Plan
- Lighting
- Walls and Fences
- Landscape Master Tree Plan

2. LOCATION

The KT Project phase of the Specific Plan Area encompasses approximately 36 acres located east of Corral Hollow Road, southwest of the California Aqueduct and north of Interstate 580. Refer to Figure A-1, Location Map - KT Project for additional information.

0 1,500 3,000 6,000 Feet





Appendix A. KT Project Landscape Design Guidelines

3. COMMUNITY MONUMENTATION

The KT Project shall continue the Tracy Hills themes established in Phase 1A through the consistent application and use of monument signage. Monumentation will be consistent with the character of the project, but flexible enough to respond to individual project context. Logos, type styles, color schemes, and architectural features should be consistent throughout the area being identified. Monumentation may vary in size and detail in a manner that reflects their relative importance within the signage hierarchy, but will incorporate a consistent material palette. Refer to Figure A-2 Community Identity Signage/Monumentation Key Map - KT Project for preliminary signage locations.

3.1. Community Monumentation Detail Reference

Community monumentation utilized in the KT Project were originally used and detailed in Phase 1A. Monumentation shall reference the details used in Phase 1A to ensure consistency throughout the Tracy Hills Specific Plan area. Refer to the list below for detail references to the monumentation shown in Figure A-2 Community Identity Signage/Monumentation Key Map - KT Project.



Primary Community Monumentation - Refer to Figure 3-2a



Primary Neighborhood Entry Signage - Refer to Figure 3-3



Park Signage - Refer to Figure 3-4



Trailhead Marker - Refer to Figure 3-5

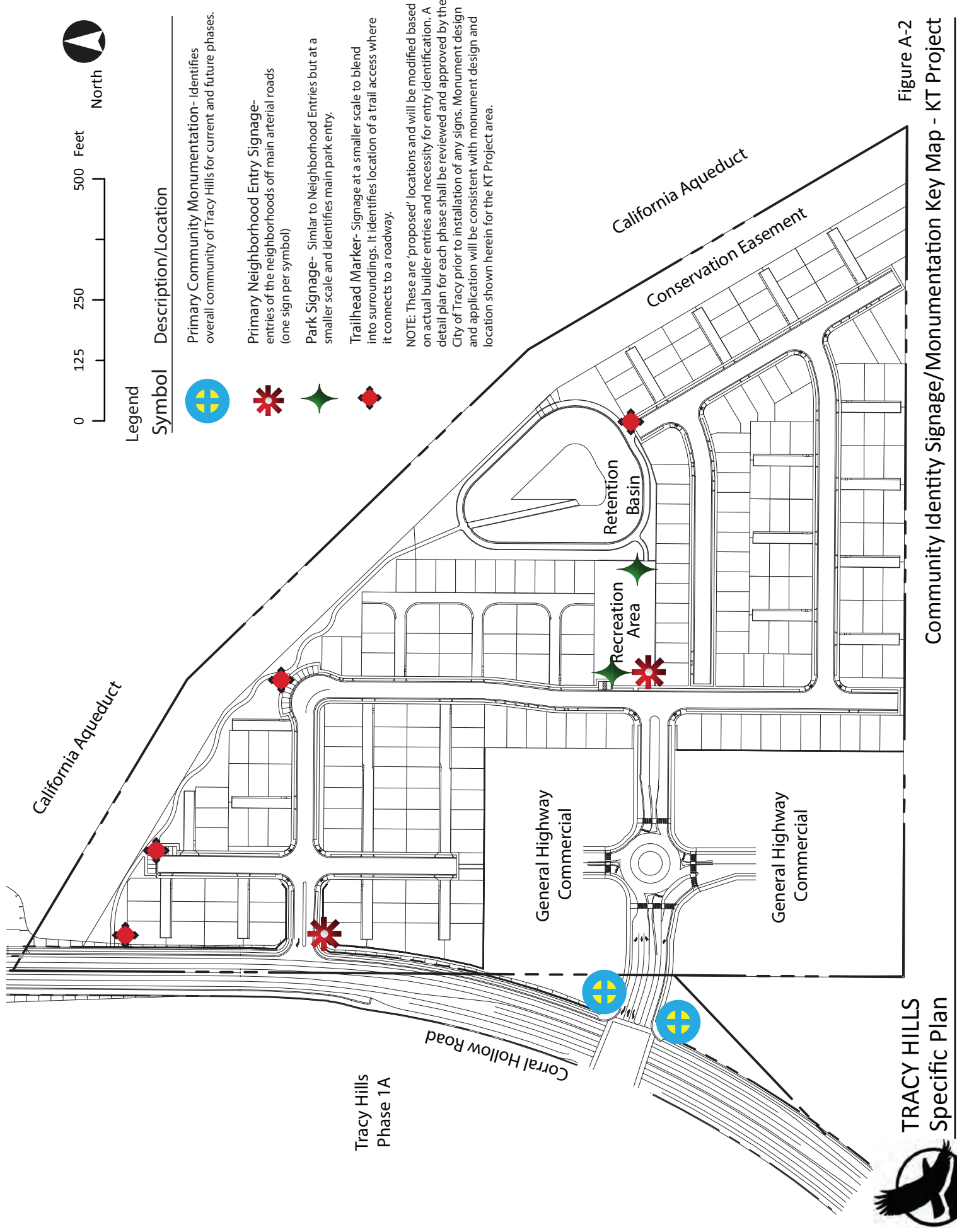


Figure A-2
Community Identity Signage/Monumentation Key Map - KT Project



Appendix A. KT Project Landscape Design Guidelines

4. CIRCULATION

A hierarchy of streets and trails are proposed within the KT Project which provide separate facilities for vehicles and pedestrians. Primary access is provided from Corral Hollow Road at an intersection with the spine road from Phase 1A. The spine road is extended to the KT Project boundary where it transitions to a residential street. Refer to Figure A-4 for a typical section of the spine road extension through the commercial area. Secondary access from Corral Hollow Road is provided north of the aforementioned intersection with a right-in/right-out only connection. The remainder of the public vehicular circulation throughout the KT Project is provided through residential streets. Refer to Figure A-5 for a typical section of the public residential street. In addition to the public streets, certain homes front on private lanes with a 24' roadway section which serves both vehicles and pedestrians. Refer to Figure A-6 for a typical section of the private lane.

Pedestrian circulation is provided with separated sidewalks along public streets and walkways located within open space and park areas. A multi-use trail located within a linear park feature provides access between the park and Corral Hollow Road along the Conservation Easement. A multi-use trail is also located around the retention basin which provides for passive recreation opportunities.

Refer to Figure A-3 Circulation Map - KT Project for additional information on the proposed circulation for this phase of Tracy Hills.

4.1. Streetscape and Trails

The following figures illustrate a hierarchy of streetscapes and circulation which provide distinctive landscape treatments for each planned roadway and trail. Landscape and hardscape treatments include elements such as landscaped medians, sidewalks, enhanced paving at pedestrian crossings and primary/secondary entries, trails and parkway trees. Consistent with Phase 1A, enhanced paving used is defined as any paving other than natural gray concrete or asphaltic concrete and the use of enhanced paving is strongly encouraged. Streetscapes and trails are shown in Figures A-4 to A-7 depict conceptual landscape application. Street trees shall be consistent with those shown in Figure A-143. Shrub and groundcover plant material shall be consistent with the species in the Landscape Plant Matrix in Section 3.4.15 of the Specific Plan.





Tracy Hills Specific Plan

Appendix A. KT Project Landscape Design Guidelines

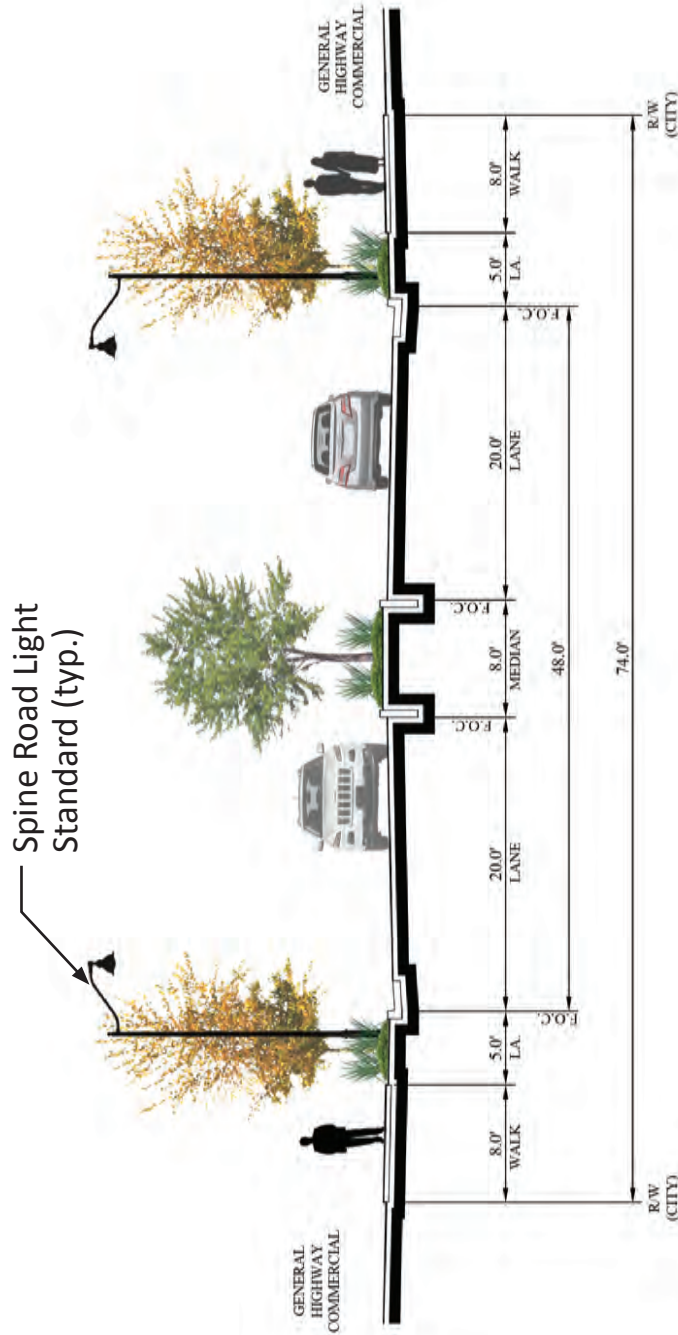


Figure A-4
Section A, Typical Spine Road

Notes:

- Street section is preliminary and subject to change.
- Landscape shown for illustrative purposes only. Refer to Figure A-143 for specified street trees.
- Rolled curbs may be utilized along public streets within the KT Project phase.

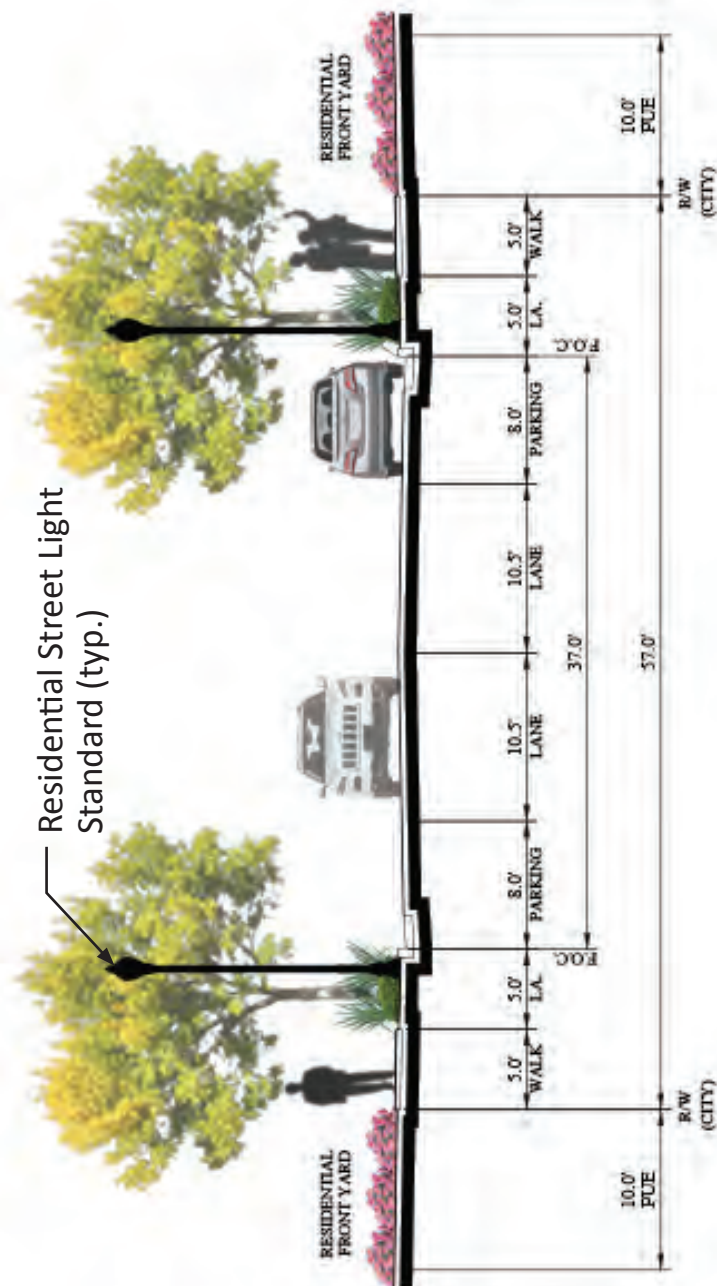


Figure A-5
Section B, Residential Street

Section B, Residential Street

- Landscape shown for illustrative purposes only. Refer to Figure A-143 for specified street trees.
- Rolled curbs may be utilized along public streets within the KT Project phase.

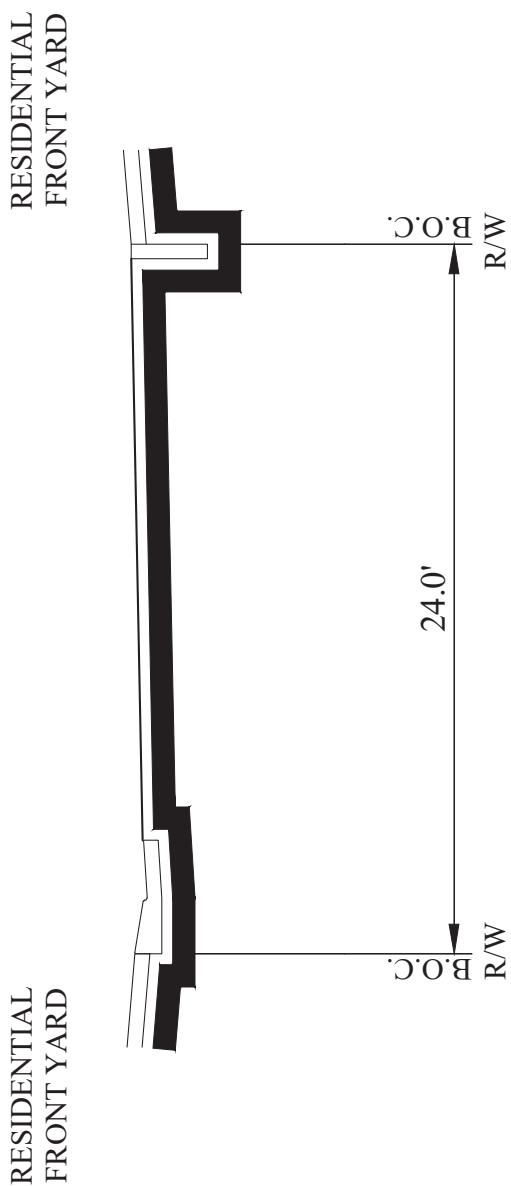


Figure A-6
Section C, Private Lane

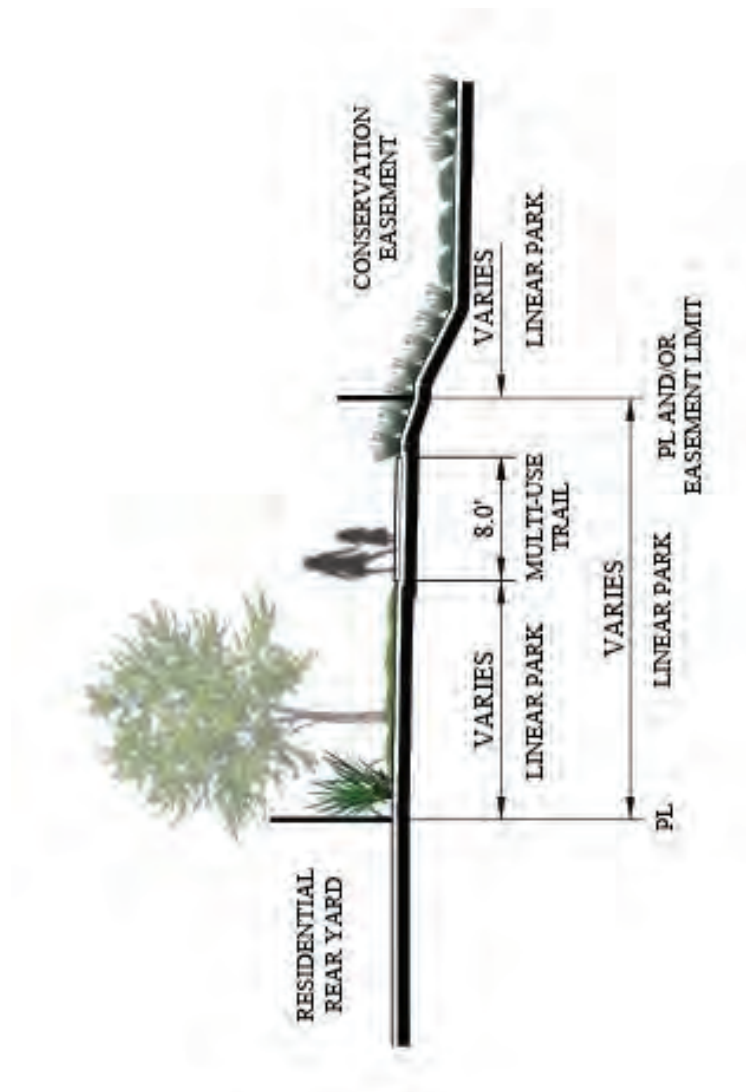


Figure A-7
Section D, 8' Multi-Use Trail & Linear Park



Tracy Hills Specific Plan Appendix A. KT Project Landscape Design Guidelines

5. EDGE CONDITIONS/EASEMENTS

A one hundred foot wide conservation easement will be recorded within the KT Project along east boundary adjacent to the California Aqueduct. The easement will include approximately 5.5 acres of area. The purpose of the conservation easement is to provide permanent wildlife habitat. The conservation easement will be owned and maintained by the project's HOA and zoned Tracy Hills Conservation (C-TH). No development within this area will be allowed except for installation of protective fencing. Signs will be attached to the fencing advising the public to "stay out of the conservation easement areas."

The Conservation Easement within the KT Project will have the existing native landscape "protected-in-place" and no additional landscape or irrigation improvements are proposed.

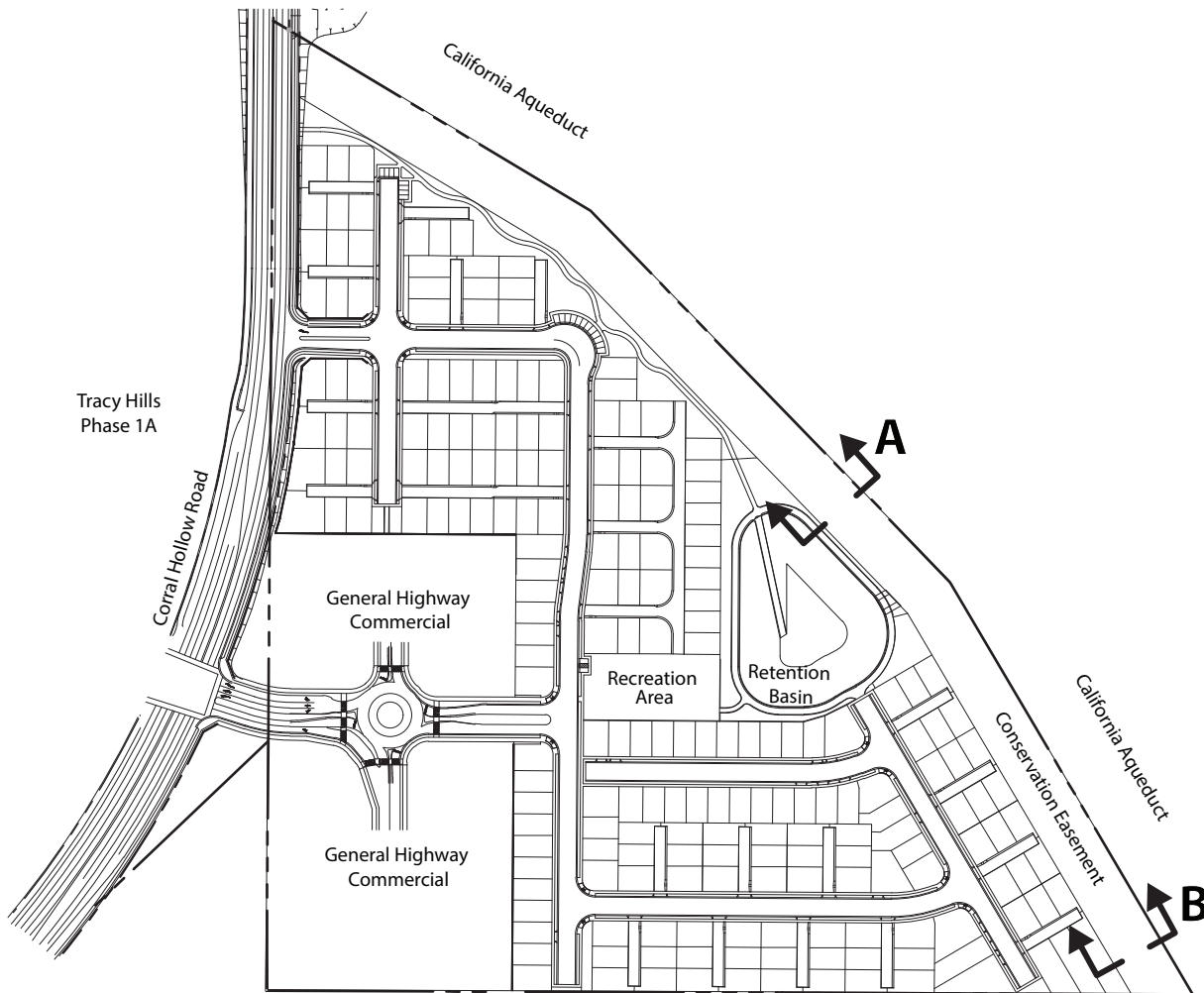


Figure A-8
Edge Conditions/Easements Key Map

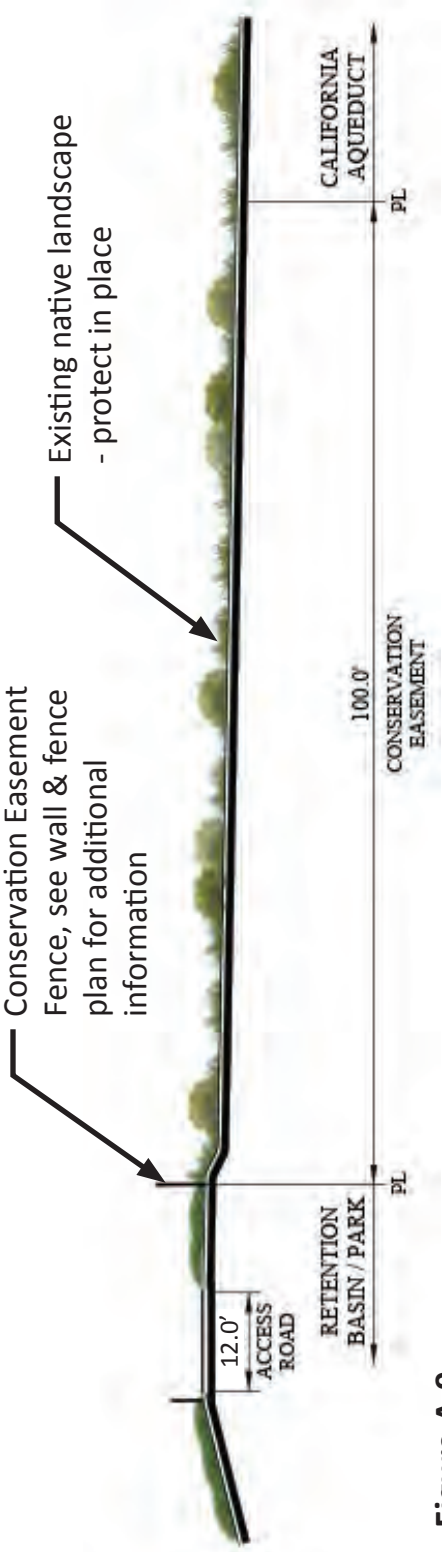


Figure A-9
Section A

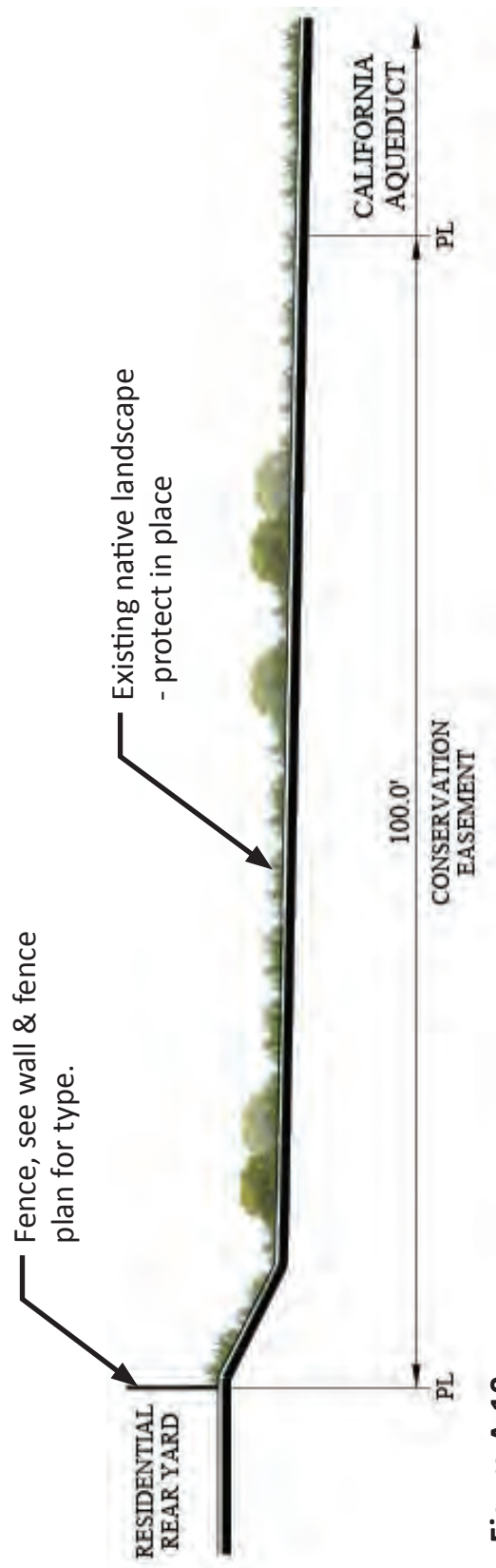


Figure A-10
Section B



6. CONCEPTUAL OVERALL ILLUSTRATIVE PARKS AND LANDSCAPE PLAN

The KT Project implements a linear park concept that provides an off-road trail corridor including pedestrian and bike pathways. These pathways connect to a comprehensive Class I bikeway and pedestrian system within Tracy Hills. The Tracy Hills Class I bikeway and pedestrian system, as built and planned in future phases, provides connectivity to neighborhood parks, HOA parks and recreational facilities, schools, retail and services, open space features and trail system, and a future community park. The KT Project linear park is part of a vision to provide a diversity of recreational opportunities in Tracy Hills comprised of an integrated and connected park and trail system. The park and trail system network not only promotes connectivity within the development, but also to the entire City.

As described in the 2013 Parks Master Plan (New Developments), the City may consider partial credits (up to 30% of the park acreage requirement) for linear parks in lieu of neighborhood park requirements. The proposed linear park is eligible to satisfy the park land requirement for the KT Project as it is part of the overall park system network for Tracy Hills. Once completed, the park will be dedicated to the City. Linear parks within the development that are dedicated to the City, and available for public use, may be maintained by the HOA. The design of the linear park, including amenity components, will be finalized through the preparation of improvement plans that will be reviewed and approved by the City.

The KT Project also include a private HOA park and recreational facility that may include but not limited to active and passive recreational features such as playground equipment, pool including deck/lounge area, BBQ area, open turf, restroom and shower facilities, and shade structure. The HOA park and recreational facilities will be sized appropriately to serve the KT Project. [The design of the HOA park, including amenity components, will be finalized through the preparation of improvement plans that will be reviewed and approved by the City.](#)

The parks within the community shall incorporate the following design elements:

- Landscaping should consider the use of drought tolerate species and be planted to conserve water and reduce irrigation needs. Use of reclaimed water or other water conserving strategies is encouraged.
- Use appropriate lighting in high use areas for safety purposes.
- The use of drought-tolerant landscaping and hydrozoning irrigation systems should be designed effectively.



Tracy Hills Specific Plan

Appendix A. KT Project Landscape Design Guidelines



Figure A-11
Conceptual Overall Illustrative, Parks and Landscape Plan - KT Project



7. LIGHTING

The site furnishings and lighting design for the residential villages located within the KT Project shall be consistent with the themes and standards established in Phase 1A of Tracy Hills. Refer to section 3.4.9 the Specific Plan for the site furnishings and lighting standards which shall be applied to this phase of the Specific Plan.

8. WALLS AND FENCES

Consistent with Phase 1A, walls and fences within this phase of the Specific Plan are intended to maintain the quality and character of the public realm. Wall and fence materials shall provide variety, privacy, and consistency within the community.







The following types of walls and view fences were selected for use within different areas of the project site, consistent with their application in Phase 1A. All wall and fence heights are measured from the higher grade elevation on either side of the wall or fence. Refer to Figure A-12 Master Wall and Fence Plan KT Project for general wall and fence locations. Wall and fence policies below as established in Phase 1A shall be applicable to the KT Project.

- Decorative walls and/or screen walls shall be integrated with the community design intent, as well as the overall landscape design.
- All community theme walls and fences shall be consistent in design as outlined herein.
- View fencing of full height tubular steel may be used and pilasters incorporated into steel fencing.
- Shrubs are encouraged to be planted along community walls to soften the visual character.
- Continuous fencing or walls shall have pilasters located at corners, at change in wall/fencing materials and significant redirections in the fence line.

*All Wall and Fencing materials and colors specified are for design intent. Should materials and/or colors not be available at time of installation, alternative materials and/or colors shall be substituted as specified "or equal" and shall be approved by City staff. Design intent is for Walls and Fences to be consistent community-wide.

8.1. Wall and Fence Detail References

Majority of the wall and fence types utilized in the KT Project were originally used and detailed in Phase 1A. Such fencing shall reference the details used in Phase 1A to ensure consistency throughout the Tracy Hills Specific Plan area. Please refer to the list below for detail references to the fencing shown in Figure A-12 Master Wall and Fence Plan - KT Project.

-  6'-0" Min. Proto II Block Decorative Wall- Split Face Block w/Cap - Refer to Figure 3-34
-  6'-0" Min. Builder Determined Wall/Fencing. Fencing may be Split Face Block, Tubular Steel or Wood.
-  6'-0" or 8'-0" Sound Wall- Split Face Block w/Cap - Refer to Figure 3-35
-  4'-7" Conservation Easement Fence - No Finish- allow to rust naturally - Refer to Figure 3-31
-  3'-3" Concrete Split Rail Fence - Refer to Figure 3-33
-  6'-6" Min. Pilaster - Split Face Block w/ Cap -Refer to Figures 3-34 & 3-35

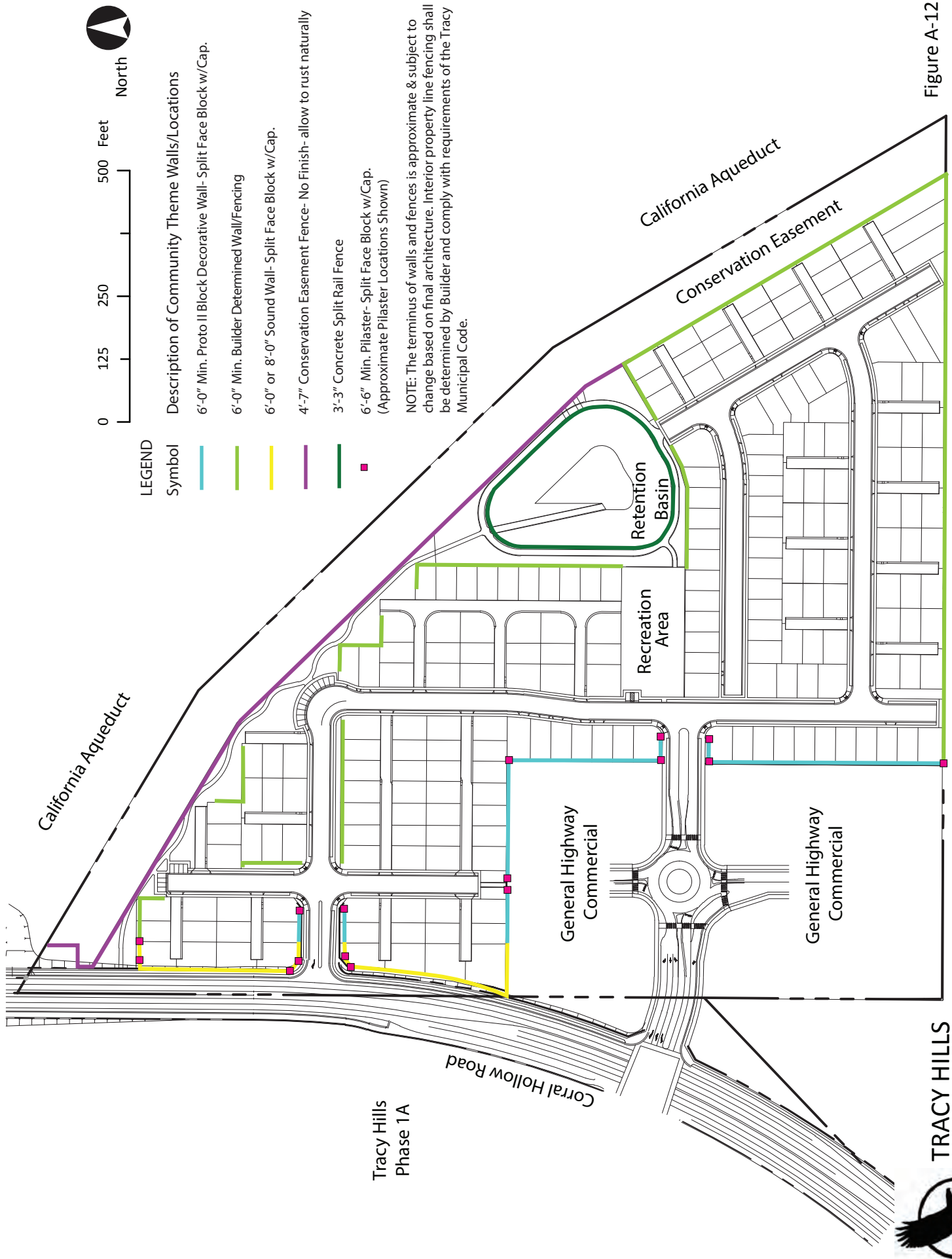


Figure A-12

Master Wall and Fence Plan - KT Project



TRACY HILLS
Specific Plan



9. LANDSCAPE MASTER TREE PLAN

The plant list for this project was developed to reinforce the community theme and to create some seasonal change with a mixture of deciduous and evergreen plants while maintaining a well-balanced landscape. Many plants on this list are considered low water and drought tolerant species and were chosen based on their specific growth characteristics, including flowering and foliage color, texture and form. Refer to Figure A-143 Master Tree Plan - KT Project for the street tree plan for this Phase of Tracy Hills.

The following items should be considered in the community landscape design process:

- Consistent street tree themes should be related to the hierarchy of the street system.
- Extensive use of trees, vines and shrubs to soften community theme wall and fencing.
- Recognition of existing natural conditions and situations.
- Use of both “formal” and “informal” planting arrangements, depending upon the particular condition.
- “Layering” or the shrub understory to create depth, variety and interest.
- Refer to local codes for spacing distance from utilities, light poles, etc.

9.1. Landscape Irrigation

All landscaped areas will be permanently irrigated using an automatic, underground irrigation system or bubbler low-flow systems. Please refer to Section 3.4.13 of the Specific Plan for additional information.

9.2. Utility and Equipment Screening

All utilities above/below ground providing service to the residential villages and commercial areas shall be screened to prevent unsightly conditions that detract from the overall aesthetics. Refer to Section 3.4.14. of the Specific Plan for utility screening guidelines.

9.3. Landscape Plant Matrix

Refer to Section 3.4.15 of the Specific Plan for the Landscape Plant Matrix.



Tracy Hills Specific Plan

Appendix A. KT Project Landscape Design Guidelines

LEGEND

Symbol	Description/Location
	Village Parkway Trees*
	Primary Tree - <i>Ulmus parvifolia</i> 'Drake' - (Drake Chinese Elm)
	Secondary Tree - <i>Lagerstroemia</i> 'Centennial Spirit' - (Crape Myrtle)
	*Minimum 15 Gallon at 30' O.C. (staked)
	Tracy Hills Drive
	Parkway Tree (both sides) - <i>Platanus x acerifolia</i> 'Columbia' at 35' O.C.
	*Minimum 15 Gallon Std. (staked)
	Backdrop Tree - <i>Pinus eldarica</i> (informal massing) *Minimum 15 Gallon Std. (staked)
	Median Tree - <i>Ulmus parvifolia</i> 'Drake' at 35' O.C. *Min. 15 Gallon Std. (staked)
	Frontyard Trees- Each lot is required to receive (1) 15 Gallon tree, where feasible, in addition to the parkway trees shown in the Master Tree Plan. Tree species to be determined by the builders' Landscape Architects, in accordance with the enclosed Plant Matrix, and shall be associated with the various architectural elevations. Tree selection shall take into consideration size/growth/maturity of tree as it relates to the front yard lot size.

NOTE: If, during the City's review of improvement plans or subsequent tree replacements, there is a conflict between a tree species shown in the Tracy Hills Specific Plan and a later adopted Urban Forestry Management Plan (UFMP), then the tree species shown in the UFMP shall prevail, subject to the review and approval of the City Urban Forestry Supervisor/Arborist or other designee of the Public Works Director.



Figure A-13
Master Tree Plan - KT Project

AGENDA ITEM 1.K

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1303 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 10.08 "ZONING REGULATIONS" OF THE TRACY MUNICIPAL CODE TO ADD A NEW SECTION 10.08.3194 "TOBACCO RETAIL USES" TO ESTABLISH LOCATION RESTRICTIONS ON TOBACCO RETAILERS

EXECUTIVE SUMMARY

Ordinance 1303 was introduced at a special Council meeting held on November 10, 2020. Ordinance 1303 is before Council for adoption.

DISCUSSION

On December 3, 2019, the City Council directed staff to prepare an ordinance to ban the sale of flavored tobacco and restrict tobacco retailers from locating within 600 feet of sensitive youth uses in the City of Tracy. Since then the State Legislature passed Senate Bill (SB) 793, which prohibits tobacco retailers from selling or possessing with the intent to sell flavored tobacco products or product flavor enhancers, including flavored vaping products and menthol cigarettes, with certain exceptions. SB 793 was signed into law by Governor Newsom on August 28, 2020.

On September 15, 2020, staff presented City Council with an update regarding SB 793 and received further direction from Council to draft an ordinance that establishes location restrictions for future tobacco retailers in the City of Tracy.

At a special Council meeting held on November 10, 2020, Ordinance 1303 was introduced to establish zoning restrictions on where a tobacco retail use can locate in the City. Generally the City's zoning ordinance found in Title 10 of the Tracy Municipal Code (TMC) does not identify the sale of tobacco or tobacco retailing as its own use and this use is treated like other retail uses.

The proposed ordinance would establish the following:

- Requires "tobacco retailers" to be located at least 600 feet from a sensitive youth use.
- "Tobacco retailer" defined as "any person who sells, offers for sale, exchanges, or offers to exchange any tobacco, tobacco, tobacco product, or tobacco paraphernalia for consideration, without regard to the quantity sold, offered for sale, exchanged, or offered to exchange."
- Sensitive youth uses are: day care centers, schools, and youth centers, which include parks. This is consistent with location restrictions on cannabis uses.

- Additionally, no tobacco retailer with more than 10% of their retailing square footage space dedicated to the sale of tobacco, tobacco products, or tobacco paraphernalia shall be located within 600 feet of any parcel zoned for residential use.
- Existing tobacco retailers in Tracy are “grandfathered” and will be considered legal nonconforming uses and can continue to operate in accordance with Article 25 of Chapter 10.08 of the TMC.

There are approximately 60 retail establishments that sell tobacco, tobacco products, or tobacco paraphernalia. Planning staff prepared a map outlining the location of these retailers and the 600-foot sensitive youth use buffer as well as the 600-foot buffer to residential parcels (Attachment B).

The new State law limiting flavored tobacco sales creates certain exemptions for hookah and cigars, this ordinance does not. Such retailers would also be prohibited from operating pursuant to the limitations in this ordinance.

Ordinance 1303 was introduced at the special Council meeting held on November 10, 2020. Ordinance 1303 is before Council for adoption.

STRATEGIC PLAN

This agenda item is not related to the City Council’s Strategic Priorities.

FISCAL IMPACT

There is no direct fiscal impact related to the adoption of this ordinance.

RECOMMENDATION

That the City Council waive the second reading of the full text and adopt Ordinance 1303 an ordinance of the City of Tracy amending Chapter 10.08 “Zoning Regulations” of the Tracy Municipal Code to add a new section 10.08.3194 “Tobacco Retail Uses” to establish location restrictions on tobacco retailers.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1303

Attachment B: Map of Tobacco Retailers and 600-foot buffers

ORDINANCE 1303

AN ORDINANCE OF THE CITY OF TRACY, AMENDING CHAPTER 10.08 "ZONING REGULATIONS" OF THE TRACY MUNICIPAL CODE TO ADD A NEW SECTION 10.08.3194 "TOBACCO RETAIL USES" TO ESTABLISH LOCATION RESTRICTIONS ON TOBACCO RETAILERS

WHEREAS, More than 480,000 individuals die every year in the United States due to smoking-related causes, which is equivalent to nearly one in five deaths, and

WHEREAS, Cigarette smoking increases the risk for death from all causes in men and women. In California, smoking-related health care costs \$13.29 billion per year and smoking-related losses in productivity totals \$10.35 billion per year, and

WHEREAS, In 2018, 13.7% of all adults (34.2 million people) in the United States reported smoking at least 100 cigarettes during their lifetime and smoking every day or some days when surveyed, and

WHEREAS, According to the American Lung Association, almost 95% of smokers try their first cigarette before age 21, and

WHEREAS, The 2017 National Survey on Drug Use and Health found that each day in the United States, about 2,000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers, and

WHEREAS, The Centers for Disease Control and Prevention (CDC) reports that in 2019, about 12 of every 100 middle school students (12.5%) and about 31 of every 100 high school students (31.2%) reported current use of a tobacco product, and

WHEREAS, The California State Legislature recognizes the negative health consequences and danger posed by tobacco use and has taken various actions to reduce youth access to tobacco products, including but not limited to, prohibiting the sale or furnishing of cigarettes, tobacco products, and tobacco paraphernalia to people under the age of 21 (Penal Code § 308) and prohibiting public school students from smoking or using tobacco products while on school campuses, while attending school-sponsored activities, or while under the supervision or control of school district employees (Education Code §48901(a)), and

WHEREAS, In response to studies and reports indicating that prohibiting the sale of flavored tobacco reduced smoking among youth (ages 12 to 17 years) by 43% and young adults (ages 18 to 25 years) by 27%, the California Legislature adopted Senate Bill 793 in 2020 to prohibit the sale of flavored tobacco in California, and

WHEREAS, The Tracy City Council has received public comment including verbal comments and electronic mail from members of the public expressing concerns about youth access to tobacco, tobacco products and tobacco paraphernalia and in particular e-cigarettes and vapes, and

WHEREAS, The Tracy City Council adopts this Ordinance based on the information contained in these recitals and the information presented at a noticed public hearing on November 17, 2020, and

WHEREAS, The Tracy City Council adopts this Ordinance pursuant to the Council's police power as established by California Constitution Article XI Section 7 and as further authorized in Government Code section 65850.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. Added Section. A new Section 10.08.3194 of Title 10 of the Tracy Municipal Code is hereby added to read as follows:

10.08.3194 – Tobacco Retail Uses.

- (a) Purpose and Intent. On August 28, 2020, Senate Bill 793 was signed into law to prohibit the sale of flavored tobacco in California. The bill does not preempt or otherwise prohibit the adoption of local regulations that impose greater restrictions on access to tobacco products. The Tracy City Council exercised its police power to adopt this zoning ordinance with the express purpose of limiting youth exposure and access to tobacco, tobacco products, and tobacco paraphernalia by establishing location restrictions for tobacco retailers. This section is not intended to give any person or entity authority to engage in tobacco retailing in the City of Tracy.
- (b) Definitions. Unless otherwise provided in this section, the definitions set forth in Chapter 10.08 (Zoning Regulations) apply. The following words shall have the meanings set forth below when used in this section:
 - (1) "Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, as well as child care centers pursuant to Section 1596.951 of the California Health and Safety Code. This definition shall have the same meaning as set forth in Section 1596.76 of the California Health and Safety Code, as the same may be amended from time to time.
 - (2) "School" means those sites upon which full-time instruction in any of the grades K through 12 (twelve) is provided where the primary purpose is education. "School" includes public schools, private schools, and charter schools, but does not include any private site upon which education is primarily conducted in private homes.
 - (3) "Sensitive youth use" means a school, day care center, or youth center as defined in this section.
 - (4) "Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, electronic cigarettes, e-cigarettes, electronic smoking devices, electronic cigarette cartridges, electronic smoking device cartridges and related products, and any other item designed or used for the smoking or ingestion of tobacco products.
 - (5) "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff, chewing tobacco, e-cigarette or electronic smoking device, or any other form of tobacco or product containing at least 50 (fifty) percent tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product (e.g., skin patches, lozenges, gym and prescription medications), or for other

therapeutic purposes where that product is marketed and sold solely for such approved use.

- (6) "Tobacco retailer" means any person who sells, offers for sale, exchanges, or offers to exchange any tobacco, tobacco product, or tobacco paraphernalia for consideration, without regard to the quantity sold, offered for sale, exchanged, or offered to exchange.
 - (7) "Tobacco retailing" means the conduct of selling, offering for sale, exchanging, or offering to exchange any tobacco, tobacco product, or tobacco paraphernalia for any form of consideration, without regard to the quantity sold, offered for sale, exchanged or offered to exchange.
 - (8) "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to: private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten (10) or more video games or game machines or devices are operated, and where minors are legally permitted to accept services, or similar amusement park facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or in City, county, or state parks. This definition shall not include any private gym, martial arts, yoga, ballet, music, art studio or similar studio of this nature, nor shall it include any athletic training facility, pizza parlor, dentist office, doctor's office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.
- (c) Location Restrictions for Tobacco Retailers.
- (1) The following location restrictions apply to all tobacco retailers operating in the City:
 - i. Tobacco retailing shall only be conducted at fixed locations; and
 - ii. Tobacco retailers shall be located at least 600 (six hundred) feet from a sensitive youth use; and
 - iii. If located on separate parcels, the distance between the tobacco retailer and the sensitive youth use property shall be measured from the outer boundaries of the sensitive youth use parcel to the closest structure containing the tobacco retailer; and
 - iv. If located on the same parcel, the distance between the structures containing the tobacco retailer and any sensitive youth use shall be at least 600 (six hundred) feet.
 - (2) In addition to the restrictions outlined above in subsection (c)(1), a tobacco retailer that dedicates more than ten percent (10%) of their total retailing square footage (e.g. cigar store or smoke shop) to tobacco, tobacco products, or tobacco paraphernalia must be located at least 600 feet from any parcel zoned for residential use in the City.
 - (3) Nonconforming Tobacco Retail Use.
 - i. Any tobacco retailer lawfully operating in the City of Tracy on the date this ordinance is adopted shall be considered a nonconforming use and may continue to operate at their existing location subject to Article 25 of Chapter 10.08 of the Tracy Municipal Code.
 - ii. The establishment of a sensitive youth use within 600 (six hundred) feet of a tobacco retailer after a tobacco retailer commences legal operations shall render the tobacco retailer a nonconforming use which may continue to operate at their existing location subject to Article 25 of Chapter 10.08 of the Tracy Municipal Code.

SECTION 2. Severability. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 3. Effective Date. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. Publication. 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 1303 was introduced at a special meeting of the Tracy City Council on the 10th day of November 2020, and finally adopted on the 17th day of November, 2020, by the following vote:

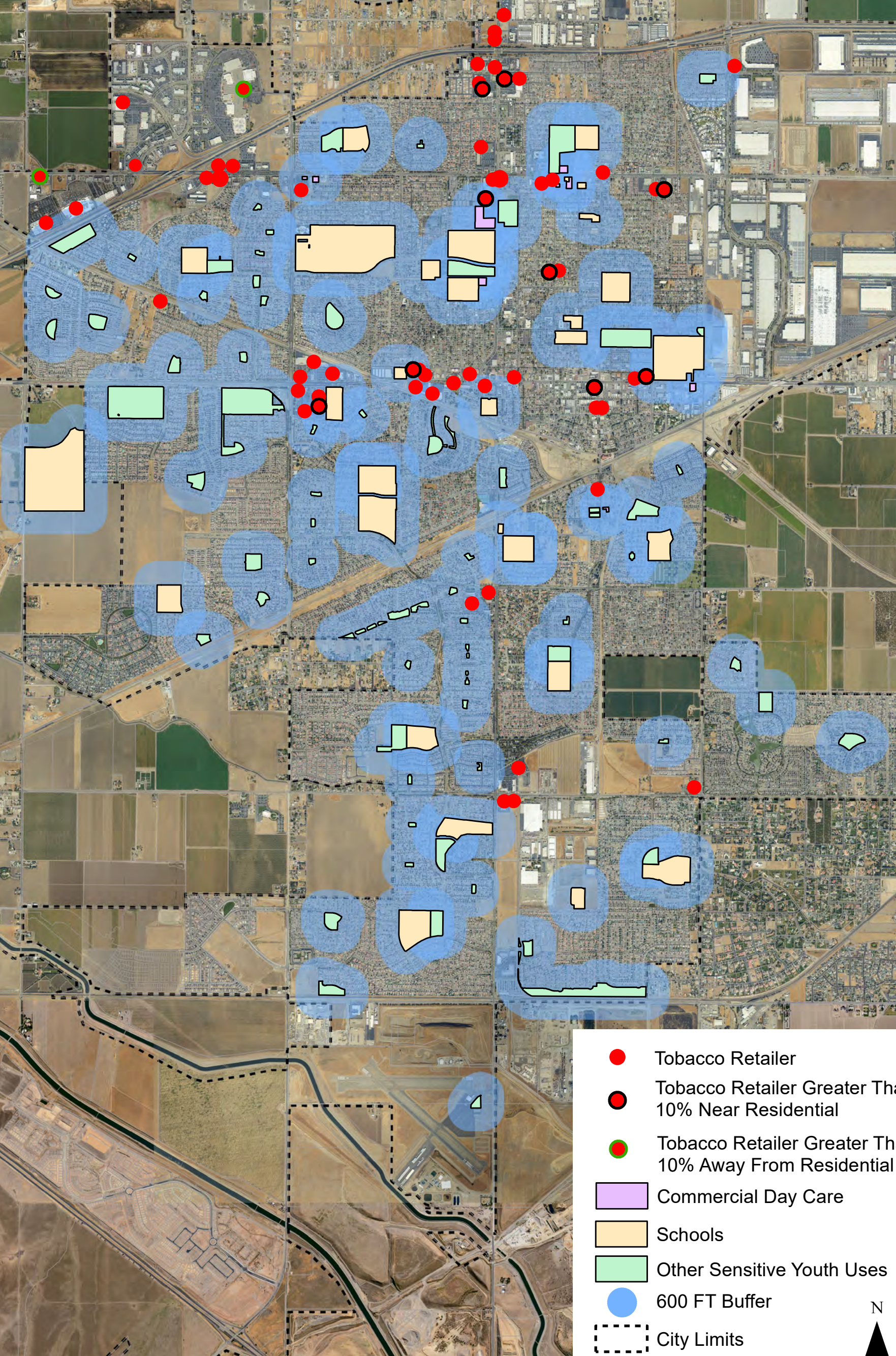
AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

CITY OF TRACY
Tobacco Retailer Ordinance



AGENDA ITEM 1.L

REQUEST

APPROVE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING SERVICES, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$164,665

EXECUTIVE SUMMARY

Staff requests City Council approval of Amendment No. 4 to the Agreement with Pennino Management Group (Consultant) to address comments from the Economic Development Administration (EDA) on the grant application the City submitted in June 2020. The additional services will increase compensation under the Agreement by \$25,000, for a total not-to-exceed amount of \$164,665.

DISCUSSION

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 to assist the City with the preparation and submission of an EDA grant. Since then City Council, has approved Amendments No, 1, 2 and 3 with Consultant totaling \$139,665.

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 through the Coronavirus Aid Relief and Economic Security (CARES) Act for a bridge replacement and expansion Project over the Delta Mendota Canal at International Parkway. The cost of the Project is approximately \$10 Million and staff is requesting a grant of approximately \$8 Million from the EDA. Consultant also worked with staff to answer additional application questions and request for information during the first round of review by the EDA.

In October 2020, staff received a response from the EDA stating that our application is being considered for further review. The EDA requested that we submit additional information to be included in the final review. There is a short response time to gather all of the additional information and submit it to the EDA. Therefore, staff requires the help of a Consultant to complete their request.

Staff recommends that Council approve Amendment No. 4 to the Agreement for an additional \$25,000, for a total not-to-exceed \$164,665. If Council does not approve this amendment, we will not be able to complete the request from the EDA and will miss the opportunity to receive funding for up to 80% of the bridge expansion over the Delta Mendota Canal on International Parkway.

FISCAL IMPACT

The Amendment No. 4 will be funded by Prologis, L.P. and will be paid through the Cost Recovery Agreement.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life strategic priority, and specifically implements Goal 2, Advance Infrastructure Projects to Enhance Citywide Traffic Conditions.

RECOMMENDATION

That City Council, by resolution, approve Amendment No. 4 to the Professional Services Agreement with Pennino Management Group for additional grant, research, and funding services, for a total not-to-exceed amount of \$164,665.

Prepared by: Veronica Child, Management Analyst II

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Amendment No. 4 to Professional Services Agreement

CITY OF TRACY
AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT
Grant Research, Funding & Program Services

This Amendment No. 4 (**Amendment**) to the *Professional Services Agreement for Grant Research, Funding & Program services* is entered into between the City of Tracy, a municipal corporation (**City**), and *Pennino Management Group, 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 Grant, Research & Funding Program Services Agreement (**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. 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.
- C. An additional appropriation in the amount of \$39,019.20 was granted for Consultant to complete the grant process by Resolution No. 2019-247 on December 17, 2019.
- D. An additional appropriation in the amount of \$32,561.92 was granted for Consultant to update the application to comply with the Coronavirus Aid, Relief, and Economic Security (CARES) Act and submit the final application by Resolution No. 2020-143 on August 18, 2020.
- E. The Economic Development Administration (EDA) indicated that the grant application passed the first round of reviews and is being further considered for an award. They are requesting that the City provide additional information to be reviewed. An additional appropriation of \$25,000 is being requested. With the additional appropriation, Consultant will help complete the additional requests by the EDA for the grant application.
- F. This Amendment is being executed pursuant to Resolution No. ____ approved by Tracy City Council on November 17, 2020.

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 deleted and replaced in its entirety with the following:

"3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the (hourly) billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this

Agreement is Not-to-Exceed \$164,664.81 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."

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

Pennino Management Group, A California Corporation

By: _____

Title: Mayor

Date: _____

By: 

Mike Locke

Title: ~~President~~ Vice President

Date: Oct. 27, 2020

Attest:

Federal Employer Tax ID Number: 45-5606098

By: _____

Adrianne Richardson, City Clerk

By: 

Phillip Pennino

Title: Secretary/Treasurer

Date: 10/27/2020

Approved as to form

By: _____

Leticia Ramirez, City Attorney

RESOLUTION 2020-_____

APPROVING AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING SERVICES, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$164,665

WHEREAS, City Council authorized staff to submit an application for Economic Development Administration Grant funding through the Coronavirus Aid Relief and Economic Security (CARES) Act for the bridge replacement and expansion over the Delta Mendota Canal at International Parkway, and

WHEREAS, The City of Tracy and Pennino Management Group (Consultant) entered into a Professional Services 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 was granted additional funding in the amount of \$39,019 by Resolution No. 2019-247, and

WHEREAS, Consultant was granted additional funding in the amount of \$32,561 by Resolution No. 2020-143, and

WHEREAS, The EDA Grant application was submitted in June 2020 and Consultant worked with staff to address issues and answer questions from the first round of EDA reviews, and

WHEREAS, The EDA reviewed our application and is considering the application for further review, staff requires the help of Consultant to address issues and answer questions from the EDA for this additional round of reviews, and

WHEREAS, Staff requests City Council approve Amendment No. 4 to increase compensation under the Agreement by \$25,000, with a total not-to-exceed amount of \$164,665, 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. 4 to the Professional Services Agreement with Pennino Management Group for additional grant, research, and funding services, for a total not-to-exceed amount of \$164,665.

* * * * *

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 17th day of November 2020, 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

APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BURKE WILLIAMS SORENSEN LLP FOR SPECIAL COUNSEL SERVICES TO CONDUCT LABOR NEGOTIATIONS WITH MULTIPLE EMPLOYEE GROUPS FOR A NOT-TO-EXCEED AMOUNT OF \$100,000

EXECUTIVE SUMMARY

This agenda item, with City Council approval, would authorize the City to contract with Burke Williams & Sorensen, LLP to conduct labor negotiations with multiple represented employee groups within the City.

DISCUSSION

The City is preparing for labor contract negotiations with seven (7) employee groups. Most of these contracts will expire on June 30, 2021. In order to assist staff in labor contract negotiations with represented labor groups, the services of experienced labor counsel is needed.

A formal request for proposal was issued on July 20, 2020 which resulted in four (4) responses. Burke, Williams & Sorensen, LLP was selected due to their extensive experience negotiating with safety and miscellaneous bargaining groups in comparable agencies. Additionally, their prior experience working with the City of Tracy provides familiarity with the bargaining units, budget process and administrative policies.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose: To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

Goal 3: Ensure continued fiscal sustainability through financial and budgetary stewardship.

FISCAL IMPACT

The costs associated with this agreement have been included in the General Fund FY 2020-21 budget for Human Resources.

RECOMMENDATION

That the City Council, by resolution, authorize a Professional Services Agreement with Burke, Williams & Sorensen, LLP to conduct labor negotiations with multiple represented employee groups for a not-to-exceed amount of \$100,000.

Prepared by: Naydee Rosette, Human Resources Analyst II

Reviewed by: Kimberly Murdaugh, Human Resources Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Professional Services Agreement with Burke Williams & Sorensen, LLP

**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT WITH
BURKE, WILLIAMS & SORENSEN, LLP**

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Burke, Williams & Sorensen, LLP, a California limited liability corporation (Consultant). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to professional legal services for labor negotiations and consultation.

B. On July 20, 2020, the City issued a Request for Proposals (RFP) for the Chief Negotiator to collaborate with Human Resources staff to negotiate successor labor agreements with employee groups. On August 18, 2020, Consultant submitted its proposal for the Project to the City. City has determined that Consultant possesses the skills, experience and certification required to provide the services.

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

D. This Agreement is being executed pursuant to Tracy Municipal Code section 2.20.090.

Now therefore, the Parties mutually agree as follows:

1. Scope of Work. Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. Consultant's specific scope of services shall be more particularly described in individual Task Orders subject to the written approval of the City and Consultant. The terms of this Agreement shall be incorporated by reference into each Task Order. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Timothy L. Davis. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

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

2.1 Term. The term of this Agreement shall begin on December 1, 2020 and end on September 30, 2021, unless terminated in accordance with Section 6.

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

3.1 Not to Exceed Amount. Consultant's total compensation under this Agreement shall not exceed \$100,000. 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 total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoice(s) to the City that describe the services performed, including times, dates, and names of persons performing the services.

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

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

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

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 duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

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

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

5.1 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

5.2 Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.

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

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

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

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

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

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

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

5.8 Insurance Certificate. Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

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

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

6. Termination. 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.

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

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

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

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

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

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

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

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

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

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

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

To City:
Kimberly Murdaugh
Human Resources Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:
Tim Davis
Partner and Chair
Burke, Williams & Sorensen, LLC
60 S. Market Street, Suite 1000
San Jose, CA 95113

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

13. Miscellaneous.

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

13.2 Amendments. 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. 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.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

Consultant

By: Jennifer D. Haruyama
Title: City Manager
Date: _____



By: Timothy L. Davis
Title: Partner and Chair
Date: 09/22/20

Federal Employer Tax ID No. 95-1705973

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

By: _____
Title: _____
Date: _____

Leticia Ramirez, City Attorney

Exhibits:

A Scope of Work, Fee Schedule and Expenses

EXHIBIT A - Scope of Work and Fee Schedule

SCOPE

Burke, Williams & Sorensen, LLP is retained by the City for the purpose of providing legal services and consultation services in relation to labor negotiations.

CONSULTANT REPRESENTATIVES

CONSULTANT services to CITY shall be performed by the representatives listed below. No substitution of Services shall be made without the written consent and approval of CITY.

- Timothy L. Davis
- Sally T. Nguyen

COST

Partners:	\$ 310 - \$335 per hour
Senior Associates:	\$ 260 per hour
Associate Attorneys	\$ 250 per hour
Paralegals:	\$ 150 per hour

EXPENSES:

Expenses will be calculated and billed at the rates set forth below, however, may be subject to adjustments on an annual basis. Expenses shall include reproduction of documents, facsimile, mileage reimbursement for travel at the IRS approved rate and other costs reasonably and necessarily incurred in performing services for the City.

- In-house reproduction charges
 - Black and white 20 ¢ per page
 - Color \$ 1 per page
- Mileage 57.5 ¢ per mile (or current IRS rate)
- Facsimile \$ 1 per page

All services will be performed pursuant to very detailed and specifically approved Task Orders. In no event can the total costs and expenses for service provided under this agreement (total of all the approved Task Orders) amount to more than \$100,000.

RESOLUTION 2020-_____

APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BURKE WILLIAMS SORENSEN LLP FOR SPECIAL COUNSEL TO CONDUCT LABOR NEGOTIATIONS WITH MULTIPLE EMPLOYEE GROUPS FOR A NOT-TO-EXCEED AMOUNT OF \$100,000

WHEREAS, Multiple employee labor group contracts will expire on June 30, 2021,
and

WHEREAS, The City desires to retain special counsel to conduct labor negotiations on behalf of the City, and

WHEREAS, On July 20, 2020 a Request for Proposals was issued, and

WHEREAS, Burke Williams & Sorensen, LLP submitted the best proposal to provide labor relations services;

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Tracy hereby approves the attached Professional Services Agreement and billing rates with Burke, Williams & Sorensen, LLP for a not-to-exceed amount of \$100,000.

* * * * *

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 17th day of November, 2020, 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 THE FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR TRACY HILLS – PHASE 1A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

Approval of the First Amendment to the Deferred Improvement Agreement for Tracy Hills - Phase 1A ("First Amendment") will allow amendments to be made to the original Deferred Improvement Agreement for Tracy Hills – Phase 1A ("DIA") executed by the City of Tracy ("City") and Tracy Phase I, LLC and Tracy BPS, LLC (together, "Developer") in accordance with the terms agreed to under the Settlement Agreement entered into by City, Developer, and certain affiliates of Developer.

DISCUSSION

On January 24, 2018, City and Developer entered into the DIA, which, among other things, requires Developer to construct certain roadway improvements required to serve the Tracy Hills – Phase 1A Project ("Project") and sets various timelines for the completion of such improvements.

Among the roadway improvements required to be completed by Developer under the DIA are certain interim improvements, including traffic signals, at the intersection of Corral Hollow Road and Linne Road ("Interim Improvements"), which interim improvements and the timing for their completion are more particularly set forth in the DIA.

On December 17, 2019, City, Developer, and certain affiliates of Developer entered into a Settlement Agreement ("Settlement Agreement") in order to resolve disputes between City, Developer and the affiliates relating to the application to the Project of the San Joaquin Council of Governments Regional Transportation Impact Fee and The Tracy Infrastructure Master Plan's Development Impact Fees.

Under the Settlement Agreement, the City and Developer agreed that Developer would no longer be obligated to construct the Interim Improvements as required under the DIA and that the City shall instead construct the final program improvements at the Corral Hollow Road and Linne Road intersection to its full four-lane design per the City's Transportation Master Plan, including traffic signals (thereby superseding the Developers' requirement to construct the Interim Improvements).

The First Amendment is being executed by City and Developer to confirm that Developer is no longer obligated to construct the Interim Improvements, thereby bringing the DIA into conformance with the Settlement Agreement. All other terms and

conditions set forth in the DIA not specifically modified by the First Amendment remain in full force and effect.

FISCAL IMPACT

Developer has paid the applicable engineering review fees, which include the cost of processing of the First Amendment.

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends that the Tracy City Council, by resolution, approve the First Amendment to the Deferred Improvement Agreement for Tracy Hills – Phase 1A, and authorize the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder.

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

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – First Amendment to Deferred Improvement Agreement
Attachment B – Original Deferred Improvement Agreement

Recording Requested By:

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

And When Recorded Mail To:

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

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY
FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS – PHASE 1A**

This **FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT, TRACY HILLS – PHASE 1A**, (hereinafter “First Amendment”) is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter “City”), on one hand, and **TRACY PHASE I, LLC**, a Delaware limited liability company, and **TRACY BPS, LLC**, a Delaware limited liability company, on the other hand (together, “Developer”).

RECITALS

- A. On January 24, 2018, City and Developer entered into that certain Deferred Improvement Agreement, Tracy Hills – Phase 1A (the “DIA”) relating to Tract 3878, recorded in the official records of San Joaquin County as Document Number 2018-016153.
- B. Among other things, the DIA sets forth various conditions of approval imposed on the Tracy Hills project (the “Project”) which require Developer to construct various roadway improvements required to serve the Project.
- C. Among the roadway improvements required by the conditions of approval are certain interim improvements, including traffic signals, at the intersection of Corral Hollow Road and Linne Road, which interim improvements are described in Condition of Approval Number C.2.7.8.c, set forth in Exhibit B-2 to the DIA (pg. 31 of 45 of Exhibit B-2), and also in Section II.S.c of Exhibit C to the DIA (pg. 11 of 14 of Exhibit C) (the “Interim Road Improvements”).
- D. On December 17, 2019, City, Developer, and certain affiliates of Developer entered into a Settlement Agreement to resolve disputes between City, Developer and the affiliates relating to the application to the Project of the San Joaquin Council of Governments Regional Transportation Impact Fee and the Tracy Infrastructure Master Plan’s Development Impact Fees (the “Settlement Agreement”). Under the Settlement Agreement, the City and Developer agreed that Developer would no longer be obligated to construct the Interim Road Improvements set forth in Condition of Approval Number C.2.7.8.c.



CITY OF TRACY – FIRST AMENDMENT TO DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS – PHASE 1A, TRACT 3878
Page 2 of 2

- E. With this First Amendment, City and Developer now wish to confirm that Developer is no longer obligated to construct the Interim Road Improvements, consistent with the Settlement Agreement.

NOW THEREFORE, CITY AND DEVELOPER MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE.** This First Amendment hereby incorporates by reference all terms and conditions set forth in the DIA unless specifically modified by this First Amendment. All terms and conditions set forth in the DIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENTS TO THE DEFERRED IMPROVEMENT AGREEMENT.**
 - 2.1. Amendment to Exhibit B-2 to the DIA. Exhibit B-2 of the DIA is hereby amended to delete Condition of Approval Number C.2.7.8.c on page 31 of 45 of Exhibit B-2.
 - 2.2. Amendment to Exhibit C to the DIA. Exhibit C to the DIA is hereby amended to delete Section II.S.c on page 11 of 14 of Exhibit C.
3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of Developer and City. This First Amendment shall inure to the benefit of and be binding upon Developer and City and their respective successors and assigns.

IN WITNESS WHEREOF, City and Developer hereby agree to the full performance of the terms set forth herein.

<p>CITY OF TRACY, a municipal corporation</p> <p>By: Robert Rickman Title: MAYOR Date: _____</p> <p>Attest:</p> <p>By: Adrienne Richardson Title: CITY CLERK Date: _____</p> <p>Approved as to Form:</p> <p>By: Leticia Ramirez Title: CITY ATTORNEY Date: _____</p>	<p>DEVELOPER:</p> <p>Tracy BPS, LLC, a Delaware limited liability company</p> <p> By: James Broderick Title: Authorized Representative Date: September 2, 2020</p> <p>Tracy Phase I, LLC, a Delaware limited liability company</p> <p> By: James Broderick Title: Authorized Representative Date: September 2, 2020</p>
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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

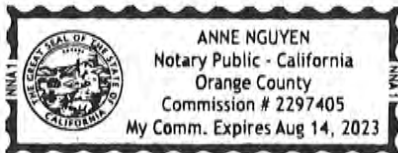
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Orange)
 On September 2, 2020 before me, Anne Nguyen,
 Date Here Insert Name and Title of the Officer
 personally appeared James Broderick
 Name(s) of Signer(s)

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

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 Anne Nguyen
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: First Amendment to Deferred Improvement Agreement Document Date: _____
 Number of Pages: 2 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____



VIA OVERNIGHT FEDERAL EXPRESS DELIVERY

September 3, 2020

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
Attention: Carla Sorich

Re: First Amendment to the Deferred Improvement Agreement, by and between the City of Tracy (the "City"), on the one hand, and Tracy Phase I, LLC and Tracy BPS, LLC (collectively, "Integral"), on the other hand ("Amendment")

Dear Carla:

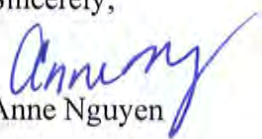
I am enclosing an ORIGINAL counterpart signed and notarized signature page of Integral to the above referenced Amendment.

Please (i) coordinate the City's execution (and have such signature properly notarized) and (ii) arrange to have such Amendment recorded.

Once the Amendment has been recorded, please email a scanned conformed recorded copy to me at anguyen@integralcommunities.com for our files.

Thank you and please feel free to call me at (949) 999-5706 with any questions.

Sincerely,


Anne Nguyen

Encls.

cc: Caren Read, Esq. (via email w/ encls)
Mike Souza (via email w/ encls.)
Hans Van Ligten, Esq. (via email w/ encls.)

ORIGINAL

Recording Requested By

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

Doc #: 2018-016153
 02/12/2018 08:55:46 AM
 Page: 1 of 93 Fee: \$0
 Steve J. Bestolarides
 San Joaquin County Recorders
 Paid By: CITY OF TRACY

And When Recorded Mail To:

City of Tracy
 Office of the City Clerk
 333 Civic Center Plaza
 Tracy, CA 95376
 Attn: Nora Pimentel



 SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY
 DEFERRED IMPROVEMENT AGREEMENT
 TRACY HILLS - PHASE 1A**

This **DEFERRED IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("City"), and **TRACY PHASE I, LLC**, a Delaware limited liability company, and **TRACY BPS, LLC**, a Delaware limited liability company (together, "Developer").

RECITALS

- A. The Developer is the owner of the real property generally bordered by the California Aqueduct to the north, Interstate 580 to the south, Corral Hollow Road to the east, and near the future Lammers Road interchange to the west (hereinafter "**Property**") and more particularly described in Exhibits "A" and "A-1" attached hereto and incorporated herein by reference.
- B. On April 5, 2016, the Tracy City Council ("**City Council**") adopted the Tracy Hills Specific Plan and approved related land use entitlements, including but not limited to that certain *Development Agreement By and Among the City of Tracy, The Tracy Hills Project Owner, LLC, and Tracy Phase I, LLC*, ("**DA**"), a Large-Lot Vesting Tentative Subdivision Map processed under Application Number TSM16-001 and approved by Resolution 2016-065, and a Small-Lot Vesting Tentative Subdivision Map processed under Application Number TSM13-0005 and approved by Resolution 2016-066 (together, the ("**Tentative Subdivision Maps**"). The Tentative Subdivision Maps are on file with the City Clerk, and are incorporated herein by this reference.
- C. The approvals of the Tentative Subdivision Maps by the City Council were subject to specified conditions of approval ("**Conditions of Approval**"). The Conditions of

CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 2 of 22

Approval are attached hereto as Exhibits "B-1" and "B-2", and are incorporated herein by reference.

- D. The Developer has applied to the City for approval of a Large-Lot Final Map based upon the approved Large-Lot Tentative Subdivision Map to, among other things, enable the Developer to finance public improvements required to serve the development set forth in the approved Tracy Hills Specific Plan (the "**Project**").
- E. Certain public improvements and other requirements of the Conditions of Approval will not be completed at the time the City Council acts on Developer's application for the Large-Lot Final Map. Therefore, Developer has agreed to execute this Agreement to ensure that the public improvements and other requirements which will not be completed when the City Council acts on Developer's Large-Lot Final Map application (collectively, the "**Deferred Improvements**") will be completed in accordance with the Conditions of Approval for the Tentative Subdivision Maps (both the Large-Lot and Small-Lot Maps). The Deferred Improvements are described in Exhibit "C", attached hereto and incorporated herein by this reference.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **CONTINUED APPLICABILITY OF CONDITIONS OF APPROVAL TO DEFERRED IMPROVEMENTS.** Except as expressly and specifically modified by this Agreement, all of the requirements of the Conditions of Approval shall continue to apply to the Deferred Improvements. In the event of a conflict between the Conditions of Approval and this Agreement, with respect to a Deferred Improvement, the terms and conditions of this Agreement shall prevail.
2. **DEFERRAL OF TIME FOR COMPLETION OF DEFERRED IMPROVEMENTS.** The time requirements of the Conditions of Approval notwithstanding, the Developer shall complete the Deferred Improvements according to the time requirements set forth in Exhibit "C" hereto. Time is of the essence in the performance of the Deferred Improvements in compliance with the requirements of Exhibit "C". The Deferred Improvements shall be completed, at the sole expense of the Developer, to the satisfaction of the City Engineer. The Developer shall submit any and all requests for extensions of time to complete the Deferred Improvements, in writing, not later than ten (10) days from Developer's learning of the condition that is the basis for the requested extension, and in no event later than the date on which completion of the Deferred Improvement(s) is due.
3. **RECORDING OF RELEASE.** Concurrently with the recordation of a small lot final map, the City Engineer will cause to be recorded a release of this Agreement, which release shall be applicable only to the land subject to the small lot final map. Prior to recordation of a small lot final map containing the 692nd dwelling unit, Developer shall have either satisfied the conditions in this Agreement and the Tracy Hills Phase 1A, Tract 3878 Subdivision Improvement Agreement, or shall provide security in an amount

CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 3 of 22

approved by the City Engineer and in a form approved by the City Attorney for any remaining improvements to be completed.

4. **OBLIGATIONS RUN WITH THE LAND.** All obligations and provisions of this Agreement shall run with the real property described in Exhibit "A", and shall bind the Developer and its respective successors and assigns.

5. **NOTICES.**

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

To City:

City of Tracy
333 Civic Center Plaza
Tracy, California 95376
Attn: City Engineer

To Developer:

Tracy BPS, LLC
888 San Clemente, Suite 100
Newport Beach, CA 92660
Attn: John Stanek, Principal

Tracy Phase I, LLC
888 San Clemente, Suite 100
Newport Beach, CA 92660
Attn: John Stanek, Principal

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

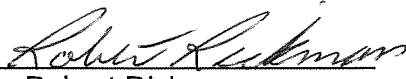
6. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all of the parties.
7. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
8. **SEVERABILITY.** In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
9. **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.

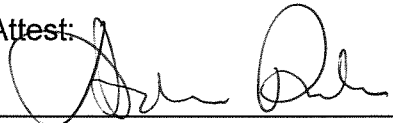
CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 4 of 22

- 10. INDEMNIFICATION.** Developer shall indemnify, defend and hold harmless the City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, liabilities, costs and expenses (including court costs and attorney's fees) resulting from or arising out of the deferral of construction of the Deferred Improvements and the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors or employees.
- 11. ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the deferral of construction of the Deferred Improvements. This Agreement supersedes all prior negotiations, representations, or agreements regarding deferral of the Deferred Improvements.
- 12. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

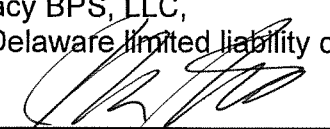
IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY,
a municipal corporation

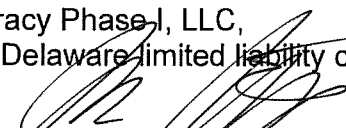

By: Robert Rickman
Title: MAYOR
Date: 1-24-18

Attest: 
By: Adrienne Richardson
Title: ~~INTERIM~~ CITY CLERK
Date: 1-24-18

SUBDIVIDER:
Tracy BPS, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: January 10, 2018

Tracy Phase I, LLC,
a Delaware limited liability company


By: John Stanek
Title: Authorized Representative
Date: January 10, 2018

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

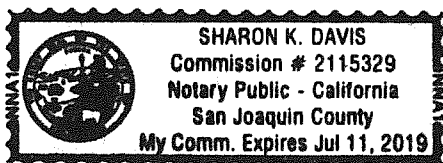
State of California

County of San Joaquin

On 1/24/18 before me, Sharon K. Davis, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Robert Rickman
Name(s) of Signer(s)

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



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 Sharon K. Davis
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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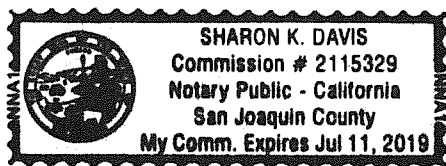
State of California

County of San Joaquin

On 1/24/18 before me, Sharon K. Davis Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Robert Rickman
Name(s) of Signer(s)

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



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 Sharon K. Davis

Place Notary Seal and/or Stamp Above

Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____

☐ Partner – ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian of Conservator

☐ Other: _____

Signer is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

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

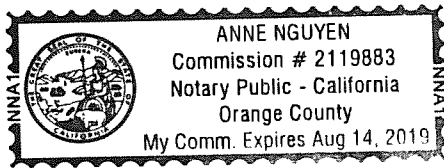
State of California)

County of Orange)On January 10, 2018 before me, Anne Nguyen, Notary Public,
Date Here Insert Name and Title of the Officerpersonally appeared John Stanek
Name(s) of Signer(s)

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

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 Anne Nguyen
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: Deferred Improvement Agreement Document Date: _____
Number of Pages: 105 Signer(s) Other Than Named Above: _____**Capacity(ies) Claimed by Signer(s)**

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

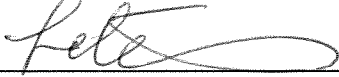
Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 5 of 22**

Approved As To Form:



By: Thomas Watson

Title: CITY ATTORNEY

Date: 1/23/18

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**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 6 of 22**

EXHIBIT A
(Tracy Phase I, LLC Property Description)

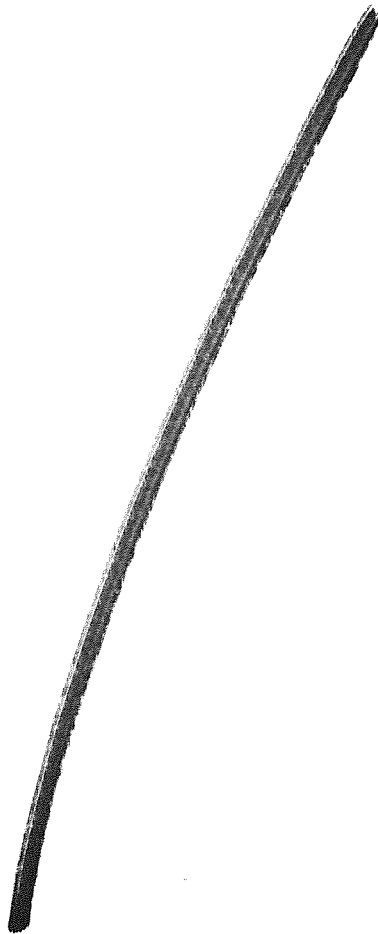


EXHIBIT A
Page 1 of 1

ORIGINAL

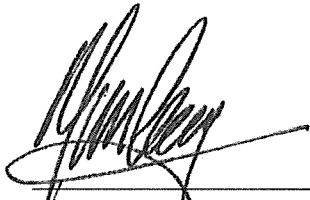
EXHIBIT A
LEGAL DESCRIPTION

Tracy Hills Phase 1A (Lots 1-7, 25 PM 168)

BEING PARCELS 1 THROUGH 7 AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP FILED ON
AUGUST 8, 2013 IN BOOK 25 OF PARCEL MAPS AT PAGE 168, RECORDS OF SAN JOAQUIN
COUNTY.

END OF DESCRIPTION

THIS DESCRIPTION WAS PREPARED BY OR UNDER THE DIRECTION OF:


Alvin Leung, PLS 6630

July 26, 2016

Date



EXHIBIT "A"
LEGAL DESCRIPTION OF TRACY PHASE I, LLC PROPERTY

Parcel 2:

RESULTANT PARCEL 2 AS SAID PARCEL IS DESCRIBED AND DEPICTED ON THE CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT LLA NO. MS16-0011 RECORDED ON FEBRUARY 1, 2017 AS DOCUMENT NO. 2017-013976, OF OFFICIAL RECORDS (WHICH IS A CORRECTIVE DOCUMENT TO THE ORIGINALLY RECORDED CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. MS 16-0011 RECORDED ON JANUARY 26, 2017 AS DOCUMENT NO. 2017-011566, OF OFFICIAL RECORDS) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL 2 AND A PORTION OF PARCEL 1 AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP FILED ON AUGUST 8, 2013 IN BOOK 25 OF PARCEL MAPS, PAGE 168, SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF SAID PARCEL 2;
THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 2 THE FOLLOWING 4 COURSES:

1. NORTH 54° 59' 36" WEST 129.89 FEET;
2. NORTH 51° 16' 41" WEST 700.07 FEET
3. NORTH 54° 00' 20" WEST 300.17 FEET;
4. NORTH 52° 05' 47" WEST 999.12 FEET TO THE GENERALLY NORTHWESTERLY LINE OF SAID PARCEL 2;

THENCE ALONG THE LAST SAID LINE THE FOLLOWING 5 COURSES:

1. NORTH 37° 53' 03" EAST 248.06 FEET;
2. NORTH 52° 06' 57" WEST 179.27 FEET;
3. NORTH 42° 02' 30" EAST 596.57 FEET;
4. SOUTH 52° 06' 07" EAST 265.70 FEET AND
5. NORTH 42° 02' 30" EAST 623.36 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 2;

THENCE ALONG THE LAST SAID LINE AND ITS SOUTHEASTERLY EXTENSION SOUTH 48° 35' 14" EAST 2068.73 FEET;

THENCE SOUTH 42° 02' 30" WEST 222.19 FEET;

THENCE SOUTH 55° 23' 32" WEST 60.63 FEET TO THE SOUTHEASTERLY LINE OF SAID PARCEL 2;

THENCE ALONG THE LAST SAID LINE SOUTH 42° 02' 30" WEST 1054.96 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS, HYDROCARBONS AND OTHER MINERALS AS CONVEYED TO BERTHA G. BERGER, A WIDOW, VERA GRUNAUER, A SINGLE WOMAN, AND DORIS G. POWELL, A SINGLE WOMAN, BY DEED RECORDED MARCH 27, 1959 IN BOOK 2160, PAGE 308, OF OFFICIAL RECORDS, WHICH PROVIDES AS FOLLOWS: TOGETHER WITH ALL RIGHTS NECESSARY AND PROPER FOR THE PURPOSE OF DRILLING AND EXPLORING FOR SAID SUBSTANCES AND REMOVING

**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 8 of 22**

THE SAME THEREFROM, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

ALSO EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED FEBRUARY 23, 2006, AS DOCUMENT NO. 2006-40904 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

APN: 253-360-02

APN: 253-360-01 (PORTION)

Parcel 3:

RESULTANT PARCEL 3 AS SAID PARCEL IS DESCRIBED AND DEPICTED ON THE CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT LLA NO. MS16-0011 RECORDED ON FEBRUARY 1, 2017 AS DOCUMENT NO. 2017-013976, OF OFFICIAL RECORDS (WHICH IS A CORRECTIVE DOCUMENT TO THE ORIGINALLY RECORDED CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. MS 16-0011 RECORDED ON JANUARY 26, 2017 AS DOCUMENT NO. 2017-011566, OF OFFICIAL RECORDS) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCELS 1 AND 3 AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP FILED ON AUGUST 8, 2013 IN BOOK 25 OF PARCEL MAPS, PAGE 168, SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY CORNER OF SAID PARCEL 3;
THENCE ALONG THE GENERALLY NORTHEASTERLY LINE OF SAID PARCEL 3 THE FOLLOWING 3 COURSES:

1. SOUTH 59° 04' 47" EAST 1023.59 FEET;
2. SOUTH 00° 34' 16" WEST 267.75 FEET; AND
3. SOUTH 89° 16' 01" EAST 459.52 FEET;

THENCE CONTINUING ALONG THE LAST SAID LINE AND THE NORTHEASTERLY LINE OF SAID PARCEL 1 SOUTH 59° 04' 47" EAST 241.92 FEET;

THENCE SOUTH 30° 55' 13" WEST 120.00 FEET;

THENCE NORTH 82° 19' 29" WEST 158.76 FEET;

THENCE NORTH 59° 49' 29" WEST 36.35 FEET;

THENCE SOUTH 30° 10' 31" WEST 18.54 FEET;

THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT FROM WHICH A RADIAL LINE BEARS SOUTH 22° 21' 17" WEST TO THE RADIUS POINT, HAVING A RADIUS OF 58.00 FEET, A CENTRAL ANGLE OF 105° 58' 12" AND AN ARC LENGTH OF 107.27 FEET;

THENCE SOUTH 38° 19' 29" WEST 231.07 FEET;

THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 88° 09' 16" AND AN ARC LENGTH OF 38.46 FEET;

THENCE SOUTH 49° 49' 47" EAST 940.73 FEET;

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THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 24° 13' 01" AND AN ARC LENGTH OF 21.13 FEET;
THENCE ALONG A REVERSE CURVE HAVING A RADIUS OF 75.00 FEET, A CENTRAL ANGLE OF 55° 38' 27" AND AN ARC LENGTH OF 72.83 FEET;
THENCE SOUTH 49° 49' 47" EAST 8.90 FEET;
THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT FROM WHICH A RADIAL LINE BEARS SOUTH 77° 02' 24" WEST TO THE RADIUS POINT, HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 65° 42' 30" AND AN ARC LENGTH OF 91.75 FEET;
THENCE ALONG A REVERSE CURVE HAVING A RADIUS OF 45.00 FEET, A CENTRAL ANGLE OF 12° 34' 41" AND AN ARC LENGTH OF 9.88 FEET;
THENCE SOUTH 40° 10' 13" WEST 390.01 FEET;
THENCE NORTH 49° 49' 47" WEST 77.00 FEET;
THENCE SOUTH 40° 10' 13" WEST 32.02 FEET;
THENCE NORTH 49° 49' 47" WEST 4.00 FEET;
THENCE SOUTH 43° 12' 56" WEST 125.77 FEET;
THENCE SOUTH 42° 02' 30" WEST 15.25 FEET TO A POINT ON THE SOUTHEASTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF SAID PARCEL 3;
THENCE ALONG LAST SAID EXTENSION AND LAST SAID SOUTHWESTERLY LINE THE FOLLOWING 3 COURSES:
1. CONTINUING NORTH 48° 35' 14" WEST 2506.74 FEET;
2. NORTH 56° 23' 17" WEST 750.70 FEET AND
3. NORTH 47° 02' 27" WEST 101.59 FEET TO THE GENERALLY NORTHWESTERLY LINE OF SAID PARCEL 3;
THENCE ALONG LAST SAID LINE THE FOLLOWING 3 COURSES:
1. NORTH 75° 07' 23" EAST 766.40 FEET;
2. ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 543.00 FEET, A CENTRAL ANGLE OF 32° 28' 58" AND AN ARC LENGTH OF 307.84 FEET AND
3. NORTH 20° 44' 24" EAST 116.43 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS, HYDROCARBONS AND OTHER MINERALS AS CONVEYED TO BERTHA G. BERGER, A WIDOW, VERA GRUNAUER, A SINGLE WOMAN, AND DORIS G. POWELL, A SINGLE WOMAN, BY DEED RECORDED MARCH 27, 1959 IN BOOK 2160, PAGE 308, OF OFFICIAL RECORDS, WHICH PROVIDES AS FOLLOWS: TOGETHER WITH ALL RIGHTS NECESSARY AND PROPER FOR THE PURPOSE OF DRILLING AND EXPLORING FOR SAID SUBSTANCES AND REMOVING THE SAME THEREFROM, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED JULY 20, 1992 AS DOCUMENT NO. 1992-83244 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

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ALSO EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED FEBRUARY 23, 2006, AS DOCUMENT NO. 2006-40904 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.
APN: 253-360-01 (PORTION)
APN: 253-360-03 (PORTION)

Parcel 4:

PARCELS 4 THROUGH 7, INCLUSIVE, AS SHOWN ON THE PARCEL MAP FILED AUGUST 8, 2013 IN BOOK 25 OF PARCEL MAPS, AT PAGE 168, SAN JOAQUIN COUNTY RECORDS.

EXCEPTING THEREFROM ALL OIL, GAS, HYDROCARBONS AND OTHER MINERALS AS CONVEYED TO BERTHA G. BERGER, A WIDOW, VERA GRUNAUER, A SINGLE WOMAN, AND DORIS G. POWELL, A SINGLE WOMAN, BY DEED RECORDED MARCH 27, 1959 IN BOOK 2160, PAGE 308, OF OFFICIAL RECORDS, WHICH PROVIDES AS FOLLOWS: TOGETHER WITH ALL RIGHTS NECESSARY AND PROPER FOR THE PURPOSE OF DRILLING AND EXPLORING FOR SAID SUBSTANCES AND REMOVING THE SAME THEREFROM, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED JULY 20, 1992 AS DOCUMENT NO. 1992-83244 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

ALSO EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED FEBRUARY 23, 2006, AS DOCUMENT NO. 2006-40904 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

Parcel 5:

TEMPORARY CONSTRUCTION EASEMENTS AS SET FORTH IN THAT CERTAIN "TEMPORARY CONSTRUCTION EASEMENT AGREEMENT" EXECUTED BY AND BETWEEN EBRAHIM KAABIPOUR AND SHAHLA KAABIPOUR, TRUSTEES, OR SUCCESSOR TRUSTEES, OF THE EBRAHIM "ABE" KAABIPOUR AND SHAHLA KAABIPOUR REVOCABLE LIVING TRUST DATED FEBRUARY 9, 2007 AND TRACY PHASE I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED JUNE 15, 2016, INSTRUMENT NO. 2016-069185, OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED LAND:

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BEING A PORTION OF PARCEL "A" AS DESIGNATED ON THAT CERTAIN PARCEL MAP FILED FOR RECORD JUNE 5, 1981 IN VOLUME 10 OF PARCEL MAPS, AT PAGE 64, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "A", RUNNING THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL "A" AND THE SOUTHERLY LINE OF THE CALIFORNIA AQUEDUCT, SOUTH 59° 05' 28" EAST 72.32 FEET TO A POINT; THENCE SOUTH 00° 21' 19" WEST 60.83 FEET TO A POINT; THENCE NORTH 89° 38' 41" WEST 62.36 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL "A" AND THE EASTERLY RIGHT-OF-WAY LINE OF CORRAL HOLLOW ROAD (30 FEET HALF WIDTH); THENCE ALONG THE SAID WESTERLY LINE OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD, NORTH 00° 24' 05" EAST 97.60 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE BEARING NORTH 00° 24' 05" EAST FOR THE SAID WESTERLY LINE OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD AS SHOWN IN VOLUME 10 OF PARCEL MAPS, AT PAGE 64, SAN JOAQUIN COUNTY RECORDS.

Parcel 6:

TEMPORARY CONSTRUCTION EASEMENTS AS SET FORTH IN THAT CERTAIN "TEMPORARY CONSTRUCTION EASEMENT AGREEMENT" EXECUTED BY AND BETWEEN EBRAHIM KAABIPOUR AND SHAHLA KAABIPOUR, TRUSTEES, OR SUCCESSOR TRUSTEES, OF THE EBRAHIM "ABE" KAABIPOUR AND SHAHLA KAABIPOUR REVOCABLE LIVING TRUST DATED FEBRUARY 9, 2007 AND TRACY PHASE I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED JUNE 15, 2016, INSTRUMENT NO. 2016-069185, OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED LAND:

BEING A PORTION OF PARCEL "A" AS DESIGNATED ON THAT CERTAIN PARCEL MAP FILED FOR RECORD JUNE 5, 1981 IN VOLUME 10 OF PARCEL MAPS, AT PAGE 64, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL "A"; RUNNING THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL "A" AND THE SOUTHERLY LINE OF THE CALIFORNIA AQUEDUCT, SOUTH 59°05'28" EAST 72.32 FEET TO THE POINT OF BEGINNING; THENCE, RUNNING ALONG THE SAID NORTHERLY LINE OF SAID PARCEL "A" AND THE SOUTHERLY LINE OF THE CALIFORNIA AQUEDUCT SOUTH 59°05'28" EAST 43.74 FEET TO A POINT; THENCE,

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PARALLEL WITH AND 100.00 FEET OFFSET FROM THE WESTERLY LINE OF SAID PARCEL "A" AND THE EASTERLY RIGHT-OF-WAY LINE OF CORRAL HOLLOW ROAD (30 FEET HALF WIDTH), SOUTH 00°24'05" WEST 407.03 FEET TO A POINT; THENCE, NORTH 89°35'55" WEST 50.00 FEET TO A POINT; THENCE, PARALLEL WITH AND 50.00 FEET OFFSET FROM THE SAID WESTERLY LINE OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD, SOUTH 00°24'05" WEST 400.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL A; THENCE, ALONG THE SAID SOUTHERLY LINE OF SAID PARCEL "A", NORTH 89°35'55" WEST 50.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD; THENCE, ALONG THE SAID WESTERLY LINE OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD, NORTH 00°24'05" EAST 768.36 FEET TO A POINT; THENCE, SOUTH 89°38'41" EAST 62.36 FEET TO A POINT; THENCE, NORTH 00°21'19" EAST 60.83 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE BEARING NORTH 00°24'05" EAST FOR THE SAID WESTERLY LINE OF SAID PARCEL "A" AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD AS SHOWN IN VOLUME 10 OF PARCEL MAPS, AT PAGE 64, SAN JOAQUIN COUNTY RECORDS.

Parcel 7:

TEMPORARY CONSTRUCTION EASEMENTS AS SET FORTH IN THAT CERTAIN "TEMPORARY CONSTRUCTION EASEMENT AGREEMENT" EXECUTED BY AND BETWEEN LINDA POMBO, AS SUCCESSOR TRUSTEE OF THE TESTAMENTARY TRUST CREATED BY ORDER SETTLING FINAL ACCOUNT AND REPORT OF EXECUTOR FOR COMPENSATION FOR EXECUTOR AND FOR LEGAL SERVICES AND FOR FINAL DISTRIBUTION OF THE ESTATE OF LESTER HUCK, DECEASED, CASE NO. PR 65501 AND TRACY PHASE I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED DECEMBER 21, 2016, INSTRUMENT NO. 2016-159100, OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED LAND:

BEING A PORTION OF THE 76.637 ACRES NET PARCEL AS DESIGNATED ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD SEPTEMBER 23, 1987 IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF SAID 76.637 ACRES NET PARCEL, RUNNING THENCE ALONG THE WESTERLY LINE OF SAID 76.637 ACRES NET PARCEL AND THE EASTERLY RIGHT-OF-WAY LINE OF CORRAL HOLLOW ROAD (30 FEET HALF WIDTH), NORTH 00°12'16" EAST 261.80 FEET TO A POINT; THENCE, SOUTH 89°47'44" EAST 61.77 FEET TO A POINT; THENCE, SOUTH 00°13'16" WEST 261.50 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID 76.637 ACRES NET

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PARCEL; THENCE, ALONG THE SAID SOUTHERLY LINE OF SAID 76.637 ACRES NET PARCEL, SOUTH 89°55'47" WEST 61.69 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE BEARING NORTH 00° 12'16" EAST FOR THE SAID WESTERLY LINE OF SAID 76.637 ACRES NET PARCEL AND THE SAID EASTERLY RIGHT- OF-WAY LINE OF SAID CORRAL HOLLOW ROAD AS SHOWN IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS.

Parcel 8:

TEMPORARY CONSTRUCTION EASEMENTS AS SET FORTH IN THAT CERTAIN "TEMPORARY CONSTRUCTION EASEMENT AGREEMENT" EXECUTED BY AND BETWEEN SCOTT KERR AND BONNIE DOOLEY, CO-TRUSTEES OF THE DONALD AND GERALDINE HUCK 2002 FAMILY REVOCABLE TRUST, AS TO AN UNDIVIDED ONE-HALF INTEREST AND WILLIAM GRIFFITH, AS TRUSTEE OF THE GRIFFITH FAMILY LIVING TRUST, AS TO AN UNDIVIDED ONE-HALF INTEREST AND TRACY PHASE I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED DECEMBER 21, 2016, INSTRUMENT NO. 2016-159099, OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED LAND:

BEING A PORTION OF THE 63.709 ACRES NET PARCEL AS DESIGNATED ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD SEPTEMBER 23, 1987 IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID 63.709 ACRES NET PARCEL AND THE EASTERLY RIGHT-OF-WAY LINE OF CORRAL HOLLOW ROAD (30 FEET HALF WIDTH), RUNNING THENCE ALONG THE WESTERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD, SOUTH 00°15'09" WEST 50.30 FEET TO THE POINT OF BEGINNING; THENCE, SOUTH 89°45' 18" EAST 39.26 FEET TO A POINT; THENCE, SOUTH 00°15'09" WEST 87.91 FEET TO A POINT; THENCE, NORTH 89°52'52" EAST 22.50 FEET TO A POINT; THENCE, SOUTH 00°12'23" WEST 111.16 TO A POINT ON THE SOUTHERLY LINE OF THE SAID 63.709 ACRES NET PARCEL AND THE NORTHERLY LINE OF THE CALIFORNIA AQUEDUCT; THENCE, ALONG THE SAID SOUTHERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID NORTHERLY LINE OF THE CALIFORNIA AQUEDUCT, NORTH 55°39'45" EAST 48.28 FEET TO A POINT; THENCE, CONTINUING ALONG THE SAID SOUTHERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID NORTHERLY LINE OF THE CALIFORNIA AQUEDUCT, NORTH 18°15'56" WEST 68.85 FEET TO A POINT ON THE SAID WESTERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD; THENCE, ALONG THE SAID WESTERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE

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SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD, NORTH 00°15'09" EAST 106.57 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE BEARING NORTH 00°15'09" EAST FOR THE SAID WESTERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD AS SHOWN IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS.

Parcel 9:

TEMPORARY CONSTRUCTION EASEMENTS AS SET FORTH IN THAT CERTAIN "TEMPORARY CONSTRUCTION EASEMENT AGREEMENT" EXECUTED BY AND BETWEEN SCOTT KERR AND BONNIE DOOLEY, CO-TRUSTEES OF THE DONALD AND GERALDINE HUCK 2002 FAMILY REVOCABLE TRUST, AS TO AN UNDIVIDED ONE-HALF INTEREST AND WILLIAM GRIFFITH, AS TRUSTEE OF THE GRIFFITH FAMILY LIVING TRUST, AS TO AN UNDIVIDED ONE-HALF INTEREST AND TRACY PHASE I, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED DECEMBER 21, 2016, INSTRUMENT NO. 2016-159099, OF OFFICIAL RECORDS, OVER THE FOLLOWING DESCRIBED LAND:

BEING A PORTION OF THE 63.709 ACRES NET PARCEL AS DESIGNATED ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD SEPTEMBER 23, 1987 IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS, SITUATE IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO MERIDIAN, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID 63.709 ACRES NET PARCEL, RUNNING THENCE ALONG THE NORTHERLY LINE OF SAID 63.709 ACRES NET PARCEL, NORTH 89°55'47" EAST 61.69 FEET TO A POINT; THENCE, SOUTH 00°13'16" WEST 138.40 FEET TO A POINT; THENCE, SOUTH 89°52'52" WEST 22.50 FEET TO A POINT; THENCE, NORTH 00°15'09" EAST 87.91 FEET TO A POINT; THENCE, NORTH 89°45'18" WEST 39.26 FEET TO A POINT; THENCE, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF CORRAL HOLLOW ROAD (30 FEET HALF WIDTH), NORTH 00°15'09" EAST 50.30 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE BEARING NORTH 00°15'09" EAST FOR THE SAID WESTERLY LINE OF SAID 63.709 ACRES NET PARCEL AND THE SAID EASTERLY RIGHT-OF-WAY LINE OF SAID CORRAL HOLLOW ROAD AS SHOWN IN BOOK 29 OF SURVEYS, AT PAGE 138, SAN JOAQUIN COUNTY RECORDS.

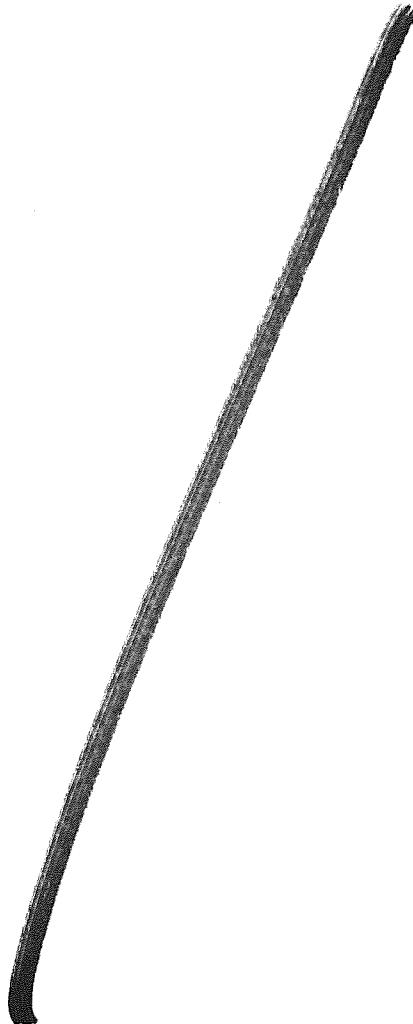
APN: 253-360-04, as to Parcel 4

APN: 253-360-05, as to Parcel 5

APN: 253-360-06, as to a portion of Parcel 6

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APN: 253-360-08, as to a portion of Parcel 6
APN: 253-360-09, as to a portion of Parcel 7
APN: 253-360-10, as to a portion of Parcel 7



**EXHIBIT A-1
(Tracy BPS, LLC Property Description)**

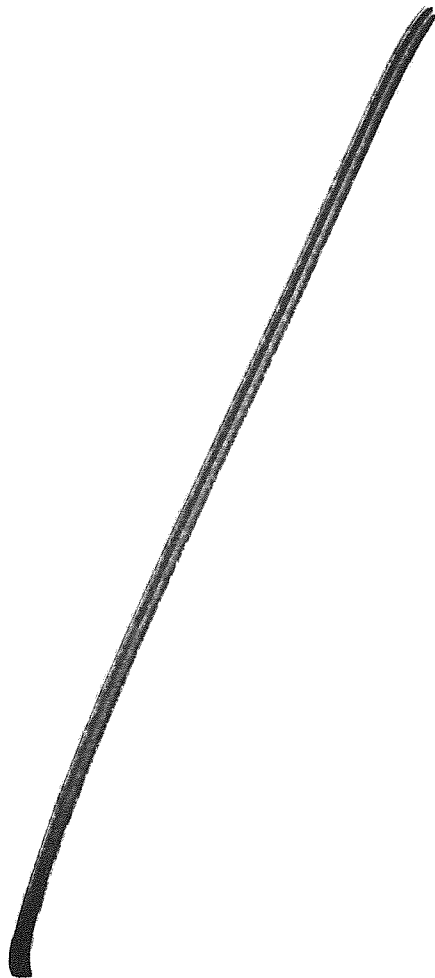


EXHIBIT "A-1"
DESCRIPTION OF TRACY BPS, LLC PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

Parcel 1:

RESULTANT PARCEL 1 AS SAID PARCEL IS DESCRIBED AND DEPICTED ON THE CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT LLA NO. MS16-0011 RECORDED ON FEBRUARY 1, 2017 AS DOCUMENT NO. 2017-013976, OF OFFICIAL RECORDS (WHICH IS A CORRECTIVE DOCUMENT TO THE ORIGINALLY RECORDED CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT NO. MS 16-0011 RECORDED ON JANUARY 26, 2017 AS DOCUMENT NO. 2017-011566, OF OFFICIAL RECORDS) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCELS 1 AND 3 AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP FILED ON AUGUST 8, 2013 IN BOOK 25 OF PARCEL MAPS, PAGE 168, SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID PARCEL 1;
THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL 1 NORTH 42° 02' 30" EAST 1054.96 FEET;
THENCE NORTH 55° 23' 32" EAST 60.63 FEET;
THENCE NORTH 42° 02' 30" EAST 237.44 FEET;
THENCE NORTH 43° 12' 56" EAST 125.77 FEET;
THENCE SOUTH 49° 49' 47" EAST 4.00 FEET;
THENCE NORTH 40° 10' 13" EAST 32.02 FEET;
THENCE SOUTH 49° 49' 47" EAST 77.00 FEET;
THENCE NORTH 40° 10' 13" EAST 390.01 FEET;
THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 45.00 FEET, A CENTRAL ANGLE OF 12° 34' 41" AND AN ARC LENGTH OF 9.88 FEET;
THENCE ALONG A REVERSE CURVE HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 65° 42' 30" AND AN ARC LENGTH OF 91.75 FEET;
THENCE NORTH 49° 49' 47" WEST 8.90 FEET;
THENCE ALONG A NON-TANGENT CURVE TO THE LEFT FROM WHICH A RADIAL LINE BEARS SOUTH 71° 35' 39" WEST TO THE RADIUS POINT, HAVING A RADIUS OF 75.00 FEET, A CENTRAL ANGLE OF 55° 38' 27" AND AN ARC LENGTH OF 72.83 FEET;
THENCE ALONG A REVERSE CURVE HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 24° 13' 01" AND AN ARC LENGTH OF 21.13 FEET;
THENCE NORTH 49° 49' 47" WEST 940.73 FEET;
THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 88° 09' 16" AND AN ARC LENGTH OF 38.46 FEET;

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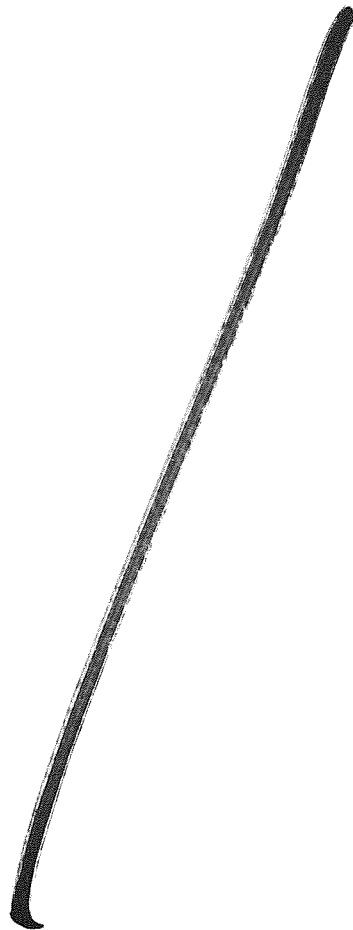
THENCE NORTH 38° 19' 29" EAST 231.07 FEET;
THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 58.00 FEET, A CENTRAL ANGLE OF 105° 58' 12" AND AN ARC LENGTH OF 107.27 FEET;
THENCE NORTH 30° 10' 31" EAST 18.54 FEET;
THENCE SOUTH 59° 49' 29" EAST 36.35 FEET;
THENCE SOUTH 82° 19' 29" EAST 158.76 FEET;
THENCE NORTH 30° 55' 13" EAST 120.00 FEET TO THE NORTHEASTERLY LINE OF SAID PARCEL 1;
THENCE ALONG THE LAST SAID LINE SOUTH 59° 04' 47" EAST 1234.73 FEET TO THE GENERALLY EASTERLY LINE OF SAID PARCEL 1;
THENCE ALONG THE LAST SAID LINE AND THE GENERALLY SOUTHWESTERLY LINE OF SAID PARCEL 1 THE FOLLOWING 9 COURSES:
1. SOUTH 00° 25' 03" WEST 523.95 FEET;
2. ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 1992.25 FEET, A CENTRAL ANGLE OF 44° 49' 23" AND AN ARC LENGTH OF 1558.56 FEET;
3. SOUTH 46° 33' 02" WEST 63.44 FEET;
4. SOUTH 57° 49' 48" WEST 88.37 FEET;
5. SOUTH 48° 58' 58" WEST 465.48 FEET;
6. NORTH 88° 42' 55" WEST 173.00 FEET;
7. NORTH 65° 45' 32" WEST 308.24 FEET;
8. NORTH 58° 19' 47" WEST 189.38 FEET;
9. NORTH 54° 59' 36" WEST 367.06 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS, MINERAL AND HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET BELOW THE SURFACE, WITHOUT THE RIGHT OF SURFACE ENTRY, AS RESERVED IN THE DEED RECORDED FEBRUARY 23, 2006, AS DOCUMENT NO. 2006-40904 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

APN: 253-360-01 (PORTION)
APN: 253-360-03 (PORTION)

**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 20 of 22**

EXHIBIT B-1
(Conditions of Approval for Large-Lot Tentative Subdivision Map)



ORIGINAL

EXHIBIT "B-1"
Page 1 of 7

RESOLUTION 2016-065

APPROVING A LARGE-LOT VESTING TENTATIVE SUBDIVISION MAP FOR TRACY HILLS PHASE 1A TO CREATE 25 LOTS AND 55 PARCELS OF VARIOUS SIZES ON APPROXIMATELY 417.6 ACRES LOCATED WEST OF CORRAL HOLLOW ROAD, SOUTH OF THE CALIFORNIA AQUEDUCT, NORTH OF INTERSTATE 580, AND EAST OF THE FUTURE LAMMERS ROAD INTERCHANGE, APPLICATION NUMBER TSM16-0001

WHEREAS, The Tracy Hills Specific Plan was approved in 1998, and

WHEREAS, On May 10, 2013, The Tracy Hills Project Owner, LLC submitted applications for a General Plan Amendment and a comprehensive update to the Tracy Hills Specific Plan, and

WHEREAS, As part of the Tracy Hills Project applications, The Tracy Hills Project Owner, LLC proposed a large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A to create 25 lots and 55 parcels of various sizes on approximately 417.6 acres located west of Corral Hollow Road, south of the California Aqueduct, north of Interstate 580, and east of the future Lammers Road Interchange, Application Number TSM16-0001, and

WHEREAS, The proposed large-lot Vesting Tentative Subdivision Map is for the purpose of allowing the Tracy Hills Project Owner, LLC to finance public improvements required to serve the development, and is not intended to allow development on the property without the subsequent approval of a separate and additional Tentative Subdivision Map and associated Final Map consistent with the Tracy Hills Specific Plan, and

WHEREAS, On April 5, 2016, the City Council certified the Tracy Hills Specific Plan Final Subsequent Environmental Impact Report ("Final SEIR") (Resolution 2016-062) for the Tracy Hills Project applications, including the large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, and

WHEREAS, On April 5, 2016, the City Council approved a General Plan Amendment for the Tracy Hills project and a comprehensive update to the Tracy Hills Specific Plan (Resolution 2016-063), and

WHEREAS, The proposed large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A is consistent with the General Plan and the Tracy Hills Specific Plan, as amended, and Tracy Municipal Code, Title 12, and

WHEREAS, The site is physically suitable for this type of development, and

WHEREAS, The site is physically suitable for the proposed density of development, and

WHEREAS, The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, and

WHEREAS, The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, and

Resolution 2016-065
Page 2

WHEREAS, The project complies with all other applicable ordinances, regulations and guidelines of the City, including but not limited to, the local floodplain ordinance. The subject property is not located within any floodplain and the project, with conditions, will meet all applicable City design and improvement standards, and

WHEREAS, All public facilities necessary to serve the subdivision or mitigate any impacts created by the subdivision will be constructed or assured before approval of a final map or issuance of a building or grading permit, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on March 2, 2016 and recommended that the City Council approve the large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, and

WHEREAS, The Planning Commission considered the housing needs of the region and balanced those needs against the public service needs of its residents and available fiscal and environmental resources in accordance with Government Code Section 66412.3, and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on April 5, 2016;

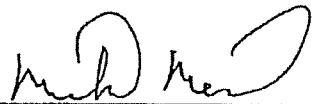
NOW, THEREFORE BE IT RESOLVED as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.
2. Compliance with CEQA. The Tracy Hills Final Subsequent Environmental Impact Report ("Final SEIR") (State Clearinghouse No. 2013102053), certified by City Council Resolution 2016-062, and incorporated herein by this reference, was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and is adequate to support the City Council's approval of the application for large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A.
3. Approval of a large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A. The City Council hereby approves a large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, to create 25 lots and 55 parcels of various sizes on approximately 417.6 acres located west of Corral Hollow Road, south of the California Aqueduct, north of Interstate 580, and east of the future Lammers Road Interchange, Application Number TSM16-0001, subject to the conditions stated in Exhibit "1" attached and made part hereof.
4. Effective Date. This resolution shall be effective immediately.

Resolution 2016-065
Page 3

The foregoing Resolution 2016-065 was passed and adopted by the City Council of the City of Tracy on the 5th day of April 2016, by the following vote:

AYES:	COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTAIN:	COUNCIL MEMBERS: NONE



MAYOR

ATTEST:



CITY CLERK

Exhibit 1

**Conditions of Approval for Tracy Hills Phase 1A
Large-Lot Vesting Tentative Subdivision Map
Application Number TSM16-0001
April 5, 2016**

Project: These Conditions of Approval shall apply to the large-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, Application Number TSM16-0001, including approximately 25 lots and 55 parcels of various sizes.

Property: The property consists of approximately 417.6 acres located in the Tracy Hills Specific Plan Area, west of Corral Hollow Road, south of the California Aqueduct, and north of Interstate 580, Application Number TSM16-0001.

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

Tracy Hills Phase 1A – Large-Lot Vesting Tentative Subdivision Map
Application Number TSM16-0001
Page 2

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. 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.
4. Conformance with Vesting Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Vesting Tentative Subdivision Map (Application Number TSM16-0001), which was date stamped as received by the Development Services Department on January 20, 2016, and approved by the City Council on April 5, 2016, unless modified by these Conditions.
5. Large-Lot Subdivision for Non-Development Purposes. This large-lot subdivision is for the purpose of allowing the Tracy Hills Project Owner, LLC to finance public improvements required to serve the development, and is not intended by the Applicant or by the City to allow development on the property without the subsequent approval of a separate and additional Tentative Subdivision Map (Application Number TSM13-0005) and corresponding Final Map(s) that are consistent with the Tracy Hills Specific Plan. This separate and subsequent Tentative Subdivision Map (Application Number TSM13-0005) and the corresponding Final Map(s) must be approved prior to development occurring on the site. The Subdivider shall include a Deed Notice on each Final Map approved for this large-lot subdivision that discloses this condition.

Tracy Hills Phase 1A – Large-Lot Vesting Tentative Subdivision Map
Application Number TSM16-0001
Page 3

6. Access Easements. With the approval of each Final Map, the Subdivider shall record an access easement between the public right-of-way and each parcel, to the satisfaction of the Development Services Director. The access easement shall have a minimum width of 20 feet and grant continuous access to and from the public right-of-way.

C. Engineering Division Conditions of Approval

C.1. General Conditions

- C.1.1 City of Tracy will not accept any dedications shown on this Large Lot Vesting Tentative Subdivision Map (Application No. TSM16-0001) (hereafter, the "Tentative Subdivision Map") until all improvements are completed, and all requirements as identified in the Conditions of Approval for Tracy Hills Phase 1A Small Lot Vesting Tentative Subdivision Map, Application Number TSM 13-005 ("Vesting Tentative Map TSM 13-005") are complied with to the satisfaction of the Development Services Director.

C.2. Final Map

The City will not approve any Final Map submitted for this Tentative Subdivision Map (each such submission a "Final Map" for purposes of these Conditions of Approval) until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

- C.2.1 Subdivider has submitted one reproducible (mylar) copy of the approved Tentative Subdivision Map after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map means consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property as shown in the Tentative Subdivision Map.
- C.2.2 Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, and in substantial conformance with the Tentative Subdivision Map.
- C.2.3 Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) in accordance with City Regulations and these Conditions.
- C.2.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.

Tracy Hills Phase 1A – Large-Lot Vesting Tentative Subdivision Map
Application Number TSM16-0001
Page 4

- C.2.5 Final Map Phasing Plan and Deferred Improvement Agreement- Prior to Subdivider's submittal to the City of the first Final Map for City approval, Subdivider shall submit for the City Engineer's review and reasonable approval a phasing plan for the submittal of all Final Maps to be filed for the Tentative Subdivision Map. The phasing plan may be subject to subsequent modifications based on market conditions, the rate of development, and Subdivider's disposition of the parcels created by the Final Maps. Prior to the City's approval of the first Final Map, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which the Subdivider agrees to complete construction of public facilities within the right-of-way for Corral Hollow Road and Spine Road, which are required by the conditions of approval for the Small Lot Vesting Tentative Map TSM 13-005, unless such improvements are addressed in other executed agreements with the City. All such Deferred Improvement Agreements shall identify timing requirements for construction of all public facilities, in conformance with the phasing plan submitted by the Subdivider and approved by the City Engineer.
- C.2.6 Subdivider has paid engineering review fees including Final Map review, agreement processing, and all other applicable fees as required by City Regulations.
- C.3 Grading Permit
The City will not accept a grading permit application for the property that is the subject of this Tentative Subdivision Map as complete until the Subdivider has provided all relevant documents related to the grading permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer.

**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 21 of 22**

EXHIBIT B-2
(Conditions of Approval for Small-Lot Tentative Subdivision Map)

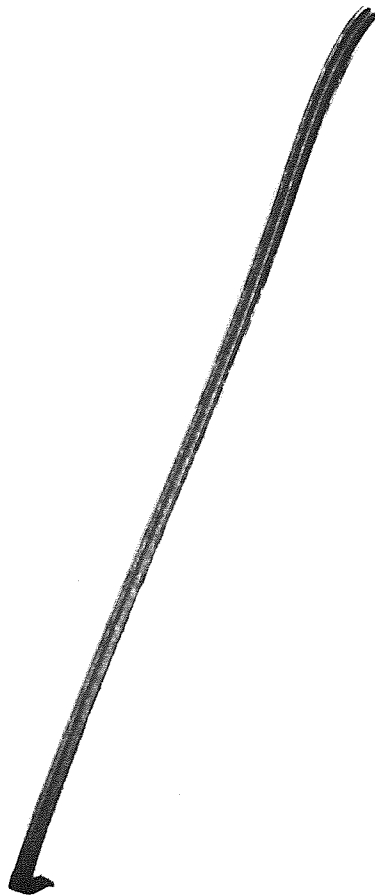
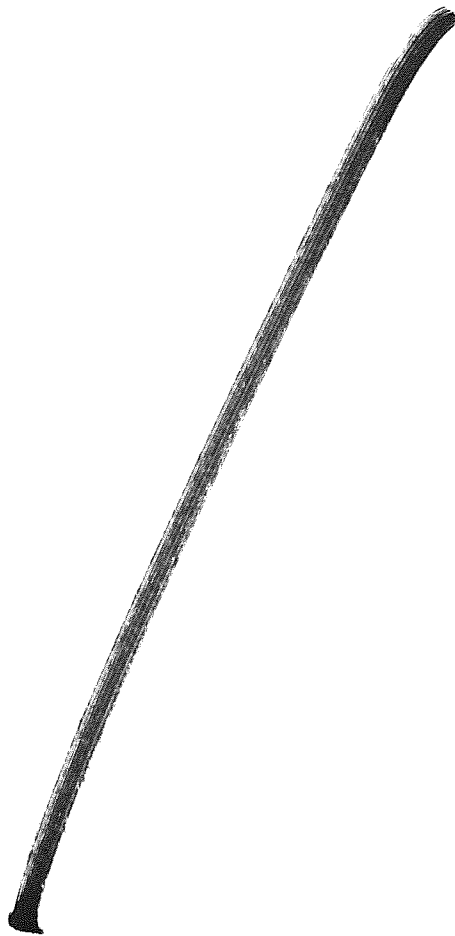


EXHIBIT C
(Deferred Improvements)



**CITY OF TRACY – DEFERRED IMPROVEMENT AGREEMENT
TRACY HILLS PHASE 1A, TRACT 3878
Page 9 of 10**

EXHIBIT B-2
(Conditions of Approval for Small-Lot Tentative Subdivision Map)



ORIGINAL

EXHIBIT " B-2"
Page 1 of 45

RESOLUTION 2016-066

APPROVING A SMALL-LOT VESTING TENTATIVE SUBDIVISION MAP FOR TRACY HILLS PHASE 1A TO CREATE 1,160 SINGLE-FAMILY RESIDENTIAL LOTS AND VARIOUS OTHER PARCELS ON APPROXIMATELY 417.6 ACRES LOCATED WEST OF CORRAL HOLLOW ROAD, SOUTH OF THE CALIFORNIA AQUEDUCT, NORTH OF INTERSTATE 580, AND EAST OF THE FUTURE LAMMERS ROAD INTERCHANGE, APPLICATION NUMBER TSM13-0005

WHEREAS, The Tracy Hills Specific Plan was approved and annexed to the City in 1998, and

WHEREAS, On May 10, 2013, The Tracy Hills Project Owner, LLC submitted applications for a General Plan Amendment and a comprehensive update to the Tracy Hills Specific Plan, and

WHEREAS, As part of the Tracy Hills Project applications, The Tracy Hills Project Owner, LLC proposed a small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A to create 1,160 single-family residential lots and various other parcels on approximately 417.6 acres located west of Corral Hollow Road, south of the California Aqueduct, north of Interstate 580, and east of the future Lammers Road Interchange, Application Number TSM13-0005, and

WHEREAS, On April 5, 2016, the City Council certified the Tracy Hills Specific Plan Final Subsequent Environmental Impact Report ("Final SEIR") (Resolution 2016-062) for the Tracy Hills Project applications, including the small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, and

WHEREAS, On April 5, 2016, the City Council approved a General Plan Amendment for the Tracy Hills project and a comprehensive update to the Tracy Hills Specific Plan (Resolution 2016-063), and

WHEREAS, The proposed Vesting Tentative Subdivision Map is consistent with the General Plan and the Tracy Hills Specific Plan, as amended, including but not limited to General Plan Policy P10 (under Objective N-1.1 of the Noise Element, page 9-18), providing for application of the noise exposure limits to certain types of land uses in the Conditionally Acceptable range where necessary or appropriate to balance competing General Plan policies. In making this determination, the City Council has taken into account the effect of feasible noise reduction measures on the anticipated noise levels at the location of the affected uses, and the project's conformance with other General Plan goals, objectives and policies, and

WHEREAS, The proposed Vesting Tentative Subdivision Map is consistent with the Tracy Municipal Code, Title 12, Subdivisions, and

WHEREAS, The site is physically suitable for the type of development and will be developed in accordance with City standards, and

WHEREAS, The site is physically suitable for the proposed density of development. The proposed density of 3.7 dwelling units per gross acre for the residential portion of the site is consistent with the General Plan, Residential Low designation, which provides for a density

Resolution 2016-066
Page 2

range of 2.1 to 5.8 dwelling units per acre. Traffic circulation is designed in accordance with City standards for the proposed density to ensure adequate traffic service levels are met, and

WHEREAS, The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, and

WHEREAS, The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, and

WHEREAS, The project complies with all other applicable ordinances, regulations and guidelines of the City, including but not limited to, the local floodplain ordinance. The subject property is not located within any floodplain and the project, with conditions, will meet all applicable City design and improvement standards, and

WHEREAS, All public facilities necessary to serve the subdivision or mitigate any impacts created by the subdivision will be constructed or assured before approval of a final map or issuance of a building or grading permit, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on March 2, 2016 and recommended that the City Council approve the small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, and

WHEREAS, The Planning Commission considered the housing needs of the region and balanced those needs against the public service needs of its residents and available fiscal and environmental resources in accordance with Government Code Section 66412.3, and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on April 5, 2016;

NOW, THEREFORE BE IT RESOLVED as follows:

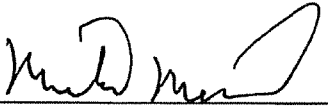
1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.
2. Compliance with CEQA. The Tracy Hills Specific Plan Final Subsequent Environmental Impact Report ("Final SEIR") (State Clearinghouse No. 2013102053), certified by City Council Resolution 2016-062, and incorporated herein by this reference, was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and is adequate to support the City Council's approval of the application for small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A.
3. Approval of a small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A. The City Council hereby approves a small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, consisting of 1,160 single-family residential lots and various other parcels on approximately 417.6 acres, located west of Corral Hollow Road, south of the California Aqueduct, north of Interstate 580, and east of the future Lammers Road Interchange, Application Number TSM13-0005, subject to the conditions stated in Exhibit "1" attached and made part hereof.

Resolution 2016-066
Page 3

4. Effective Date. This resolution shall be effective immediately.

The foregoing Resolution 2016-066 was passed and adopted by the City Council of the City of Tracy on the 5th day of April 2016, by the following vote:

AYES:	COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTAIN:	COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

Exhibit 1

**Conditions of Approval for Tracy Hills Phase 1A
Small-Lot Vesting Tentative Subdivision Map
Application Number TSM13-0005
April 5, 2016**

Project: These Conditions of Approval shall apply to the small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1A, Application Number TSM13-0005, including approximately 1,160 single-family residential lots, three park sites, a school site, and approximately 50 acres of commercial property.

Property: The property consists of approximately 417.6 acres located in the Tracy Hills Specific Plan Area, west of Corral Hollow Road, south of the California Aqueduct, and north of Interstate 580, Application Number TSM13-0005.

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

A. Definitions; Abbreviations.

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

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider" by Section 12.08.010 of the City of Tracy Municipal Code.
2. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth here. (The Development Services Director is also referred to in the Tracy Municipal Code as the Development and Engineering Services Director.)
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Hills Specific Plan, the Tracy Municipal Code, ordinances, resolutions, written policies, written procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Conditions of Approval" or "Conditions" means these conditions of approval.

Tracy Hills Phase 1A – Vesting Tentative Subdivision Map
Application Number TSM13-0005
Page 2

The following abbreviations may be used in these Conditions:

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

B. Planning Division Conditions of Approval

1. Compliance with laws. The Subdivider shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").
2. City Regulations. Unless specifically modified by these Conditions of Approval, the Subdivider shall comply with all City Regulations.
3. Mitigation Measures. The Subdivider shall comply with all mitigation measures in the Final Subsequent Environmental Impact Report (EIR) for the Tracy Hills Specific Plan Project (State Clearinghouse No. 2013102053), which was certified by the City Council on April 5, 2016.
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 TSM13-0005), which was date stamped as received by the Development Services Department on February

Tracy Hills Phase 1A – Vesting Tentative Subdivision Map
Application Number TSM13-0005
Page 3

24, 2016, and approved by the City Council on April 5, 2016, unless modified by these Conditions.

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

As used in these Conditions of Approval:

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

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

Before approval of the first Final Map, Subdivider shall enter into an agreement with the City, which shall be recorded against the entire Phase 1A property, which adopts and implements one or more of the following three options (a., b. or c.), subject to the approval of the Administrative Services Director:

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

Tracy Hills Phase 1A – Vesting Tentative Subdivision Map
Application Number TSM13-0005
Page 4

Or

- b. HOA and dormant CFD. If the HOA is the chosen funding mechanism, the Subdivider must do the following:
- (1) Form a Homeowner's Association (HOA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas within the entire tentative subdivision map area;
 - (2) Cause the HOA to enter into an agreement with the City, in a form to be approved by the City and to be recorded concurrently with the first Final Map, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the HOA of all public landscape areas within the entire tentative subdivision map area;
 - (3) For each Final Map, make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas within the Final Map area;
 - (4) Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), annex into a CFD in a "dormant" capacity, to be triggered if the HOA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all homebuyers and non-residential property owners, even during the dormant period.

Or

- c. Direct funding. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full costs of public landscaping maintenance as identified by the approved landscaping budget analysis.
7. Maintenance for Public Landscaping for Major Program Roadways. Before approval of the first Final Map, the Subdivider shall assure that there will be sufficient funding to pay the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways, by entering into an agreement with the City, which shall be recorded against the entire Phase 1A property, which adopts and implements one of the following two options (a. or b.), subject to the approval of the Administrative Services Director:

Tracy Hills Phase 1A – Vesting Tentative Subdivision Map
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- a. CFD. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), Subdivider shall, at its sole expense, form a Community Facilities District (CFD) for the entire Project area, for funding the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the Property will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment. If funds are needed to pay for such public landscaping maintenance costs before collection of the first Special Services Tax (the "deficit"), then before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit to the CFD (by submittal to the City's Administrative Services Director) the amount of the deficit;

Or

- b. Direct Funding. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full costs of funding the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan.
8. Land-Locked Parcels. No land-locked parcels shall result from this Vesting Tentative Subdivision Map, including but not limited to the parcels known as the Integral parcel (formerly the Ferry parcel) and the Sellick parcel.
 - a. With the approval of a Final Map that includes any lot or parcel adjacent to the Integral parcel (Assessor's Parcel Number 253-020-08, formerly the Ferry parcel), the Subdivider shall record an access easement between the public right-of-way and the Integral parcel, as shown on the Vesting Tentative Subdivision Map, to the satisfaction of the Development Services Director. The access easement shall have a minimum width of 20 feet and shall grant continuous access to and from the public right-of-way, across the Subdivider's property, for the benefit of the owner of the Integral parcel.
 - b. With the approval of a Final Map that includes any lot or parcel adjacent to the Sellick parcel (Assessor's Parcel Number 253-020-10), the Subdivider shall record an access easement between the public right-of-way and the Sellick parcel, as shown on the Vesting Tentative Subdivision Map, to the satisfaction of the Development Services Director. The access easement shall have a minimum width of 20 feet and shall grant continuous access to and from the public

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right-of-way, across the Subdivider's property, for the benefit of the owner of the Sellick parcel.

9. Parks. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates the following:
 - a. Within one year following final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the first neighborhood park shall be completed and accepted by the City. If the first neighborhood park is not completed and accepted by the City within one year following final inspection or occupancy of the first dwelling, no further building permits shall be issued until the first neighborhood park is completed and accepted by the City; and
 - b. Before final inspection or occupancy of the 750th dwelling, the second neighborhood park shall be completed and accepted by the City; and
 - c. Before final inspection or occupancy of the 1,000th dwelling, the third neighborhood park shall be completed and accepted by the City.
10. Conservation Easement. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that before issuance of a building permit for the structure containing the 500th dwelling unit, the Subdivider shall plant trees in the 100-foot wide conservation easement adjacent to Interstate 580 and the Project, as described and depicted in Section 3.4.7 of the Tracy Hills Specific Plan (pages 3-49 to 3-54), to the satisfaction of the Development Services Director.
11. Community Gateway Icon. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that before issuance of a building permit for the structure containing the 500th dwelling unit, the Subdivider shall construct the Community Gateway Icon, which is conceptually described and depicted in Section 3.4.5 of the Tracy Hills Specific Plan (page 3-34), to the satisfaction of the Development Services Director, based on substantial conformance with the Development Review approval by City Council. The Community Gateway Icon shall be located on a privately-owned parcel and be privately maintained. Prior to issuance of a building permit for the Community Gateway Icon, the Community Gateway Icon shall be subject to Development Review approval by City Council, as specified in Section 5.1.2 of the Tracy Hills Specific Plan (page 5-1).
12. Schools. Before issuance of a building permit for each new dwelling, the Subdivider shall document compliance with all applicable school mitigation requirements and provide to the City a certificate of compliance for such requirements from the Jefferson School District and Tracy Unified School District.

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13. 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 (except for up to fifteen model homes), 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 month; 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 (except for up to fifteen model homes), the Subdivider will fund a fiscal impact study to be conducted and approved by the City to determine the long term on-going operational costs of providing Police services, 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.
14. Utilities in Roundabouts. All three roundabouts shown on the approved Vesting Tentative Subdivision Map for Tracy Hills Phase 1A shall be designed and constructed in such a manner that no utility lines intersect a 30-foot radius from the center of each roundabout in order to allow sufficient space for the planting and mature growth of the oak trees (three per roundabout), which are conceptually depicted in the Tracy Hills Specific Plan. The Subdivider shall submit Improvement Plans that demonstrate compliance with this condition, to the satisfaction of the Development Services Director.
15. Building and Fire. 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, to the satisfaction of the Chief Building & Fire Code Official:

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- a. Before issuance of any building permits, the Subdivider shall provide Fire Department access to the Property in compliance with all provisions of Section 503 of the California Fire Code, to the satisfaction of the Chief Building & Fire Code Official.
- b. Before issuance of any building permits (except for up to fifteen model homes), the Subdivider shall provide a fire protection water supply in compliance with all provisions of Section 507 of the California Fire Code, to the satisfaction of the Chief Building & Fire Code Official.
- c. Before issuance of any building permits for model homes, the Subdivider shall comply with the following requirements:
 - (1) In lieu of active hydrants onsite, a static water storage supply shall be provided in compliance with NFPA 1142, to the satisfaction of the Chief Building & Fire Code Official. The volume of water shall be based on the total cubic footage of all structures plus a 1.5 exposure coefficient.
 - (2) A separate static water supply shall be provided for each group of model homes throughout the subdivision, to the satisfaction of the Chief Building & Fire Code Official.
 - (3) Fire Department access to and from the static water supplies shall be provided, to the satisfaction of the Chief Building & Fire Code Official.
- d. Before issuance of the first building permit (except for up to fifteen model homes), the Subdivider shall construct an all-weather, emergency vehicle access to the westerly terminus of the Phase 1A Spine Road. The emergency vehicle access shall be available to Police, Fire, and other necessary and relevant emergency responders. The design, location, and maintenance of the access shall meet City standards, to the satisfaction of the Fire Chief. The access shall be continuously maintained by the Subdivider until permanent access is developed and accepted for maintenance by the City.
- e. Whenever 50 or more homes are under construction at the same time, the Subdivider shall provide an onsite trailer for the exclusive use of City inspection staff. The inspection trailer shall have a minimum size of 8' x 20' and be equipped with HVAC and basic furnishings, to the satisfaction of the Chief Building & Fire Code Official.

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16. Phillips 66 Pipeline Easement. A Phillips 66 pipeline easement intersects the project site. Before approval of the first Final Map, the Subdivider shall submit a copy of the Phillips 66 pipeline easement to the Development Services Director and enter into an agreement with the City, which shall be recorded against the Property, which stipulates that before issuance of each building permit, the Subdivider shall clearly mark and label each plot plan with the location of the 5-foot minimum setback line from the edge of the Phillips 66 pipeline easement, if applicable, to the satisfaction of the Development Services Director.

C. Engineering Division Conditions of Approval

C.1. General Conditions

- C.1.1 Subdivider shall comply with the applicable requirements of the approved documents, technical analyses/reports prepared for the Project listed as follows:
- a) *Tracy Hills Specific Plan* approved by City Council by Resolution 2016-062 dated April 5, 2016 and any amendments thereto.
 - b) *Tracy Hills Specific Plan Recirculated Draft Subsequent Environmental Impact Report*, Volume I; Section 4.13-Traffic and Circulation, prepared by Kimley-Horn Associates, dated October 2015, and
Traffic Analysis of Tracy Hills Specific Plan Area- Phase 1a Residential Units and School Only Analysis, prepared by Kimley-Horn, Associates, dated April 27 2015. ("Traffic Analysis")
 - c) *Tracy Hills Phase 1A and 1B Sanitary Sewer Study Technical Memorandum* prepared by Ruggeri-Jensen-Azar, dated December 12, 2013 ("Sanitary Sewer Study") and reviewed by CH2M Hill.
 - d) *Tracy Hills Water Study Technical Memorandum* prepared by Ruggeri-Jensen-Azar, dated December 5, 2014 ("Water Study") and reviewed by West Yost Associates.
 - e) *Tracy Hills Storm Drainage Master Plan* prepared by Ruggeri-Jensen-Azar, dated November 2013 ("Storm Drainage Master Plan") and reviewed by Stormwater Consulting, Inc.
 - f) *Tier 2 Storm Drainage Study for Tracy Hills Phase 1A*, prepared by Ruggeri-Jensen-Azar, dated July 2015 ("Tier 2 Storm Drainage Study") and reviewed by Stormwater Consulting, Inc.
 - g) *Citywide Water System Master Plan* dated December 2012, prepared by West Yost Associates.
 - h) *Plan Line Study – Corral Hollow Road* prepared by Ruggeri-Jensen-Azar ("Corral Hollow Road Plan Line") reviewed by the City Engineer.

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- i) *Any Finance Implementation Plan ("FIP")*, as described in Section 10.20.060(b)(3)(B) of the Tracy Municipal Code, that is approved by the City Council for the property described in the Tracy Hills Phase 1A Vesting Tentative Subdivision Map, Application No. TSM13-0005.
 - j) *Liquid Petroleum Pipeline Risk and California Aqueduct Flood Risk for the Proposed Tracy Hills School Site, Jefferson School District, City of Tracy, San Joaquin County, California* prepared by Wilson Geosciences, Inc. dated May 2013.
 - k) *Pipeline Safety Hazard Assessment, Tracy Hills Specific Plan* prepared by Place Works dated September 2014.
- C.1.2 Subdivider shall comply with the requirements of the Development Agreement, approved by City Council on April 19, 2016, by Ordinance No. 1213 (hereafter, the "Development Agreement"),
- C.1.3 Timing of Compliance: The Applicant shall satisfy each of the following conditions prior to filing the first Final Map unless a different time for compliance is specifically stated in these Conditions of Approval. Any condition requiring an improvement that has already been designed and completed under a City-approved improvement agreement may be considered satisfied at the discretion of the City Engineer.
- C.1.4 Maintenance for Major Program Roadways. Before approval of the first Final Map, the Subdivider shall assure that there will be sufficient funding to pay the Subdivider's proportionate share of the ongoing costs for maintenance of public landscaping, including urban forest, on major program roadways by entering into an agreement with the City, which shall be recorded against the entire Phase 1A property, which adopts and implements one of the following two options (a. or b.), subject to the approval of the Administrative Services Director:
- a. CFD. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), Subdivider shall, at its sole expense, form a Community Facilities District (CFD) for the entire Project area, for funding the Subdivider's proportionate share of the ongoing maintenance costs of public landscaping, including urban forest, on major program roadways identified in the Citywide Roadway and Transportation Master Plan. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the Property will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit to the CFD (by submittal to the City's Administrative Services Director) an amount equal to the first year's taxes, except for any portion of this

amount that has been previously collected by the special tax and already deposited in the CFD;

OR

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

C.2. Improvement Plans

C.2.1 General.

The Subdivider shall complete the Improvement Plans to comply with all applicable laws, including the City Regulations (defined above) and these Conditions of Approval. Improvement Plans shall contain the design, construction details and specifications of improvements that is/are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.2.2 Site Grading

C.2.2.1 Erosion Control

Improvement Plans shall specify the method of erosion control to be employed and materials to be used.

C.2.2.2 Grading and Drainage Plans

Submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geo-technical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.

C.2.2.3

When the grade differential between the Project site and the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Subdivider shall submit Retaining Wall Plans that includes the construction detail(s) and structural calculations of the

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retaining wall or masonry wall for City's review and approval.

C.2.2.4 If an engineered slope is used to retain soil subject to approval by the City Engineer, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain a slope easement from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.

C.2.2.5 If applicable, show all existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, if any, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Subdivider shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

C.2.3. Grading Permit

The City will not accept a grading permit application for the Project as complete until the Subdivider has provided all relevant documents related to the grading permit required by the City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer.

C.2.4. Storm Drainage

C.2.4.1 Site grading shall be designed such that the Project's storm drainage overland release point will be directed to an existing percolation retention pond, clean water pond, existing storm drainage easement or to public streets with a functional storm drainage system and that the storm drainage system within the public street has adequate capacity to drain storm water from the Property, proposed roadway, lot runoffs, landscaping, off-site flow-thru surface drainage, off-site Corral Hollow Road drainage improvements or private property subject to a drainage release.

C.2.4.2 All permanent underground storm drainage lines and structures to be maintained by the City shall be located within right-of-way to be dedicated to the City or within an easement. Interim facilities and storm drain lines and collection basins shall be maintained by the Subdivider.

Provide design and construction details for all storm water intercept points at Project boundary at I-580 showing adequate inlet structures, erosion control features, storm

drainage easements and connections to the proposed storm drainage facilities in Spine Road.

Prior to acceptance of storm drainage facilities for maintenance by the City, the Subdivider shall revise the locations of the 50' wide openings in the Conservation Easements to align with existing drainage routes and proposed storm drainage intercept points into the Project on-site storm drainage system.

- C.2.4.3 Storm drainage plans are to be submitted with the required hydrologic and hydraulic calculations for the sizing of storm drainage pipe(s) and shall comply with Storm Drainage Master Plan, Tier 2 Storm Drainage Study and City Regulations.
- C.2.4.4 Prior to acceptance of maintenance of any public facilities by the City, the Subdivider shall prepare and obtain approval from the Public Works Department of a maintenance plan for all temporary and permanent storm drainage facilities to be maintained by the Subdivider or the HOA. The maintenance plan shall show the phasing of roadway construction, mass grading, drainage facilities, including collection channels, erosion control and protection of the Phillips 66 pipeline during construction. A SWPPP may be used as the maintenance plan with approval by the City Engineer.
- C.2.4.5 Storm water designs shall show facilities needed for the collection and channeling of surface water runoff, and off-site flow-thru surface water runoff to underground storm drainage facilities within Spine Road such as temporary drainage collection channels and sedimentation ponds. These improvements shall be shown on the Grading Plans and be approved by the City Engineer before the issuance of a Grading Permit.
- C.2.4.6 Since the Project will construct a terminal retention basin, it has been determined that the Project will be exempt from the Post Construction Stormwater Quality Standards. However, should new Federal or State regulations come into effect during the buildout of the Project that would require future compliance, then the Project would not be exempted from those new requirements.

SWPPP's shall be implemented during project construction. In addition, the Project may implement stormwater control measures such as disconnected roof leaders, non-contiguous street sidewalks (providing landscape strips/parkways), tree planting in parkways and use of drought tolerant landscape with drip irrigation systems and "intelligent" controllers. Similarly, public

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- education measures regarding the damaging effects of pollutants to water quality may also be implemented.
- C.2.4.7 All Storm Water structural and construction details that are not part of the City Standard Plans or City Design Standards shall be provided by the Subdivider and submitted to the City for approval as part of the improvement plans.
- C.2.4.8 Subdivider shall dedicate appropriate easements and execute a maintenance agreement with the City to address maintenance, liability, permit compliance, and related items for Parcel E, to be owned and maintained by the HOA while the storm drainage system (72" pipe and associated facilities) will be owned and maintained by the City.
- C.2.4.9 Subdivider shall coordinate with Police and Fire departments for safety measures to be incorporated in the improvement plans for the back alley/corridor shown as Parcel VV and Parcel XX which may include alley lighting and other improvements. These measures will be part of the improvement plans that include construction of facilities within these parcels.
- C.2.4.10 All storm drainage retention basins/facilities, including Percolation Basin D, shall be contained within storm drainage parcels suitable for dedication to the City of Tracy. This basin shall be provided with appropriate fencing with warning signs as approved by the City Engineer, access roadways to and from public roadways and access roadways into the ponds for maintenance purposes. All storm drainage inlets into this basin shall have inlet structures with design acceptable to the City of Tracy.
- C.2.4.11 Install a forebay in the bottom of RET D to collect and accumulate sediments and pollutants and facilitate future maintenance activities. The forebay shall be sized to hold 0.25 inches of runoff per impervious acre of the contributing watershed. Based on data regarding the storage requirements for RET D provided in the Tracy Hills Storm Drainage Master Plan and the Tier 2 Storm Drainage Study, the recommended volume for the forebay shall be 5 ac-ft. The forebay shall be linear and connect all three proposed pipe discharges into the basin. The forebay may be created by providing a berm (20-foot top width recommended) in the bottom of the basin. A stabilized spillway shall be provided across the berm to allow runoff entering the forebay to spill into the larger bottom area of the basin when the forebay storage exceeds 5 ac-ft. The spillway shall be sized to pass the

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100-year combined peak inflow into the basin with freeboard.

- C.2.4.12 Fixed vertical sediment depth markers shall be installed near discharge points into the forebay for RET D to assist with measurements of sediment deposition over time and future assessments of the need for maintenance activities.
- C.2.4.13 All storm drainage facilities that run along the northerly boundary of Project, as part of the project on-site storm drainage collection system not located within Spine Road shall be located within a 20' wide utility maintenance easement. Subdivider shall provide access points for City maintenance vehicles.
- C.2.4.14 Subdivider shall show adequate detail of the common storm drainage/sanitary sewer easement between Court 3M and Court 5L, between Court 3M and Spine Road, and easement between Street 6K and Parcel J. Details should show the dimensions of this easement, that this easement will be paved, show clearances to existing 16" oil line, and whether this easement will be gated or fenced off. This information shall be shown on the project Improvement plans for the respective neighborhood, and shall be approved by the City Engineer before Improvement Plan approval.

C.2.5. Sanitary Sewer

- C.2.5.1 All sanitary sewer lines and associated improvements shall be designed and installed per the Sanitary Sewer Study and City Regulations. Before approval of Final Map(s) for the Project, Subdivider shall submit improvement plans and obtain approval for the plans for all on-site sewer improvements.
- C.2.5.2 As referenced in Conditions C.2.5. and C.2.6, the terms "Program Funded City CIP Costs" and "Non-Program Funded Subdivider CIP Costs" shall mean the following:

Program Funded City CIP Costs - Costs applicable to CIP project if constructed by the City shall include costs of design, project management, program management, construction, inspection, construction management, contingencies and construction change orders as approved by the City.

Non-Program Funded Subdivider CIP Costs - Costs applicable to CIP project if constructed by the Subdivider shall include costs of design, project management, construction, inspection, construction oversight by City, contingencies and construction change orders as approved by the City.

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- C.2.5.3 There is insufficient conveyance capacity in the City's wastewater conveyance system for Tracy Hills build-out ("Choke Points"). The Choke Points will be resolved in three phases of improvements. City is in the process of constructing Phase 1 Choke Points improvements. Upon completion of the Phase 1 Choke Points improvements, limited conveyance capacity will be available for the Project. The available capacity will be made available to new developments in the City including the Project as per the Development Agreement.
- The City does not currently have adequate program funding to construct Phase 2 & 3 Choke Points Improvements, but anticipates it will have adequate funding to construct the improvements by the time they are needed. If the City does not have adequate funding to construct the improvements by the time the improvements are needed to serve the Project, the Subdivider may pre-pay sewer fees in an amount equal to the funding needed to fund Phase 2 & 3 Choke Points improvements, subject to reimbursement from appropriate available program funds. The additional capacity available after completion of these improvements will be available to serve new developments including this Project, until the downstream capacity of the wastewater collection system is used and further improvements are triggered.
- C.2.5.4 The Subdivider shall pay for the design and construction of the Sanitary Sewer Pump Station (SSPS) with sufficient capacity to service the Project, Phase 1B, Phase 2-4 and Phase 5B. This Pump Station shall be constructed on Subdivider's land to be dedicated by Subdivider, as approved and required by the City, and shall convey sewage through underground force main sewer pipes from the SSPS to Corral Hollow Road. The Non-Program Funded Subdivider CIP Costs for construction of this pump station and force main, as determined by the City, shall be borne by the Subdivider. Upon satisfactory completion of the SSPS improvements, as determined by City, the City will accept the land dedication and SSPS improvements for maintenance.
- C.2.5.5 The Subdivider shall pay for all design costs incurred by the City and its consultant(s) for the sanitary sewer force main and the sanitary sewer gravity line from the SSPS to Node 1W near W. Linne Road (as shown in Wastewater Master Plan) per the improvement plans prepared by CH2M Hill and approved by the City ("Off-site Sewer Line Improvements"). After approval of the design by the City, the Subdivider shall pay for the City CIP Costs for the SSPS and Off-site Sewer Line Improvements (unless the

Subdivider opts to construct these improvements as described below). If the Subdivider does not elect to construct the Off-site Sewer Line Improvements in accordance with this condition of approval, the Subdivider shall pay to the City all related City CIP Costs either before approval of the first Final Map within the Project, or within 15 days from the date of written notice from the City that the project is ready for bid, whichever is earlier. Upon receipt of the funds, City will proceed with bidding of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding.

For the underground crossings of the sewer line at Delta Mendota Canal and California Aqueduct ("Crossing Improvements"), permits from appropriate regulating agencies will be required. The Subdivider may opt to construct the Crossing Improvements in full compliance with the permit requirements and subject to Subdivider's posting security as required by TMC section 12.36.080 and executing an Offsite Improvement Agreement approved by the City which, among other things, provides for Subdivider to fully indemnify City against any and all claims and liabilities that may arise from the construction of the Crossing Improvements.

In the event the Subdivider opts to construct the sanitary sewer improvements listed in Condition C.2.5.4 and C.2.5.5, the Subdivider shall enter into an improvement agreement (Offsite Improvement Agreement or OIA) and post improvement security in the amounts and form required by TMC section 12.36.080 and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized OIA with the necessary improvement security before approval of the first Final Map within the Project. These improvements are not included in the Fee Program and no fee credits or reimbursements will be applicable.

- C.2.5.6 Sanitary sewer improvements north of WWMP Node 1W up to the current terminus of the City's sanitary sewer line in Corral Hollow Road are required to be completed prior to final inspection or occupancy of first residential or commercial building within the Project, excluding Model Homes. These are program-funded improvements under a Capital improvement Project (CIP). However, City will not have collected sufficient program fees to construct this Project. As such, Subdivider shall deposit total Program Funded City CIP Costs of this CIP to the City at least 18

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months prior to the occupancy of any residential or commercial buildings within the Project

Upon receipt of the funds, City will proceed with bidding of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding sufficient to make up the difference.

If Subdivider opts to construct this sewer line, the Subdivider shall enter into an Offsite Improvement Agreement and post improvement securities in accordance with TMC Section 12.36.080.

- C.2.5.7 No final inspection of any residential building will be performed or certificate of occupancy for commercial building will be issued, with the exception of Model Homes, until the improvements listed in Conditions C.2.5.4 through C.2.5.6 are completed and functional, as determined by the City Engineer.
- C.2.5.8 The Subdivider 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.2.5.9 Prior to the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all sanitary sewer lines (gravity or force mains). All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.
- C.2.5.10 Subdivider is to coordinate with Utilities Department and Public Works Department for providing access to Sanitary Sewer Pump Station during the initial phases of construction when public streets are in construction.

C.2.6. Water Distribution System

- C.2.6.1 All potable water lines and associated improvements as identified in the Water Study (Water Line Improvements)

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shall be designed and installed per City Regulations.

- C.2.6.2 During the construction phases of the Project, the Subdivider shall be responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the City of Tracy Fire Code Official.
- C.2.6.3 Prior to approval of each Final Map, the Subdivider shall submit calculations and improvement plans as required by the Fire Department and the City Engineer, and obtain a letter from the Fire Code Official that the fire flow parameters per Tracy Design Standards Section 6.02 are met for the phased construction of water lines to the satisfaction of the City of Tracy Fire Code Official.
- C.2.6.4 The Subdivider shall complete design and construction of an at-grade water storage tank with a holding capacity of at least 3.5 MG (million gallons) and a booster pump station equipped with pumps that meets required domestic water and fire demand pumping capacity. These improvements are required to be complete, in place and operational before the final inspection of the 301st residential building within the Project.

All costs related to the design and construction of the water tank are the responsibility of the Subdivider. Before approval of first Final Map within the Project, the Subdivider shall execute a Deferred Improvement Agreement (DIA) to address timing, scope of work and funding responsibilities.

- C.2.6.5 In order to serve the Project, prior to final building inspection of the 301st residential building, or prior to completion of the at-grade water storage tank, the Subdivider shall provide for the design and construction of a remote pressure sensing station to be located near the residential units to transmit pressure data from the distribution system back to the pump controls at the City's John Jones Water Treatment Plant ("JJWTP"). This temporary remote pressure sensing station shall be funded and maintained by the Subdivider.

The Subdivider shall enter into a DIA, to guarantee removal of the remote pressure sensing station when the at-grade storage tank, and pump station are constructed and operational. Costs of installation of the remote pressure sensing station are not eligible for fee credits or reimbursements. The DIA will also include any

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modifications required at the JJWTP until the at-grade storage tank and pump station are constructed and operational.

This requirement shall not apply if the at-grade water tank and pump station are constructed prior to final building inspection or occupancy for the first residential or commercial building excluding model homes within the Project.

- C.2.6.6 The Project will require completion of construction of Tracy Hills Booster Pump Station at JJWTP before any water services can be provided by the City to serve the Project. This pump station and associated work ("JJWTP Improvements") shown in the approved improvement plans titled "Tracy Hills Booster Pump Station at JJWTP" prepared by West Yost Associates ("JJWTP Improvement Plans") is a Capital Improvement Project, and the entire cost of this CIP (except the cost of the 20-inch diameter City Side Zone 3 Water Line as shown in the JJWTP Improvement Plans) is the responsibility of the Subdivider.

The Subdivider has the option to pay to the City full cost of this CIP project (as provided above) or enter into an agreement with the City (which shall be approved by the City) for paying portions of the CIP cost at major milestones. Any overruns in costs as listed in Condition C.2.5.2 will be the responsibility of the Subdivider. The Subdivider shall be eligible to receive reimbursements for the cost of the 20-inch diameter City Side Zone 3 Water Line if the Subdivider pays for its installation. The timing of reimbursement, if from the City, will be addressed in the agreement specified above.

- C.2.6.7 If the at-grade storage tank and booster pump station is not completed before final inspection of the structure that is the subject of the 100th building permit and subsequently before final inspection of 150th, 200th, and 250th building permits, the Subdivider shall demonstrate to the satisfaction of the City Engineer and Fire Code Official that required domestic and fire flow and water pressure are met by performing flow and pressure field tests.
- C.2.6.8 The onsite Recycled Water Transmission mains are required to serve the Project. As part of the onsite improvements for the Project, the Subdivider shall install an 8-in Recycled Water main with the Spine Road improvements

Initially, the 8-in Recycled Water Main will be connected to a potable water supply (with a stub in place to future recycled water) as approved by the City until the program backbone Recycled Water facilities are in place. Once the Recycled Water system network is online the 8-in Recycled Water distribution main will be disconnected from the Potable Water system and connected to the Recycled Water System as part of the Recycled Water Project by the City.

- C.2.6.9 Prior to final inspection of the first residential building (excluding model homes), or issuance of certificate of occupancy for the first commercial building within the Project, the water line from the JJWTP to Corral Hollow Road and from Corral Hollow Road to the Project ("Offsite Water Line Improvements") per the approved improvement plans titled "Corral Hollow Road Utility Improvements – Water and Sewer Pipelines" prepared by CH2MHill ("Offsite Water Line Improvement Plans") must be constructed and operational.

The Subdivider can either have the City construct these improvements by depositing with the City an amount equaling the estimated Non-Program Subdivider CIP Costs or opt to construct the improvements.

For the crossings of the water line at Delta Mendota Canal and California Aqueduct ("Crossing Improvements"), permits from appropriate regulating agencies will be required. The City Subdivider may opt, to construct the Crossing Improvements in full compliance with the permit requirements and subject to Subdivider's posting improvement security as required by TMC section 12.36.080 and executing an Offsite Improvement Agreement approved by the City which, among other things, provides for Subdivider to fully indemnify City against any and all claims and liabilities that may arise from the construction of the Crossing Improvements.

If the City constructs the Crossing Improvements, the Subdivider shall pay to the City for City CIP Costs either before approval of the first Final Map within the Project, or within 15 days from the date of written notice from the City that the project is ready for bid, whichever is earlier. Upon receipt of the funds, City will proceed with bidding of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding sufficient to make up the difference.

If the Subdivider either constructs or pays for installation by the City, the 20-inch diameter City Side Zone 3 Water Line (shown as "Zone 3-C CL 20" Pipeline on the Offsite Water Line Improvement Plans), the Subdivider shall be eligible to receive reimbursements for the cost of the 20" City Side Zone 3 Water Line. The amount and timing of reimbursement, if from the City, will be addressed in the agreement specified above.

In the event a portion of the "Zone 3-TH" CL Pipeline as shown on the Offsite Water Line Improvement Plans will be installed by a third party other than the City, the Subdivider shall pay the party that will install the "Zone 3-TH" CL Pipeline the cost of the pipeline prior to beginning of construction. The Subdivider shall provide to the City documentation of payment in full for the cost of the "Zone 3-TH" CL Pipeline prior to final inspection of the first building constructed within the Project.

- C.2.6.10 In the event the Subdivider opts to construct the Off-site Water Line Improvements, the Subdivider shall enter into an OIA with the City and post improvement security in the amounts and form in accordance with section 12.36.080 of the TMC, and as required by these Conditions, prior to the approval of the first final map of any residential neighborhood, or issuance of building permit for the first commercial building, whichever occurs first. The Subdivider shall submit the signed and notarized OIA with the necessary improvement security, before starting the installation of water lines.
- C.2.6.11 Any public improvements required to be installed within the jurisdiction of the San Joaquin County (County) will require Subdivider to obtain an encroachment permit from the County. The Subdivider shall pay all permit and inspection fees associated with the construction of improvements within the County.
- C.2.6.12 For all program and non-program Off-site Water Line Improvements that the Subdivider opts to construct, the Subdivider shall be responsible for notifying residents, business owner(s) and users, regarding construction work that involves traffic re-routing or other traffic related and access impacts to the existing residents and businesses. The Subdivider shall deliver the written notice, after approval by the City Engineer, to the affected residents or business owner(s) at least 72 hours before start of work. Before starting the work described in this section, the

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Subdivider shall submit a Work Plan acceptable to the City that demonstrates that there will be no interruptions to the water supply, and a Traffic Control Plan to be used during the installation of the offsite water mains and connections. These plans and their costs are the sole responsibility of the Subdivider.

- C.2.6.13 Domestic and Irrigation Water Services – The HOA will be responsible for the repair and maintenance of all valves, fittings on services related to all street right-of-way landscaping, and for all parcels to be owned by HOA and all HOA easements.
- C.2.6.14 Where pressures at individual water services will be 80 psi or more, the Subdivider shall provide pressure reducing valves at the location approved by the City Engineer. The design operation of the individual pressure reducing valves for services shall be subject to approval by the Building Official.
- C.2.6.15 Fire Service Line – The Subdivider shall design and install fire hydrants at the locations approved by the City's Fire Safety Officer and Chief Building Official. Before 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 design, location and construction details of the fire service connections to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.
- C.2.6.16 In the event any additional right-of-ways and easements (temporary and/or permanent) including construction easements are required for program and non-program water and sewer line improvements, the Subdivider shall acquire such right(s)-of-way and easement(s), at the subdivider's sole cost and expense, prior to start of construction whether the Subdivider opts to construct such improvements or not.

Costs of right(s)-of-way and easement(s) acquisition for non-program improvements are not eligible for fee credits or reimbursements. Subdivider shall be eligible for fee credits and reimbursement for program improvements as provided in the City Regulations.

If required, the Subdivider may request the City to exercise its condemnation/ eminent domain powers for acquisition of right-of-way and easements. All costs of any condemnation process shall be paid for by the Subdivider.

C.2.7. Street Improvements

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C.2.7.1 Subdivider is required to design and construct roadway and underground utility improvements to serve the Project, as identified in the sections applicable to Phase 1A of the Final Subsequent EIR for the Tracy Hills Specific Plan Project ("EIR") and these Conditions of Approval. All improvements shall comply with City Regulations, and Tracy Hills Design Standards. Such improvements shall include, but are not limited to, roadways, water supply system, sewer system, storm drainage systems, curb and gutter, sidewalks, street lighting system, traffic signals, ITS systems, pavement and crosswalk striping, bicycle lanes and trails, roadway signage and street signs, median islands, turn lanes, landscaping, and all necessary related improvements as required by the City. Timing of completion of street improvements shall comply with these Conditions of Approval and as outlined in the Mitigation Measures listed in the EIR.

C.2.7.2 Corral Hollow Road Right of Way

Per the Citywide Roadway & Transportation Master Plan (CRTMP) that was adopted by City Council on November 26, 2012, pursuant to Resolution 2012-240, amended on November 19, 2013, Corral Hollow Road will be a 4-lane major arterial street with a raised median, sidewalks, bicycle facilities and landscaping, and depicted Corral Hollow Road Plan Line.

The Corral Hollow Road Plan Line established the amount of right-of-way to be dedicated from the Project along Corral Hollow Road. The Subdivider shall dedicate all rights-of-way necessary for the widening of Corral Hollow Road along the entire frontage of the Property on Corral Hollow Road to the project boundary along I-580. The dedication shall include Caltrans Right of Way and City of Tracy requirements that satisfies the roadway cross section shown on the Corral Hollow Road Plan Line, including a future westbound loop on-ramp at the interchange. The Subdivider shall also dedicate right-of-way for construction of intersection improvements with a traffic signal at Spine Road / Corral Hollow Road, for Phase 1A and project buildout requirements, including all turn lanes.

The Subdivider shall be eligible for fee Credits and/or reimbursements for right-of-way dedication beyond Project's frontage obligation per the CRTMP requirements.

C.2.7.3 Corral Hollow Road Improvements (Project Frontage)

The Subdivider shall design and construct the Corral Hollow Road Improvements in accordance with the Traffic Analysis, Corral Hollow Road Plan Line and City Regulations.

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Prior to issuance of final inspection or occupancy of Model Homes and residential units the Subdivider shall complete substantial portion of the Corral Hollow Road Improvements to provide adequate and safe traffic conditions on Corral Hollow Road to the satisfaction of the City Engineer. The improvements will include, but are not limited to, construction of, at a minimum, one southbound through lane, one southbound right-turn lane at Spine Road, one northbound through lane, one northbound left-turn lane at Spine Road, temporary concrete median island, including tapers, asphalt concrete pavement, water main, fire hydrants, storm drain lines, catch basins, traffic signal, pavement markings and striping, traffic signage, street lighting, roadway section construction and/or replacement, asphalt concrete overlay (where required), pavement transitions and other street and utilities improvements that are required to serve the Project based on the phasing plan approved by the City Engineer. Roadway design shall conform to STAA truck traffic requirements and Caltrans requirements.

Subdivider shall prepare improvement plans for Corral Hollow Road Improvements and obtain approval by the City Engineer before approval of the first Final Map within the Project.

Fee Credits and/or reimbursements for eligible costs of improvements beyond Project's frontage obligation per the CRTMP, will be determined based on the improvement plans to be approved by the City Engineer. Interim improvements are not eligible for fee credits or reimbursements and are the sole responsibility of the Subdivider.

- C.2.7.4 In order to guarantee completion of the Corral Hollow Road Improvements, the Subdivider shall enter into an improvement agreement (SIA or OIA) and post an improvement security in the amounts and form in accordance with section 12.36.080 of the TMC and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized OIA with the necessary improvement security before approval of the first Final Map within the Project.
- C.2.7.5 For any Corral Hollow Road Improvements considered frontage improvements (such as Subdivider's Frontage Obligation per the CRMP and landscape improvements behind the curb) and improvements within Caltrans right-of-way at I-580/Corral Hollow Road interchange that are not constructed or security posted with OIA at the time of

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approval of the first Final Map, the Subdivider shall enter into a DIA with the City.

The Subdivider shall submit the signed and notarized DIA before approval of the first Final Map within the Project. The Subdivider shall post improvement security in the amounts and form in accordance with TMC section 12.36.080 at the times specified in the DIA.

- C.2.7.6 Traffic Control Plan - Before starting any work within City's right-of-way on Corral Hollow Road, the Subdivider shall submit a Traffic Control Plan for each phase of work, to show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California. Subdivider shall comply with Caltrans requirements and standards for any work conducted within Caltrans ROW.
- C.2.7.7 The Subdivider shall design and construct Corral Hollow Road Improvements to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (CHDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), the Applicable Law, and these Conditions of Approval.
- C.2.7.8 The Tracy Hills Specific Plan EIR ("EIR") identifies the Project's traffic impacts that are to be mitigated by the Subdivider. The mitigation measures are summarized in Table 4.13-68, Transportation & Circulation EIR Mitigation Matrix, and are included herein by reference. Subdivider shall comply with the applicable mitigation measures as outlined in the EIR. Following is a list of traffic improvements for Phase 1A from the mitigation measures included with implementation requirements.

a) Corral Hollow Road/ I-580 EB Ramps (Mitigation Measure 4.13-14a, Intersection #1)

Prior to final inspection of the building that will generate 196 (cumulative) peak hour trips from the Project, the Subdivider shall install an all-way stop controlled intersection as an interim improvement. In order to guarantee timely installation of the stop signs, prior to final inspection of building generating 100 peak hour trips, the Subdivider shall obtain an encroachment permit from Caltrans. The installation of stop signs shall be included in the Deferred Improvement Agreement.

Prior to final inspection of a building that will generate 832 (cumulative) peak hour trips from the Project, the

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Subdivider shall install a traffic signal at the intersection. In order to guarantee timely installation of the traffic signal, prior to final inspection of building generating 700 peak hour trips, the Subdivider shall obtain an encroachment permit from Caltrans. The installation of traffic signal shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and Caltrans, commence with an encroachment permit application process to install the all-way stop sign and signal not later than ninety (90) calendar days following approval of the Vesting Tentative Map by the City of Tracy. If the Subdivider / City is unable to obtain required permits from Caltrans, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort.

The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Any improvements installed that will be part of the Traffic Impact Fee Program (Fee Program) will be eligible for fee credits in accordance with City Regulations and the Development Agreement. The installation of traffic improvements at these locations will require Caltrans approval and an Encroachment permit from Caltrans.

b) Traffic Signal at Spine Road /Corral Hollow Road
(Mitigation Measure 4.13-14a, Intersection #3)

A traffic signal at Spine Road / Corral Hollow Road shall be installed and made operational before final inspection of first building within the Project. The Subdivider shall provide improvement plans that show the design and construction details of the traffic signal and all associated intersection improvements such as turn lanes, signage and striping, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection. The improvement plans shall be submitted prior to approval of the first final map (residential or commercial).

The traffic signal at Spine Road/ Corral Hollow Road is not included in the Fee Program, and hence the Subdivider shall pay for costs of design and construction of the traffic signal improvements.

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c) Traffic Signal at Corral Hollow Road / Linne Road
(Mitigation Measure 4.13-14a, Intersection #4)

The Subdivider shall design and install a traffic signal at the intersection that will have interconnect with the railroad crossing controller. These improvements will require UPRR and CA PUC approval

Prior to final inspection of a building that will generate 396 (cumulative) peak hour trips from the Project, the Subdivider shall install a traffic signal at the intersection. In order to guarantee timely installation of the traffic signal, prior to final inspection of building generating 300 peak hour trips, the Subdivider shall obtain an encroachment permit / agreement from UPRR. The installation of the traffic signal shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and UPRR / CA PUC, commence an engineering design process for the traffic signal improvements not later than ninety (90) calendar days following approval of this Vesting Tentative Map by the City of Tracy. If the Subdivider is unable to obtain required permits from UPRR / CA PUC, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort.

The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Any improvements installed that will be part of the Traffic Impact Fee Program (Fee Program) will be eligible for fee credits in accordance with City Regulations and the Development Agreement.

d) Intersection Improvements at Tracy Boulevard /
Linne Road (Mitigation Measure 4.13-14a, Intersection #5):

The Subdivider shall reconstruct the eastbound approach to an eastbound left turn lane and eastbound through lane, and the westbound approach to a westbound right turn lane and a westbound through lane

Prior to final inspection of a building that will generate 469 (cumulative) peak hour trips from the Project, the Subdivider shall install intersection improvements as identified in the EIR. In order to guarantee timely installation of said improvements, prior to final inspection of building generating 400 peak hour trips, the Subdivider shall submit improvement plans and obtain approval by the City

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Engineer. The Intersection Improvements shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and UPRR / CA PUC (if required), commence with an engineering design process for the intersection not later than ninety (90) calendar days following approval of the Vesting Tentative Map by the City of Tracy. If the Subdivider is unable to obtain required permits from UPRR / CA PUC, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort. The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Alternatively, with the approval of the City Engineer, the Subdivider may install a traffic signal interconnected with the controller at the railroad crossing, which installation would be subject to approval by the City Engineer.

Any improvements installed that will be part of the ultimate (program) improvements may be eligible for fee credits in accordance with City Regulations and the Development Agreement.

e) Overlay Corral Hollow Road between I-580 and Linne Road (Mitigation Measure 4.13-14b)

Before final inspection or occupancy of the first building (excluding the Model Homes) within the Project, the Subdivider shall overlay the existing two lanes on Corral Hollow Road between I-580 right-of-way and railroad right-of-way including 100 feet of the easterly leg of Linne Road. The Subdivider shall provide improvement plans that show the design and construction details of the overlay improvements and shall commence with the improvement plans following approval of the Vesting Tentative Map. The improvement plans shall be approved prior to approval of the first final map (residential or commercial). The Overlay Improvements shall be included in the Off-site Improvement Agreement.

No fee credits or reimbursements shall be applicable for these improvements.

f) Interim / Permanent School Site and roadways (Mitigation Measures 4.13-15d, 4.13-15e and 4.13-15f)

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The Subdivider shall provide roadways to the school that meet acceptable on and off-site storage for drop-off/pickup queuing, safety considerations, vehicular circulation, and bike and pedestrian access, per the City Standard Plans and Vesting Tentative Map.

Prior to approval of the Vesting Tentative Map, or when the first student from Phase 1a attends either Tracy Hills Elementary School or Tom Hawkins Elementary School or the new school located within the Project (Phase 1a) commences design, the Subdivider shall demonstrate that the following planning and design considerations are addressed to the satisfaction of the City Engineer:

- School driveways are located directly opposite proposed streets entering the residential neighborhood to maximize traffic and student safety.
- 10' concrete Pedestrian and bicycle paths, sidewalks, and crosswalks are provided.
- A Safe Routes to School Program (SRTS) is initiated in coordination with the School District for the Phase 1a school site. The SRTS Program shall be funded and developed by the Subdivider. The SRTS Program shall be developed when the School District applies for an Encroachment Permit from the City.
- The Subdivider shall fund the development of a Traffic Management Plan to the satisfaction of the City Engineer, the Police Department, and the Jefferson School District for the interim conditions when additional traffic would be generated to the interim school adjacent to the Tracy Hills Elementary School. The Traffic Management Plan shall be implemented when the temporary school building opens up for attendance and the first student from Tracy Hills attends the school(s).

g) Traffic Signal at Lammers Road / Old Schulte Road
(Mitigation Measure 4.13-5a, Intersection #10)

The City has established a CIP Project for this interim improvement and partial funds have already been collected from other development projects as fair share payments and these other development projects funded the addition of the northbound left-turn lane only. The Applicant shall pay a proportionate share for the interim capacity improvements. These fees will be payable at the final inspection of the first building for the Project.

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h) Traffic Signal at Internal Intersection at Business Park Main Driveway and Spine Road (Mitigation Measure 4.14-5a, Intersection #23)

A traffic signal at the Business Park Main Driveway and Spine Road shall be installed and made operational before issuance of Certificate of Occupancy for the first commercial building permit for within the Project. The Subdivider shall provide improvement plans that show the design and construction details of the traffic signal and all associated intersection improvements such as turn lanes, signage and striping, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection. The improvement plans shall be submitted prior to issuance of a building permit for the first commercial building within the Project. The installation of the traffic signal shall be included in the Deferred Improvement Agreement.

C.2.7.9 As the properties north of the Project along Corral Hollow Road develop, City will install fiber-optic lines to connect signals on Corral Hollow Road. In the interim, at the time of installation of traffic signals at Corral Hollow Road / Spine Road and other traffic signals with the Project, the Subdivider shall provide a functional communication system acceptable to the City Engineer, to connect the City's Traffic Control Management Center (TCMC) located at the City Hall to the traffic signals that will be constructed with this Project. Any required improvements at the TCMC to facilitate communications in the interim condition that is not part of the Master Plan Facilities, shall be installed at Subdivider's cost, and no fee credits or reimbursements will be applicable.

C.2.7.10 Bus shelter and turnout on Corral Hollow Road and Spine Road: The bus shelters and turnouts on Spine Road shall be constructed as part of the Spine Road Improvements. Bus turnouts and shelters on Spine Road shall be located at the two fire turnouts on Spine Road. The City will provide the construction details and materials specifications of the bus shelter. Timing of construction of bus shelters will be determined in the future based on the extension of TRACER's Fixed Route to serve the Project. In order to assure completion of construction of the bus shelters, the Subdivider may either enter into a DIA with security, or pay to the City the estimated cost for two bus shelters on Spine Road, and one bus shelter on Corral Hollow Road at the time of approval of the first Final Map within the Project.

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- C.2.7.11 Encroachment Permit. Before starting any work to be performed and improvements to be constructed within City's right-of-way, the Subdivider shall obtain an Encroachment Permit from the City. The Subdivider or its authorized representative shall submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice in the State of California, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.
- C.2.7.12 Dead-End Streets. A standard barricade and guardrail with appropriate traffic sign will be required at street ends. Alternatively, turnarounds meeting the requirements of Fire Department shall be provided at these dead-end streets.
- C.2.7.13 Spine Road and Other In-tract Streets. The Subdivider shall dedicate all rights-of-way that are necessary to construct Spine Road and all the in-tract streets based on their respective cross sections shown on the Vesting Tentative Subdivision Map with the Final Map for the respective phase. The width of travel lanes, street median, landscaping strip and sidewalk shall be in accordance with the Vesting Tentative Subdivision Map.
- Design and construction details of the in-tract streets such as asphalt concrete pavement, curb, gutter, sidewalk, street light, water main, fire hydrant, landscaping with automatic irrigation system, storm drain, catch basin and drop inlets, sanitary sewer main and lateral, water main, individual water service and meter, pavement marking and striping, traffic sign, driveway, handicap ramp and other street improvements shall comply with City Regulations and shall be shown on the Improvement Plans.
- C.2.7.14 The Subdivider shall construct an all-whether, emergency vehicle access as required in Planning Division's Conditions.
- The Subdivider and City shall enter into an EVA Agreement prior to the start of construction. This agreement will address access across private properties and maintenance responsibilities. The Subdivider shall submit improvement plans for any improvements required by the Police and Fire Departments, and agencies having jurisdiction. The Subdivider shall obtain any permits and/or easements that may be required for construction

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and use of the EVA. Required improvements may include but not limited to addition of gates with optical opening devices, turnouts, and gates at the California Aqueduct.

- C.2.7.15 The Subdivider shall execute Grant of Easement documents for the Emergency Vehicle Access Easement at the time of approval of the first Final Map.
- C.2.7.16 Prior to final inspection or certificate of occupancy for the 289th residential unit within the Project, a fire station and all related equipment shall be constructed and operational to serve Tracy Hills in accordance with the Citywide Public Safety Master Plan.
- C.2.7.17 All intersections shall be designed to accommodate fire truck movements as required by the Fire Department.
- C.2.7.18 Subdivider must provide and verify sight distances, where applicable, with regard to reverse lots and fence placements as required by the City Engineer.

C.2.8 Mini/Neighborhood and Community Parks

- C.2.8.1 The Subdivider shall offer for dedication Parcels "A", "B" and "C" for park purposes on the Final Map that corresponds to the timing of completion of respective parks as identified in Planning's Conditions. The Subdivider shall design and construct the neighborhood park improvements consistent with the Tracy Hills Specific Plan and City Regulations. The Subdivider shall be eligible for neighborhood/mini park fee credits in accordance with the PI&RA and Title 13 of the TMC.
- C.2.8.2 The Subdivider shall submit park improvement plans, signed and notarized improvement agreement ("Park Improvement and Reimbursement Agreement" or "PI&RA"), and Improvement Security in the amount and type specified in the City Regulations at the time of approval of the Final Map that corresponds to the timing of completion of the neighborhood park improvements specified in Planning Division's Conditions of Approval.
- C.2.8.3 Before issuance of the first residential building permit (excluding model homes), the Subdivider shall submit park design alternatives for review by the City to determine the Phillips 66 pipeline impacts and overall grading over the future construction and use of Parks 1 & 2. The Subdivider's design engineer will be responsible for providing grading designs that will demonstrate that the proposed mass grading will facilitate park improvements construction without the requirement of major regrading or retaining walls.

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C.2.9. Public Utility Easements

C.2.9.1 Undergrounding of Overhead Utilities. The existing overhead lines and poles shall be removed from the Project specifically along the west side of Corral Hollow Road. The Subdivider shall abandon any easements associated with these overhead lines that are no longer needed.

C.2.9.2 All private utility services to serve the Project such as electric, telephone and cable TV to the building must be installed underground, within right-of-way or a dedicated Public Utility Easement (PUE) and at the location approved by the City and the respective owner(s) of the utilities.

The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed under the sidewalk or within the PUE. Underground utility conduits may be installed under the sidewalks, and underground boxes and structures may be located in the landscaped parkway next to the curb. All above-ground boxes and facilities shall be behind the sidewalk and within the PUE. Pop-outs to provide additional width of PUE where required to accommodate larger above-ground structures will be permitted subject to review and approval by Public Works Director and the City Engineer. Before approval of the first Final Map, the Subdivider shall complete the necessary coordination work with the respective owner(s) of the utilities to for approval.

C.2.9.3 Public Utility Easements on sideyard lots shall be adjusted in final neighborhood designs based on actual joint trench design requirements.

C.2.10 Phillip 66 Oil Pipeline Easement and Facilities

C.2.10.1 Prior to beginning of grading operations that may impact the existing Phillips 66 underground facilities within the Project, the Subdivider shall obtain signatures on the improvement plans by Phillips 66. Grading and improvement plans affecting Phillips 66 facilities shall comply with the applicable version of Phillip 66 Pipeline Encroachment Design and Construction Specifications. The Improvement plans shall contain an approval block for Phillip 66 indicating their approval of such designs.

C.2.10.2 Before the approval of the park improvement plans, the Subdivider shall submit evidence of approval of the park

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plans by Phillips 66 for the proposed park improvements consistent with the Parks Master Plan and as approved by the City. Subdivider shall provide a grading plan and profiles showing cut/fill sections over the Phillips 66 pipelines within proposed park areas.

The Subdivider shall be responsible for design and construction of surface water drainage facilities within the Phillip 66 Oil Line Easement. All surface water within this easement shall be collected and channeled to the public storm drainage system within public roadways.

- C.2.10.3 The Subdivider shall notify in writing the future buyers of lots about the existing Philips 66 easement and any requirements /restrictions relating to the existence of the easement. The Disclosure Statement(s) shall be made part of the Sale Deeds and recorded in compliance with the applicable law.

C.3. Final Map

The City will not approve any Final Map until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

- C.3.1 Subdivider has submitted one reproducible (mylar) copy of the approved tentative subdivision map for the Project after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map shall indicate the owner's consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.
- C.3.2 Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, all other applicable City Regulations, and in substantial conformance with the Tentative Subdivision Map.
- C.3.3 Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required by the Improvement Plans and Final Map, in accordance with City Regulations and these Conditions. If construction easement(s) is/are shown, it/they shall indicate the termination date of the construction easement(s).
- C.3.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from

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two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.

- C.3.5 Subdivider has submitted a signed and stamped Engineer's Estimate that show construction cost of subdivision improvements that are described in Conditions C.2 above plus 10% for construction contingencies.

- C.3.6 Subdivision Improvement Agreement. Before the City's approval of any Final Map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the Final Map), and post all required improvement security in accordance with City Regulations.

Phasing Plan and Deferred Improvement Agreement- Prior to Subdivider's submittal to the City of the first Final Map for City approval, Subdivider shall submit for the City Engineer's review and reasonable approval a phasing plan for the submittal of all Final Maps to be filed for this Vesting Tentative Subdivision Map. The phasing plan may be subject to subsequent modifications based on market conditions, the rate of development, and Subdivider's disposition of the parcels created by the Final Maps. Prior to the City's approval of the first final map within the Project, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement) which are required by these Conditions of Approval. The Deferred Improvement Agreement shall identify timing requirements for construction of all remaining public facilities, in conformance with the phasing plan submitted by the Subdivider and approved by the City Engineer.

- C.3.7 Improvement Security. The Subdivider shall provide improvement security for all public facilities, as required by Subdivision Improvement Agreement or Offsite Improvement Agreement. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with City Regulations. The amount of the improvement security shall be as follows:

- C.3.7.1 Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.3.7.2 Labor & Material (100% of the estimated cost of constructing the public facilities), and
- C.3.7.3 Warranty (10% of the estimated cost of constructing the public facilities)

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- C.3.7.4 Monumentation (\$750 multiplied by the total number of street centerline monuments that are shown on the Final Map)
- C.3.8 Subdivider has paid engineering review fees including improvement plan checking, final map review, agreement processing, and all other fees required by these Conditions of Approval and City Regulations.
- C.3.9 Subdivider has submitted technical or materials specifications, cost estimate, and technical reports related to the design of improvements that are shown on the Improvement Plans and as required by these Conditions.
- C.3.10 Subdivider has submitted hydrologic and storm drainage calculations for the design and sizing of in-tract storm drainage pipes located within the Project.
- C.3.11 Subdivider has submitted signed and stamped Improvement Plans as required in Condition C.2 above.

C.4. Grading and Encroachment Permit

No applications for grading and encroachment permits will be accepted by the City as complete until the Subdivider has provided all documents required by these Conditions and City Regulations, to the reasonable satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.
- C.4.2 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.3 Three sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination.
- C.4.4 Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s), and the City Regulations.

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- C.4.5 Two sets of the Project's Geotechnical Report signed and stamped by a licensed Geo-technical Engineer licensed to practice in the State of California. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, percolation rate, roadway section construction recommendations and elevation of the highest observed groundwater level.
- C.4.6 A copy of the Approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD) as required in Mitigation Monitoring and Reporting Program of the Tracy Hills Specific Plan Final Environmental Impact Report (TH-EIR).
- C.4.7 Two sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system and for determining the size of the project's storm drainage connection.
- C.4.8 Reasonable written permission from irrigation district or affected owner(s), if applicable as required in Condition C.2.2.5, above. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.
- C.4.9 Written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), if applicable. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection.
- C.4.10 Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar) that incorporate all the requirements described in these Conditions of Approval. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
- C.4.11 Two sets of structural calculations for drainage structures and retaining walls within street right-of-way and retention basins signed and stamped by a Structural Engineer licensed in the State of California.
- C.4.12 Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.
- C.4.13 Signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA.
- C.4.14 Signed and notarized Deferred Improvement Agreement (DIA) and Improvement Security, to allow deferment of completion of

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improvements as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with the DIA and Section 12.36.080 of the TMC, or pursuant to the terms of the Development Agreement, as appropriate.

- C.4.15 Check payment for the applicable engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the fee rate adopted by the City Council on April 15, 2014, per Resolution 2014-059.
- C.4.16 Traffic Control Plan for each phase signed and stamped by a Registered Civil Engineer or Traffic Engineer licensed in the State of California.
- C.4.17 As required per Mitigation Measure 4.8-2a of the EIR, the Subdivider shall submit, prior to issuance of grading permits, a Phase II ESA focused on soil sampling and/or soil vapor sampling conducted near the location of the underground crude oil pipelines, as determined by a qualified Phase II/Site Characterization specialist.
- C.4.18 As required per Mitigation Measure 4.8-2b of the EIR, prior to issuance of grading permits, the Subdivider shall work with Conoco Phillips to implement and observe a site damage prevention plan to the satisfaction of the City of Tracy Engineering Division.

C.5. Building Permit

The City will not approve any building permit within the Project boundaries until a Final Map is approved by the City Council and it is recorded at the San Joaquin County Recorder's Office, and the Subdivider demonstrates, to the reasonable satisfaction of the City Engineer, compliance with all the required Conditions including, but not limited to, the following, except that the timing of payment of fees shall be as approved in the Development Agreement:

- C.5.1 Check payment of the applicable City Wide Roadway and Traffic, Water, Recycled Water, Wastewater, Storm Drainage, Public Safety, Public Facilities, and Park Development Impact Fees (adopted by Resolution 2014-010) as these relate to the Project and as required by these Conditions of Approval.
- C.5.2 Check payment of applicable Regional Transportation Impact Fees (RTIF) as required in the Mitigation Monitoring and Reporting Program of the Final Environmental Impact Report and these Conditions of Approval.
- C.5.3 Check payment of any applicable Agricultural Conversion or Mitigation Fee as required in Chapter 13.28 of the Tracy Municipal Code and the Mitigation Monitoring and Reporting Program of Tracy Hills Final Environmental Impact Report and these Conditions of Approval.

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- C.5.4 Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC.
- C.5.6 The Project developer(s) shall be required to pay the Transportation Impact Fee established pursuant to the written Agreement by and between the City of Tracy, LTA, the Sierra Club, the County of Alameda, and the City of Livermore to the City of Tracy prior to issuance of building permits for any residential portion of the Project. Said condition shall be incorporated into any development agreement or similar agreement if entered into by the developer and the City of Tracy. Said condition shall constitute the only regional traffic impact fee charged against the Project.

C.6. Final Building Inspection

The City will not perform final building inspection until after the Subdivider provides documentation which demonstrates, to the reasonable satisfaction of the City Engineer, that:

- C.6.1 The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested or a final building inspection has to be performed unless otherwise defined herein. Unless specifically provided in these Conditions, or the City Regulations, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.6.2 The Subdivider shall pay a fair share towards the cost of constructing the interim improvements at the Lammers Road/Old Schulte Road intersection, as determined by the City Engineer.

C.7. Temporary or Final Building Certificate of Occupancy

No Final Building Inspection shall be performed or a Temporary or Final Building Certificate of Occupancy will be issued by the City until after the Subdivider provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

- C.7.1 The Subdivider has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 The Subdivider has completed construction of all required public facilities for the building for which a certificate of occupancy is requested, unless otherwise defined herein. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Subdivider shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities

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required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.8. Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Subdivider demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.8.1 All the public improvements shown on the Improvement Plans are completed and all the deficiencies listed in the deficiency report prepared by the assigned Engineering Inspector are all corrected.
- C.8.2 Subdivider has completed the 90-day public landscaping maintenance period.
- C.8.3 Subdivider has submitted Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider so that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements.
- C.8.4 Signed and notarized Grant Deed(s) with legal description(s) and plat maps for the offer of dedication of right-of-way, and Grant of Easements as required per these Conditions of Approval and City Regulations, or dedications shown on the Final Map.

C.9. Release of Improvement Security

City will release Improvement Security(s) to the Subdivider after City Council's acceptance of public improvements, both on-site and off-site, in accordance with TMC section 12.36.080, upon written request and submittal of the recorded Notice of Completion.

C.10. Special Conditions

- C.10.1. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, except as otherwise specifically approved in the Tracy Hills Specific Plan.
- C.10.2 When street cuts are made for installation of utilities, the Subdivider is required to install 2 inches thick asphalt concrete overlay with reinforcing fabric at least 25 feet from all sides and for the entire length of the utility trench. A 2 inches deep grind on the existing asphalt concrete pavement will be required where the asphalt concrete overlay will be applied and shall be uniform thickness in

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order to maintain current pavement grades, cross and longitudinal slopes. If the utility trench extends beyond the median island, the limit of asphalt concrete overlay shall be up to the lip of existing gutter located along that side of the street.

- C.10.3. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers. Any damaged, displaced, obliterated or lost monuments or survey markers shall be re-established or replaced by a licensed Land Surveyor at the Developer's (or Contractor's) sole expense. A corner record must be filed in accordance with the State law for any reset monuments (California Business and Professions Code Section 8871).
- C.10.4. Benefit District – The Subdivider may make a written request to the City for the formation of a Benefit District, before the approval of the final map and improvement plans for the public facility(s) considered to be oversized that benefits other property(s) or development(s). Reimbursement request(s) will be processed in accordance with TMC Chapter 12.60.
- C.10.5. Nothing contained in these Conditions shall be construed to permit any violation of City Regulations. Subject, however, to City Regulations, this Condition does not preclude the City from requiring pertinent revisions and additional requirements to the final map, improvement agreements, and improvement plans, before the City Engineer's signature on the final map and improvement plans, if the City Engineer finds it necessary due to public health and safety reasons. (Government Code section 66498.6.) The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

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**EXHIBIT C
(Deferred Improvements)**



02-072816cm

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I. Work: Time for Commencement and Performance

The work described in this Exhibit "C" (hereinafter "Deferred Improvements") shall be completed within the timelines as specified in this Exhibit "C" of this Agreement. Applicable Conditions of Approval included refer to the Vesting Tentative Subdivision Map VTSM13-0005 attached as Exhibit "B". The City shall have no obligation to construct or complete the Deferred Improvements.

II. Description of Work

A. Maintenance of Public Landscaping (Condition No. B.6 and B.7)

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

Before approval of the first Final Map, Subdivider shall enter into an agreement with the City, which shall be recorded against the entire Phase 1A property, which adopts and implements one or more of the three options (a., b. or c.) listed in Condition No. B.6, subject to the approval of the Administrative Services Director:

2. Maintenance for Public Landscaping for Major Program Roadways. Before approval of the first Final Map, the Subdivider shall assure that there will be sufficient funding to pay the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways, by entering into an agreement with the City, which shall be recorded against the entire Phase 1A property, which adopts and implements one of the two options (a. or b.) listed in Condition No. B.7, subject to the approval of the Administrative Services Director:

B. Access Easements (Condition No. B.8)

1. With the approval of a Final Map that includes any lot or parcel adjacent to the Integral parcel (Assessor's Parcel Number 253-020-08, formerly the Ferry parcel), the Subdivider shall record an access easement between the public right-of-way and the Integral parcel, as shown on the Vesting Tentative Subdivision Map, to the satisfaction of the Development Services Director. The access easement shall have a minimum width of 20 feet and shall grant continuous access to and from the public right-of-way, across the Subdivider's property, for the benefit of the owner of the Integral parcel.

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2. With the approval of a Final Map that includes any lot or parcel adjacent to the Sellick parcel (Assessor's Parcel Number 253-020-10), the Subdivider shall record an access easement between the public right-of-way and the Sellick parcel, as shown on the Vesting Tentative Subdivision Map, to the satisfaction of the Development Services Director. The access easement shall have a minimum width of 20 feet and shall grant continuous access to and from the public right-of-way, across the Subdivider's property, for the benefit of the owner of the Sellick parcel.

C. Parks (Condition No. B.9, C.2.8.2, C.2.8.3)

1. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates the following:
 - a. Within one year following final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the first neighborhood park shall be completed and accepted by the City. If the first neighborhood park is not completed and accepted by the City within one year following final inspection or occupancy of the first dwelling, no further building permits shall be issued until the first neighborhood park is completed and accepted by the City; and
 - b. Before final inspection or occupancy of the 750th dwelling, the second neighborhood park shall be completed and accepted by the City; and
 - c. Before final inspection or occupancy of the 1,000th dwelling, the third neighborhood park shall be completed and accepted by the City.
2. The Subdivider shall submit park improvement plans, signed and notarized improvement agreement ("Park Improvement and Reimbursement Agreement" or "PI&RA"), and Improvement Security in the amount and type specified in the City Regulations at the time of approval of the Final Map that corresponds to the timing of completion of the neighborhood park improvements specified in Planning Division's Conditions of Approval.
3. Before issuance of the first residential building permit (excluding model homes), the Subdivider shall submit park design alternatives for review by the City to determine the Phillips 66 pipeline impacts and overall grading over the future construction and use of Parks 1 & 2. The Subdivider's design engineer will be responsible for providing grading designs that will demonstrate that the proposed mass grading will facilitate park improvements construction without the requirement of major regrading or retaining walls.

D. Conservation Easement (Condition No. B.10)

Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that before issuance of a building permit for the structure containing the 500th dwelling unit, the

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Subdivider shall plant trees in the 100-foot wide conservation easement adjacent to Interstate 580 and the Project, as described and depicted in Section 3.4.7 of the Tracy Hills Specific Plan (pages 3-49 to 3-54), to the satisfaction of the Development Services Director.

E. Community Gateway Icon (Condition No. B.11)

Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that before issuance of a building permit for the structure containing the 500th dwelling unit, the Subdivider shall construct the Community Gateway Icon, which is conceptually described and depicted in Section 3.4.5 of the Tracy Hills Specific Plan (page 3-34), to the satisfaction of the Development Services Director, based on substantial conformance with the Development Review approval by City Council. The Community Gateway Icon shall be located on a privately-owned parcel and be privately maintained. Prior to issuance of a building permit for the Community Gateway Icon, the Community Gateway Icon shall be subject to Development Review approval by City Council, as specified in Section 5.1.2 of the Tracy Hills Specific Plan (page 5-1).

F. Schools (Condition No. B.12)

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

G. Public Services (Condition No. B.13)

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 (except for up to fifteen model homes), 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 month; 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.

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Or

- b. Direct funding. The Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates that prior to issuance of a building permit (except for up to fifteen model homes), the Subdivider will fund a fiscal impact study to be conducted and approved by the City to determine the long term on-going operational costs of providing Police services, 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.

H. Building and Fire (Condition No. B.15)

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, to the satisfaction of the Chief Building & Fire Code Official:

- a. Before issuance of any building permits, the Subdivider shall provide Fire Department access to the Property in compliance with all provisions of Section 503 of the California Fire Code, to the satisfaction of the Chief Building & Fire Code Official.
- b. Before issuance of any building permits (except for up to fifteen model homes), the Subdivider shall provide a fire protection water supply in compliance with all provisions of Section 507 of the California Fire Code, to the satisfaction of the Chief Building & Fire Code Official.
- c. Before issuance of any building permits for model homes, the Subdivider shall comply with the following requirements:
 - (1) In lieu of active hydrants onsite, a static water storage supply shall be provided in compliance with NFPA 1142, to the satisfaction of the Chief Building & Fire Code Official. The volume of water shall be based on the total cubic footage of all structures plus a 1.5 exposure coefficient.
 - (2) A separate static water supply shall be provided for each group of model homes throughout the subdivision, to the satisfaction of the Chief Building & Fire Code Official.
 - (3) Fire Department access to and from the static water supplies shall be provided, to the satisfaction of the Chief Building & Fire Code Official.
- d. Before issuance of the first building permit (except for up to fifteen model homes), the Subdivider shall construct an all-weather, emergency vehicle access to the westerly terminus of the Phase 1A Tracy Hills Drive. The emergency vehicle

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access shall be available to Police, Fire, and other necessary and relevant emergency responders. The design, location, and maintenance of the access shall meet City standards, to the satisfaction of the Fire Chief. The access shall be continuously maintained by the Subdivider until permanent access is developed and accepted for maintenance by the City.

- e. Whenever 50 or more homes are under construction at the same time, the Subdivider shall provide an onsite trailer for the exclusive use of City inspection staff. The inspection trailer shall have a minimum size of 8' x 20' and be equipped with HVAC and basic furnishings, to the satisfaction of the Chief Building & Fire Code Official.

I. Phillips 66 Pipeline Easement (Condition No. B.16)

A Phillips 66 pipeline easement intersects the project site. Before approval of the first Final Map, the Subdivider shall submit a copy of the Phillips 66 pipeline easement to the Development Services Director and enter into an agreement with the City, which shall be recorded against the Property, which stipulates that before issuance of each building permit, the Subdivider shall clearly mark and label each plot plan with the location of the 5-foot minimum setback line from the edge of the Phillips 66 pipeline easement, if applicable, to the satisfaction of the Development Services Director.

J. Sanitary Sewer Pump Station, Offsite Sewer Line Improvements (Condition No. C.2.5.4, C.2.5.5, C.2.5.6)

1. The Subdivider shall pay for the design and construction of the Sanitary Sewer Pump Station (SSPS) with sufficient capacity to service the Project, Phase 1B, Phase 2-4 and Phase 5B. This Pump Station shall be constructed on Subdivider's land to be dedicated by Subdivider, as approved and required by the City, and shall convey sewage through underground force main sewer pipes from the SSPS to Corral Hollow Road. The Non-Program Funded Subdivider CIP Costs for construction of this pump station and force main, as determined by the City, shall be borne by the Subdivider. Upon satisfactory completion of the SSPS improvements, as determined by City, the City will accept the land dedication and SSPS improvements for maintenance.
2. The Subdivider shall pay for all design costs incurred by the City and its consultant(s) for the sanitary sewer force main and the sanitary sewer gravity line from the SSPS to Node 1W near W. Linne Road (as shown in Wastewater Master Plan) per the improvement plans prepared by CH2M Hill and approved by the City ("Off-site Sewer Line Improvements"). After approval of the design by the City, the Subdivider shall pay for the City CIP Costs for the SSPS and Off-site Sewer Line Improvements (unless the Subdivider opts to construct these improvements as described below). If the Subdivider does not elect to construct

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the Off-site Sewer Line Improvements in accordance with this condition of approval, the Subdivider shall pay to the City all related City CIP Costs either before approval of the first Final Map within the Project, or within 15 days from the date of written notice from the City that the project is ready for bid, whichever is earlier. Upon receipt of the funds, City will proceed with bidding of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding.

In the event the Subdivider opts to construct the sanitary sewer improvements listed in Condition C.2.5.4 and C.2.5.5, the Subdivider shall enter into an improvement agreement (Offsite Improvement Agreement or OIA) and post improvement security in the amounts and form required by TMC section 12.36.080 and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized OIA with the necessary improvement security before approval of the first Final Map within the Project. These improvements are not included in the Fee Program and no fee credits or reimbursements will be applicable.

3. Sanitary sewer improvements north of WWMP Node 1W up to the current terminus of the City's sanitary sewer line in Corral Hollow Road are required to be completed prior to final inspection or occupancy of first residential or commercial building within the Project, excluding Model Homes. These are program-funded improvements under a Capital improvement Project (CIP). However, City will not have collected sufficient program fees to construct this Project. As such, Subdivider shall deposit total Program Funded City CIP Costs of this CIP to the City at least 18 months prior to the occupancy of any residential or commercial buildings within the Project

Upon receipt of the funds, City will proceed with bidding of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding sufficient to make up the difference.

If Subdivider opts to construct this sewer line, the Subdivider shall enter into an Offsite Improvement Agreement and post improvement securities in accordance with TMC Section 12.36.080.

K. Certificate of Occupancy (Condition No. C.2.5.7)

No final inspection of any residential building will be performed or certificate of occupancy for commercial building will be issued, with the exception of Model Homes, until the improvements listed in Conditions C.2.5.4 through C.2.5.6 are completed and functional, as determined by the City Engineer.

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L. Sanitary Sewer Easement (Condition No. C.2.5.9)

Prior to the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all sanitary sewer lines (gravity or force mains). All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.

M. Fire Flow Requirements (Condition No. C.2.6.3)

Prior to approval of each Final Map, the Subdivider shall submit calculations and improvement plans as required by the Fire Department and the City Engineer, and obtain a letter from the Fire Code Official that the fire flow parameters per Tracy Design Standards Section 6.02 are met for the phased construction of water lines to the satisfaction of the City of Tracy Fire Code Official.

N. Water Storage Tank (Condition No. C.2.6.4, C.2.6.7)

1. The Subdivider shall complete design and construction of an at-grade water storage tank with a holding capacity of at least 3.5 MG (million gallons) and a booster pump station equipped with pumps that meets required domestic water and fire demand pumping capacity. These improvements are required to be complete, in place and operational before the final inspection of the 301st residential building within the Project.

All costs related to the design and construction of the water tank are the responsibility of the Subdivider. Before approval of first Final Map within the Project, the Subdivider shall execute a Deferred Improvement Agreement (DIA) to address timing, scope of work and funding responsibilities.

2. If the at-grade storage tank and booster pump station is not completed before final inspection of the structure that is the subject of the 100th building permit and subsequently before final inspection of 150th, 200th, and 250th building permits, the Subdivider shall demonstrate to the satisfaction of the City Engineer and Fire Code Official that required domestic and fire flow and water pressure are met by performing flow and pressure field tests.

O. Pressure Sensing Station (Condition No. C.2.6.5)

Before approval of the first Final Map, the Subdivider shall guarantee removal of the remote pressure sensing station when the at-grade storage tank, and pump station are constructed and operational. Costs of installation of the remote pressure sensing station are not eligible for fee credits or reimbursements. The work will also include any modifications required at the JJWTP until the at-grade storage tank and pump station are constructed and operational.

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P. JJWTP Improvements (Condition No. C.2.6.6)

The Project will require completion of construction of Tracy Hills Booster Pump Station at JJWTP before any water services can be provided by the City to serve the Project. This pump station and associated work ("JJWTP Improvements") shown in the approved improvement plans titled "Tracy Hills Booster Pump Station at JJWTP" prepared by West Yost Associates ("JJWTP Improvement Plans") is a Capital Improvement Project, and the entire cost of this CIP (except the cost of the 20-inch diameter City Side Zone 3 Water Line as shown in the JJWTP Improvement Plans) is the responsibility of the Subdivider.

The Subdivider has the option to pay to the City full cost of this CIP project (as provided above) or enter into an agreement with the City (which shall be approved by the City) for paying portions of the CIP cost at major milestones. Any overruns in costs as listed in Condition C.2.5.2 will be the responsibility of the Subdivider. The Subdivider shall be eligible to receive reimbursements for the cost of the 20-inch diameter City Side Zone 3 Water Line if the Subdivider pays for its installation. The timing of reimbursement, if from the City, will be addressed in the agreement specified above.

Q. Offsite water line Improvements (Condition No. C.2.6.9)

Prior to final inspection of the first residential building (excluding model homes), or issuance of certificate of occupancy for the first commercial building within the Project, the water line from the JJWTP to Corral Hollow Road and from Corral Hollow Road to the Project ("Offsite Water Line Improvements") per the approved improvement plans titled "Corral Hollow Road Utility Improvements – Water and Sewer Pipelines" prepared by CH2MHill ("Offsite Sewer Line Improvement Plans") must be constructed and operational.

The Subdivider can either have the City construct these improvements by depositing with the City an amount equaling the estimated Non-Program Subdivider CIP Costs or opt to construct the improvements.

For the crossings of the water line at Delta Mendota Canal and California Aqueduct ("Crossing Improvements"), permits from appropriate regulating agencies will be required. The City Subdivider may opt, to construct the Crossing Improvements in full compliance with the permit requirements and subject to Subdivider's posting improvement security as required by TMC section 12.36.080 and executing an Offsite Improvement Agreement approved by the City which, among other things, provides for Subdivider to fully indemnify City against any and all claims and liabilities that may arise from the construction of the Crossing Improvements.

If the City constructs the Crossing Improvements, the Subdivider shall pay to the City for City CIP Costs either before approval of the first Final Map within the Project, or within 15 days from the date of written notice from the City that the project is ready for bid, whichever is earlier. Upon receipt of the funds, City will proceed with bidding

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of the project. In the event the responsive bid as determined by the City is higher than the funding provided by the Subdivider, the Subdivider shall promptly provide additional funding sufficient to make up the difference.

If the Subdivider either constructs or pays for installation by the City, the 20-inch diameter City Side Zone 3 Water Line (shown as "Zone 3-C CL 20" Pipeline on the Offsite Water Line Improvement Plans), the Subdivider shall be eligible to receive reimbursements for the cost of the 20" City Side Zone 3 Water Line. The amount and timing of reimbursement, if from the City, will be addressed in the agreement specified above.

In the event a portion of the "Zone 3-TH" CL Pipeline as shown on the Offsite Water Line Improvement Plans will be installed by a third party other than the City, the Subdivider shall pay the party that will install the "Zone 3-TH" CL Pipeline the cost of the pipeline prior to beginning of construction. The Subdivider shall provide to the City documentation of payment in full for the cost of the "Zone 3-TH" CL Pipeline prior to final inspection of the first building constructed within the Project.

R. Corral Hollow Road Improvements (Condition No. C.2.7.3, C.2.7.5)

1. Prior to issuance of final inspection or occupancy of Model Homes and residential units the Subdivider shall complete substantial portion of the Corral Hollow Road Improvements to provide adequate and safe traffic conditions on Corral Hollow Road to the satisfaction of the City Engineer. The improvements will include, but are not limited to, construction of, at a minimum, one southbound through lane, one southbound right-turn lane at Tracy Hills Drive, one northbound through lane, one northbound left-turn lane at Tracy Hills Drive, temporary concrete median island, including tapers, asphalt concrete pavement, water main, fire hydrants, storm drain lines, catch basins, traffic signal, pavement markings and striping, traffic signage, street lighting, roadway section construction and/or replacement, asphalt concrete overlay (where required), pavement transitions and other street and utilities improvements that are required to serve the Project based on the phasing plan approved by the City Engineer. Roadway design shall conform to STAA truck traffic requirements and Caltrans requirements.
2. For any Corral Hollow Road Improvements considered frontage improvements (such as Subdivider's Frontage Obligation per the CRMP and landscape improvements behind the curb) and improvements within Caltrans right-of-way at I-580/Corral Hollow Road interchange that are not constructed or security posted with OIA at the time of approval of the first Final Map, the Subdivider shall complete frontage improvements as required by the City at the time of approval of development applications on the fronting parcels.

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S. Traffic Impacts Mitigations per EIR (Condition No. C.2.7.8)

The Tracy Hills Specific Plan EIR ("EIR") identifies the Project's traffic impacts that are to be mitigated by the Subdivider. The mitigation measures are summarized in Table 4.13-68, Transportation & Circulation EIR Mitigation Matrix, and are included herein by reference. Subdivider shall comply with the applicable mitigation measures as outlined in the EIR. Following is a list of traffic improvements for Phase 1A from the mitigation measures included with implementation requirements.

a) Corral Hollow Road/ I-580 EB Ramps (Mitigation Measure 4.13-14a, Intersection #1)

Prior to final inspection of the building that will generate 196 (cumulative) peak hour trips from the Project, the Subdivider shall install an all-way stop controlled intersection as an interim improvement. In order to guarantee timely installation of the stop signs, prior to final inspection of building generating 100 peak hour trips, the Subdivider shall obtain an encroachment permit from Caltrans. The installation of stop signs shall be included in the Deferred Improvement Agreement.

Prior to final inspection of a building that will generate 832 (cumulative) peak hour trips from the Project, the Subdivider shall install a traffic signal at the intersection. In order to guarantee timely installation of the traffic signal, prior to final inspection of building generating 700 peak hour trips, the Subdivider shall obtain an encroachment permit from Caltrans. The installation of traffic signal shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and Caltrans, commence with an encroachment permit application process to install the all-way stop sign and signal not later than ninety (90) calendar days following approval of the Vesting Tentative Map by the City of Tracy. If the Subdivider / City is unable to obtain required permits from Caltrans, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort.

The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Any improvements installed that will be part of the Traffic Impact Fee Program (Fee Program) will be eligible for fee credits in accordance with City Regulations and the Development Agreement. The installation of traffic improvements at these locations will require Caltrans approval and an Encroachment permit from Caltrans.

b) Traffic Signal at Tracy Hills Drive /Corral Hollow Road (Mitigation Measure 4.13-14a, Intersection #3)

A traffic signal at Tracy Hills Drive / Corral Hollow Road shall be installed and made operational before final inspection of first building within the Project. The Subdivider

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shall provide improvement plans that show the design and construction details of the traffic signal and all associated intersection improvements such as turn lanes, signage and striping, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection. The improvement plans shall be submitted prior to approval of the first final map (residential or commercial).

The traffic signal at Tracy Hills Drive/ Corral Hollow Road is not included in the Fee Program, and hence the Subdivider shall pay for costs of design and construction of the traffic signal improvements.

c) Traffic Signal at Corral Hollow Road / Linne Road (Mitigation Measure 4.13-14a, Intersection #4)

The Subdivider shall design and install a traffic signal at the intersection that will have interconnect with the railroad crossing controller. These improvements will require UPRR and CA PUC approval

Prior to final inspection of a building that will generate 396 (cumulative) peak hour trips from the Project, the Subdivider shall install a traffic signal at the intersection. In order to guarantee timely installation of the traffic signal, prior to final inspection of building generating 300 peak hour trips, the Subdivider shall obtain an encroachment permit / agreement from UPRR. The installation of the traffic signal shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and UPRR / CA PUC, commence an engineering design process for the traffic signal improvements not later than ninety (90) calendar days following approval of this Vesting Tentative Map by the City of Tracy. If the Subdivider is unable to obtain required permits from UPRR / CA PUC, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort.

The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Any improvements installed that will be part of the Traffic Impact Fee Program (Fee Program) will be eligible for fee credits in accordance with City Regulations and the Development Agreement.

d) Intersection Improvements at Tracy Boulevard / Linne Road (Mitigation Measure 4.13-14a, Intersection #5):

The Subdivider shall reconstruct the eastbound approach to an eastbound left turn lane and eastbound through lane, and the westbound approach to a westbound right turn lane and a westbound through lane

Prior to final inspection of a building that will generate 469 (cumulative) peak hour trips from the Project, the Subdivider shall install intersection improvements as

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identified in the EIR. In order to guarantee timely installation of said improvements, prior to final inspection of building generating 400 peak hour trips, the Subdivider shall submit improvement plans and obtain approval by the City Engineer. The Intersection Improvements shall be included in the Deferred Improvement Agreement.

The Subdivider shall, in collaboration with the City Engineer and UPRR / CA PUC (if required), commence with an engineering design process for the intersection not later than ninety (90) calendar days following approval of the Vesting Tentative Map by the City of Tracy. If the Subdivider is unable to obtain required permits from UPRR / CA PUC, City shall issue building permits beyond the above-mentioned limits, provided that the Subdivider has, to the reasonable satisfaction of the City Engineer, diligently pursued its efforts to obtain the required permits and collaborated closely with City staff in this effort. The Subdivider shall submit a trip generation calculation with each building permit application or Final Map approval as directed by the City Engineer.

Alternatively, with the approval of the City Engineer, the Subdivider may install a traffic signal interconnected with the controller at the railroad crossing, which installation would be subject to approval by the City Engineer.

Any improvements installed that will be part of the ultimate (program) improvements may be eligible for fee credits in accordance with City Regulations and the Development Agreement.

e) Overlay Corral Hollow Road between I-580 and Linne Road (Mitigation Measure 4.13-14b)

Before final inspection or occupancy of the first building (excluding the Model Homes) within the Project, the Subdivider shall overlay the existing two lanes on Corral Hollow Road between I-580 right-of-way and railroad right-of-way including 100 feet of the easterly leg of Linne Road. The Subdivider shall provide improvement plans that show the design and construction details of the overlay improvements and shall commence with the improvement plans following approval of the Vesting Tentative Map. The improvement plans shall be approved prior to approval of the first final map (residential or commercial). The Overlay Improvements shall be included in the Off-site Improvement Agreement.

No fee credits or reimbursements shall be applicable for these improvements.

f) Interim / Permanent School Site and roadways (Mitigation Measures 4.13-15d, 4.13-15e and 4.13-15f)

The Subdivider shall provide roadways to the school that meet acceptable on and off-site storage for drop-off/pickup queuing, safety considerations, vehicular circulation, and bike and pedestrian access, per the City Standard Plans and Vesting Tentative Map.

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Prior to approval of the Vesting Tentative Map, or when the first student from Phase 1a attends either Tracy Hills Elementary School or Tom Hawkins Elementary School or the new school located within the Project (Phase 1a) commences design, the Subdivider shall demonstrate that the following planning and design considerations are addressed to the satisfaction of the City Engineer:

- School driveways are located directly opposite proposed streets entering the residential neighborhood to maximize traffic and student safety.
- 10' concrete Pedestrian and bicycle paths, sidewalks, and crosswalks are provided.
- A Safe Routes to School Program (SRTS) is initiated in coordination with the School District for the Phase 1a school site. The SRTS Program shall be funded and developed by the Subdivider. The SRTS Program shall be developed when the School District applies for an Encroachment Permit from the City.
- The Subdivider shall fund the development of a Traffic Management Plan to the satisfaction of the City Engineer, the Police Department, and the Jefferson School District for the interim conditions when additional traffic would be generated to the interim school adjacent to the Tracy Hills Elementary School. The Traffic Management Plan shall be implemented when the temporary school building opens up for attendance and the first student from Tracy Hills attends the school(s).

g) Traffic Signal at Lammers Road / Old Schulte Road (Mitigation Measure 4.13-5a, Intersection #10)

The City has established a CIP Project for this interim improvement and partial funds have already been collected from other development projects as fair share payments and these other development projects funded the addition of the northbound left-turn lane only. The Applicant shall pay a proportionate share for the interim capacity improvements. These fees will be payable at the final inspection of the first building for the Project.

h) Traffic Signal at Internal Intersection at Business Park Main Driveway and Tracy Hills Drive (Mitigation Measure 4.14-5a, Intersection #23)

A traffic signal at the Business Park Main Driveway and Tracy Hills Drive shall be installed and made operational before issuance of Certificate of Occupancy for the first commercial building permit for within the Project. The Subdivider shall provide improvement plans that show the design and construction details of the traffic signal and all associated intersection improvements such as turn lanes, signage and striping, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection. The improvement plans shall be submitted prior to issuance of a building permit for the first commercial building within the Project. The installation of the traffic signal shall be included in the Deferred Improvement Agreement.

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T. Bus shelter and turnout on Corral Hollow Road and Tracy Hills Drive (Condition No. C.2.7.10)

The bus shelters and turnouts on Tracy Hills Drive shall be constructed as part of the Tracy Hills Drive Improvements. Bus turnouts and shelters on Tracy Hills Drive shall be located at the two fire turnouts on Tracy Hills Drive. The City will provide the construction details and materials specifications of the bus shelter. Timing of construction of bus shelters will be determined in the future based on the extension of TRACER's Fixed Route to serve the Project. In order to assure completion of construction of the bus shelters, the Subdivider may either enter into a DIA with security, or pay to the City the estimated cost for two bus shelters on Tracy Hills Drive, and one bus shelter on Corral Hollow Road at the time of approval of the first Final Map within the Project.

U. Emergency Vehicle Access (Condition No. C.2.7.14, C.2.7.15)

1. The Subdivider shall construct an all-whether, emergency vehicle access as required in Planning Division's Conditions.

The Subdivider and City shall enter into an EVA Agreement prior to the start of construction. This agreement will address access across private properties and maintenance responsibilities. The Subdivider shall submit improvement plans for any improvements required by the Police and Fire Departments, and agencies having jurisdiction. The Subdivider shall obtain any permits and/or easements that may be required for construction and use of the EVA. Required improvements may include but not limited to addition of gates with optical opening devices, turnouts, and gates at the California Aqueduct.

2. The Subdivider shall execute Grant of Easement documents for the Emergency Vehicle Access Easement at the time of approval of the first Final Map.

V. Fire Station (Condition No. C.2.7.16)

Prior to final inspection or certificate of occupancy for the 289th residential unit within the Project, a fire station and all related equipment shall be constructed and operational to serve Tracy Hills in accordance with the Citywide Public Safety Master Plan.

RESOLUTION 2020-_____

APPROVING THE FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT
FOR TRACY HILLS – PHASE 1A, AND AUTHORIZING THE CITY CLERK TO FILE THE FIRST
AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, On January 24, 2018, the City of Tracy (“City”) and Tracy Phase I, LLC and Tracy BPS, LLC (together, “Developer”) entered into a Deferred Improvement Agreement for Tracy Hills – Phase 1A (“DIA”) which, among other things, requires Developer to construct certain roadway improvements required to serve the Tracy Hills – Phase 1A project (“Project”) and sets various timelines for the completion of such improvements, and

WHEREAS, Among the roadway improvements required to be completed by Developer under the DIA are certain interim improvements, including traffic signals, at the intersection of Corral Hollow Road and Linne Road (“Interim Improvements”), which interim improvements and the timing for their completion are more particularly set forth in the DIA, and

WHEREAS, On December 17, 2019, City, Developer, and certain affiliates of Developer entered into a Settlement Agreement (“Settlement Agreement”) in order to resolve disputes between City, Developer and the affiliates relating to the application to the Project of the San Joaquin Council of Governments Regional Transportation Impact Fee and The Tracy Infrastructure Master Plan’s Development Impact Fees, and

WHEREAS, Under the Settlement Agreement, the City and Developer agreed that Developer would no longer be obligated to construct the Interim Improvements as required under the DIA and that the City shall instead construct the final program improvements at the Corral Hollow Road and Linne Road intersection to its full four-lane design per the City’s Transportation Master Plan, including traffic signals, and

WHEREAS, The First Amendment is being executed by City and Developer to confirm that Developer is no longer obligated to construct the Interim Improvements, thereby bringing the DIA into conformance with the Settlement Agreement, and

WHEREAS, All other terms and conditions set forth in the DIA not specifically modified by the First Amendment remain in full force and effect;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the First Amendment to the Subdivision Improvement Agreement for Tracy Hills – Phase 1A, and authorizes the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 17th day of November 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.O

REQUEST

AUTHORIZE THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ACCEPT A NUCLEAR POWER ELECTRICITY ALLOCATION FROM PG&E TO CREATE A CARBON FREE OPTION FOR ELECTRICITY CONSUMERS IN THE CITY OF TRACY

EXECUTIVE SUMMARY

EBCE is a consortium of eligible Alameda County cities and the City of Tracy. Its purpose is to provide more renewable and carbon-free electric supply options to consumers. EBCE will replace PG&E for the City's electric supply sources. PG&E will still be responsible for transmission and distribution of electric supply.

At present, the anticipated default service option for the City's consumers will be EBCE's *Bright Choice* service option which provides a 1% discount and a minimum of 5% more renewable energy compared to PG&E's standard service. Some participant cities of the JPA have requested EBCE to accept an allocation of nuclear energy from PG&E to create a new, carbon-free energy option at rate parity with PG&E's standard service. This new carbon free option would only be available to jurisdictions that affirmatively request it from EBCE through a formal action by their respective City Councils. In order for the City of Tracy to have such an option available to electricity customers within its jurisdictions--or have it as the default option, instead of *Bright Choice*—the Council must adopt a resolution requesting EBCE to make such an option available within its jurisdiction.

DISCUSSION

EBCE is a consortium of all eligible Alameda County cities and the City of Tracy. Its purpose is to provide more renewable and carbon-free electric supply options to consumers. All participating cities including the City of Tracy are members of a Joint Power Authority (JPA) governing EBCE.

On October 1, 2019, the City Council adopted an ordinance implementing the Community Choice Aggregation Program through which EBCE will provide a renewable and alternative energy (electric supply) choices to City of Tracy consumers.

Historically, PG&E has provided both electric generation and distribution services to the City's electricity consumers. While PG&E will be still responsible for transmission and distribution of electricity energy, consumers will now have the option to use either EBCE's energy supply or continue using electricity generated by PG&E (the latter of which was 44% nuclear in 2019, the most recent year reported).

As part of the implementation process of this program, EBCE will start public outreach within the next few months to inform residents and businesses about their transfer to EBCE service or how to opt out to stay with PG&E's energy supply. EBCE will provide a variety of options of electricity sources to City of Tracy consumers to select. A default

option will be adopted by City Council through a separate resolution for those consumers who do not respond to EBCE.

EBCE staff has indicated its Board of Directors is currently exploring accepting a nuclear power electricity allocation from PG&E from 2021-2023 to create a new, carbon-free energy option at price parity with PG&E for member-jurisdictions that request such an option. If created, this option could either be available for individual consumers to opt into, or it could potentially become a citywide default option if the City of Tracy adopts a separate resolution at a later date, instead of EBCE's *Bright Choice* option. In order to request this type of option (if created) be made available to Tracy's electricity customers, the City Council must pass a resolution to this effect. If created, this service option will be only available for the next few years until the remaining nuclear power plant in California ceases to operate which is scheduled to happen in 2024-2025.

Staff is recommending that the City Council approve a resolution to request EBCE's Board to accept a nuclear power electricity allocation from PG&E and allow for that power to be available to City of Tracy consumers as an option, should a nuclear power option come to fruition. Nuclear power option provides 100% carbon free electricity. Staff believes that including the power electricity option would help the City achieve its climate action plan goals and will make the City more competitive in applying for State and Federal grants related to traffic and transportation projects. Some of the Alameda County cities including Albany, Dublin, Pleasanton and Hayward have also made similar requests to EBCE.

STRATEGIC PLAN

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

FISCAL IMPACT

Nuclear power will be an additional electric power option available to the City of Tracy consumers. The fiscal impact to the consumers for selection of this option will not be known until the program is in place and the rates are adopted.

RECOMMENDATION

Staff recommends that the City Council, by resolution, authorize East Bay Community Energy to accept a nuclear power electricity allocation from PG&E to create a carbon free option for electricity consumers in the City of Tracy.

Prepared by: Kul Sharma, Director of Utilities

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2020-_____

**AUTHORIZING THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ACCEPT A
NUCLEAR POWER ELECTRICITY ALLOCATION FROM PG&E TO CREATE A CARBON
FREE OPTION FOR ELECTRICITY CONSUMERS IN THE CITY OF TRACY**

WHEREAS, EBCE is a consortium of eligible Alameda County cities and the City of Tracy, and

WHEREAS, EBCE's purpose is to provide more renewable and carbon-free electric supply options to consumers. EBCE will replace PG&E for the City's electric power generation, and

WHEREAS, On October 1, 2019, the City Council adopted an ordinance implementing the Community Choice Aggregation Program through which EBCE will provide a renewable and alternative energy (electric supply) choices to City of Tracy consumers, and

WHEREAS, EBCE offers electricity customers within its member-jurisdictions multiple service options at various rates, including those that are 100% renewable, and/or 100% carbon-free, and/or a mixture of renewable and conventional energy resources, and

WHEREAS, All of EBCE's service options meet or exceed the State of California's Renewable Portfolio Standards ("RPS"), which can help member-jurisdictions meet their Climate Action Planning goal, and

WHEREAS, EBCE endeavors to provide competitively priced energy options to all eligible residential, commercial, municipal and low-income customers throughout its service area, while expanding access to renewable and carbon-free resources, and administering innovative energy-related programs, and

WHEREAS, While PG&E will be still responsible for transmission and distribution of electricity energy, consumers will now have the option to use either EBCE's energy supply or continue using electricity generated by PG&E (the latter of which was 44% nuclear in 2019, the most recent year reported), and

WHEREAS, Electricity customers in the City of Tracy may request to change their EBCE service option and/or opt out of EBCE service at any time;

WHEREAS, EBCE staff has indicated its Board of Directors is exploring accepting a nuclear power electricity allocation from PG&E from 2021-2023 to create a new, carbon-free energy option at price parity with PG&E for member-jurisdictions that request such an option;

WHEREAS, Addition of the nuclear power option to the City's electricity consumers will assist the City achieving its climate action plan goals and will make the City more competitive in applying for State and Federal grants for traffic related projects;

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NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes The East Bay Community Energy Authority to accept a nuclear power electricity allocation from PG&E to create a carbon free option for electricity consumers in the City of Tracy.

The foregoing Resolution 2020-_____ was adopted by Tracy City Council on the 17th day of November, 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.B

REQUEST

CONDUCT PUBLIC HEARING TO CONSIDER AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEE TO INCREASE THE FEE FOR 2021

EXECUTIVE SUMMARY

In 2001, the City began participating in the San Joaquin County Multi Species Habitat Conservation and Open Space Plan (SJMSCP) established by the San Joaquin Council of Governments (SJCOG, Inc.). The fees for participation in the plan were established in 2001 and updated annually since then. Each participating local agency must adopt the SJMSCP and updated fees. Based on SJMSCP's updated five-year financial analysis, land sales comparables and the Consumer Price Index is being updated for 2021. The revised fees represent an overall 35.4 percent increase from the fees collected in 2020.

DISCUSSION

The San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) acts as a mechanism to streamline compliance with federal and state endangered species acts. The City adopted the SJMSCP in 2001 as a means to streamline the development process for projects constructed in Tracy. While participation is voluntary on behalf of developers, paying a fee to SJCOG, Inc. and having them administer the SJMSCP (e.g. procure easements, maintain preserves) enables developers and the City to avoid costly and lengthy negotiations with the US and California Fish and Wildlife Service agencies.

In 2001, the City Council approved a resolution authorizing the collection of a development fee for participation in the SJMSCP. The fee is based on classification of habitat type (Attachment A – City of Tracy Land Category / Pay Zones Map). The methodology for determining the fee is based upon a Financial Analysis Model approved by the SJCOG, Inc., and it is evaluated every five years and updated as needed. The formula for updating the fee is categorized into three distinct components to better calculate an accurate fee per acre [FEE = Category A (acquisition) + Category B (assessment & enhancement) + Category C (management & admin)]. The final mitigation fees reflect true costs in each category and other real costs associated to fulfill the goals of the plan.

In 2020, SJCOG staff and the Habitat Technical Advisory Committee (HTAC) Financial Subcommittee with assistance from consulting firm Hausrath Economics Group (HEG) conducted the five-year update to the Financial Analysis Model. The last updates to this model were in 2007, 2011, and 2016. The update focused on the categories of the fee model regarding land costs to be used for mitigation, required restoration/enhancement costs on preserve lands, and monitoring, management and administration of the program and preserves.

The proposed 2021 SJMSCP development fees were adjusted using the recommended 2020 SJMSCP 5-Year Financial Analysis Model Update for the respective categories. The development fees for year 2021 (Table 1, below) represent an overall 35.4 percent increase from the fees established for 2020. Each participating local agency must adopt the updated fees to continue participation in the SJMSCP. All of the land within and adjacent to the current City limits are classified as Open Space or AG/Natural, as there are no vernal pools near the City of Tracy.

Table 1 – SJMSCP Development Fees to Be Adopted for 2021

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee
Other Open Space	\$5,870 .00	\$2,471.00	\$341.00	\$ 8,682.00	\$8,682
Natural/Ag Lands	\$11,740.00	\$4,942.00	\$681.00	\$17,363.00	\$17,363
Vernal Pool Grasslands	\$57,036.00	\$12,826.00	\$1,682.00	\$71,544.00	\$71,544
Vernal Pool Wetted	\$56,057.00	\$103,580.00	\$1,649.00	\$161,286.00	\$161,286

Table 2 illustrates the history of the SJMSCP development fees over the years since the funding shortfall was noted by the permitting agencies in 2006. The fees can fluctuate primarily based on the Category A – acquisition component of the fee formula over time.

Table 2- History and Annual Percentage Change for SJMSCP Development Fees

Fee Category	2007 Financial Update#	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Multi-Purpose Open Space	\$6,511	\$6,165	\$7,052	\$7,307	\$6,631	\$7,195	\$6,364	\$6,656	\$7,281	\$7,807	\$8,905	\$9,701	\$6,700	\$6,412	\$8,682
Agriculture/Natural	\$13,022	\$12,329	\$14,104	\$14,615	\$13,262	\$14,372	\$12,711	\$13,295	\$14,543	\$15,596	\$17,808	\$19,400	\$13,399	\$12,822	\$17,363
Vernal Pools	\$69,858	\$71,125	\$78,353	\$80,760	\$77,720	\$81,989	\$78,311	\$80,972	\$85,631	\$90,273	\$109,737	\$116,871	\$101,033	\$100,788	\$161,286
	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)	(wetted)
	\$34,958	\$35,143	\$40,565	\$42,071	\$38,328	\$41,534	\$37,087	\$39,047	\$42,784	\$46,869	\$66,437	\$72,523	\$54,576	\$52,833	\$71,544
	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)	(upland)
Percentage of Change Yearly		-5.3%	14.4%	3.6%	-9.3%	8.4%	-11.6%	4.6%	9.4%	7.2%	14.2%	8.9%	-30.9%	-4.3%	35.4%

Category A (acquisition) – Comparable Land Sales

This category is directly related to land valuation based on comparable land sales in San Joaquin County in specific zones of the plan area (Central Zone, Central Southwest Transition Zone and Delta Zone) over an established 2-year period meeting the established criteria used for comparable land sales. Cost estimates for this category will continue to be evaluated on a yearly basis by taking all qualified fee title comparable sales in each zone to set a weighted cost per acre similar to the methodology in the Financial Analysis Update in 2016 but without SJCOG, Inc. easement appraisals.

This 2020 fee model update also revises the fee title/easement valuation percentage method for determining the cost of easement acquisition in the model to be lowered to 56% with a mid-term review of the 5-year term based on the data collected by SJCOG, Inc. staff. The collected data by SJCOG, Inc. staff tracks easements by appraisals which indicate the value of the property in the “before” condition and the value of the property encumbered by the SJCOG, Inc. easement. This data (which only becomes a richer database over time) provides the basis for calculating average percentage of easement acquisition of fee title value that reflects actual SJCOG, Inc. experience with easement terms and conditions.

The model update results in a 44% increase in the Agricultural/Natural Habitat types of Category A (Acquisition) component to be \$11,740.00. The reason for the increase is the rise in comparable fee title land sale values.

Category B (assessment & enhancement) - Consumer Price Index w/ Model Data Update

The recommended changes to this category include updated and refined cost factors for biological site assessment, preserve enhancement and management planning, and preserve enhancement unit costs. These unit costs reflect current assessment of enhancement practices for different types of preserve lands. In addition, the updated analysis redistributes preserve acres between grasslands and agricultural landscapes to more accurately reflect the mitigation purposes described in the adopted SJMSCP.

Going forward, the unit cost factors (per acre or per year for some items) will be adjusted only by the California CPI. However, the total cost for Category B is also a function of the SJMSCP Annual Report data updated annually with the acres remaining to be acquired and the number of years remaining in the permit term. The fee per acre is a function of those total calculated costs and the land conversion acres remaining.

The model update results in a 29% increase in the Agricultural/Natural Habitat types of Category B (Assessment & Enhancement) component to be \$4,942.00.

Category C (management & administration) - Consumer Price Index

The recommended changes to this category include refined monitoring cost factors and updated management and administration cost factors that are based on analysis of SJCOG, Inc. spending in these categories. The update includes refinement to the approach to post-permit costs and pivoting to a more robust diversified endowment investment strategy for a higher return on investment yield that provides for a net annual yield of 3.25% after absorbing inflation and management costs.

Annual cost updates will continue to use the California Consumer Price Index (CPI), as reported by the California Department of Finance, for the preceding 12-month fiscal year (e.g. July – June) to keep up with inflation on an annual basis.

The model update results in a 20% decrease in the Agricultural/Natural Habitat types of Category C (Management, Monitoring & Administration) component from prior years to be \$681.00.

As previously mentioned, participation in the SJMSCP is voluntary. Projects participating under the SJMSCP benefit from a pre-determined streamlined processing of the project rather than navigating through a potentially very long, cumbersome and expensive regulatory process outside the habitat plan. By opting for participation, the project can choose any number of ways to provide mitigation for the impacts of the project through the plan and even control much of the mitigation, costs if desired. The options are:

1. Pay a fee;
2. Redesign the project to avoid/minimize impacts;
3. Provide land in lieu of the SJMSCP fee which the project will negotiate the easement/fee title costs (Category A component); or
4. Any combination of the above options.

Alternatively, the project proponent can choose to not participate in the plan (opt out) and fulfill mitigation requirements on their own with state and federal permitting agencies independently.

FISCAL IMPACT

This agenda item will not require any specific expenditure of funds. All of the fees collected with each project will be applied toward the SJMSCP.

STRATEGIC PLAN

This agenda item does not relate to any of the Council's Strategic Plans.

RECOMMENDATION

Staff recommends that the City Council approve, by adoption of a resolution, the updated development fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, as shown in the City Council resolution dated October 20, 2020.

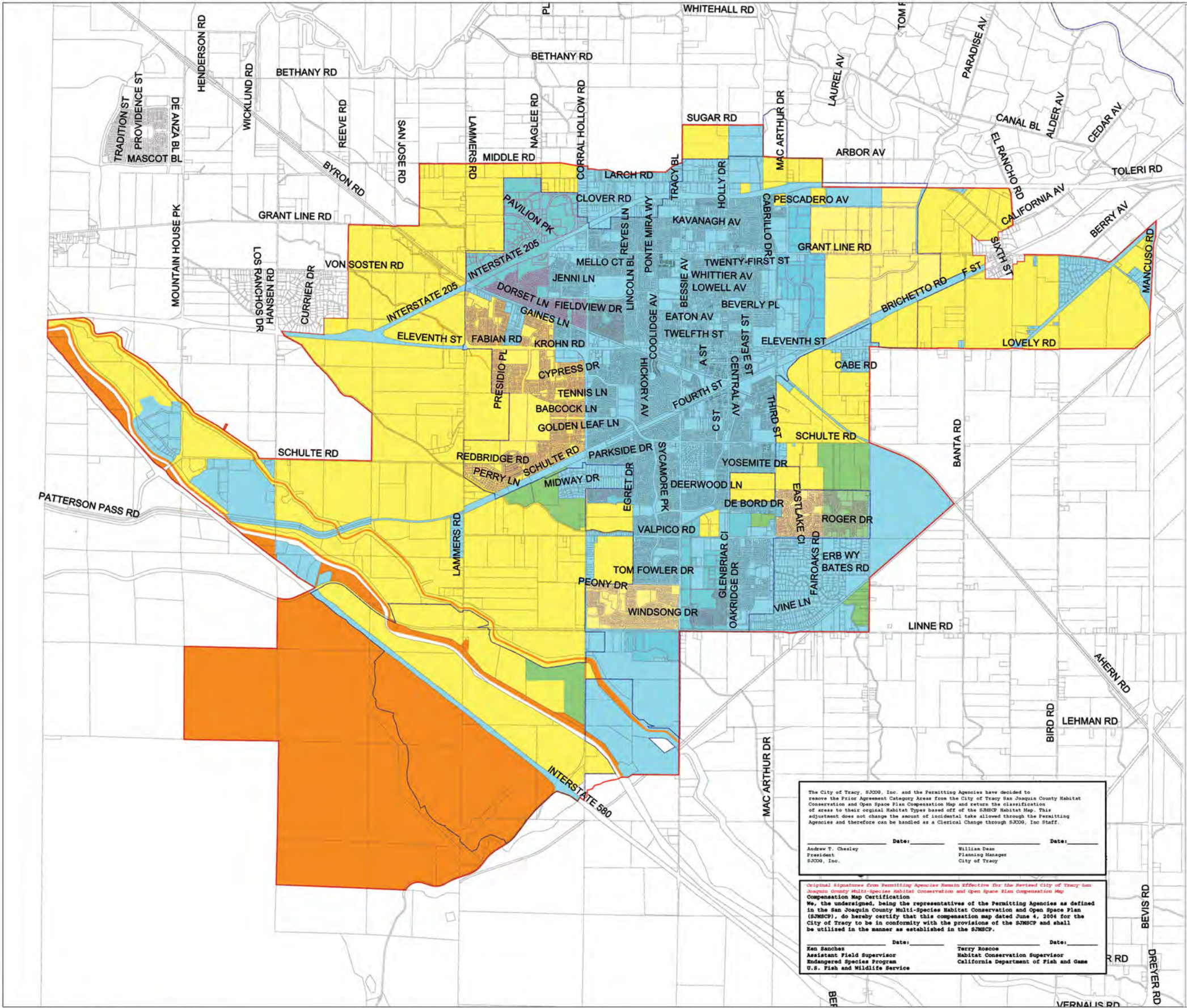
Prepared by: Kimberly Matlock, Associate Planner, City of Tracy
Steve Mayo, Senior Regional Planner, SJCOG, Inc.

Reviewed by: Bill Dean, Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – City of Tracy Land Category / Pay Zones Map



- LAND CATEGORY / PAY ZONES**
- CATEGORY A
EXEMPT
NO PAY ZONE
 - CATEGORY B
OTHER OPEN SPACES
PAY ZONE A
 - CATEGORY C
AG. HABITAT OPEN SPACES
PAY ZONE B (Agricultural)
 - CATEGORY D
NATURAL LANDS HABITAT
PAY ZONE B (Natural)
 - CATEGORY E
VERNAL POOLS
PAY ZONE C
- PLANNING AREA BOUNDARY**
- URBAN EXPANSION AREA
 - CITY LIMITS
 - PARCEL LINE

**San Joaquin County Multi-Species Habitat
Conservation and Open Space Plan**

The City of Tracy, 2009, Inc. and the Permitting Agencies have decided to remove the Prior Agreement Category Areas from the City of Tracy San Joaquin County Habitat Conservation and Open Space Plan Compensation Map and return the classification of areas to their original Habitat Types based off of the SJMSCP Habitat Map. This adjustment does not change the amount of incidental take allowed through the Permitting Agencies and therefore can be handled as a Clerical Change through SJ009, Inc. Staff.

Date: _____
Andrew T. Chealey
President
SJ009, Inc.

Date: _____
William Dean
Planning Manager
City of Tracy

Original Signatures from Permitting Agencies Remain Effective for the Revised City of Tracy San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Compensation Map

We, the undersigned, being the representatives of the Permitting Agencies as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), do hereby certify that this compensation map dated June 4, 2004 for the City of Tracy to be in conformity with the provisions of the SJMSCP and shall be utilized in the manner as established in the SJMSCP.

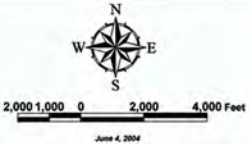
Date: _____
Ken Sanchez
Assistant Field Supervisor
Endangered Species Program
U.S. Fish and Wildlife Service

Date: _____
Terry Roscoe
Habitat Conservation Supervisor
California Department of Fish and Game



CITY OF TRACY COMPENSATION MAP (REVISED MARCH 2006)

San Joaquin Council of Governments
555 East Weber Avenue
Stockton, CA 95202



RESOLUTION 2020-_____

ADOPTING AMENDED DEVELOPMENT FEES FOR THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN FOR 2021

WHEREAS, In 2001, the City Council of the City of Tracy adopted Resolution No. 2001-396 to establish the authority for collection of a Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) for all new developments pursuant to the SJMSCP within the City of Tracy, and

WHEREAS, A "Fee Study" dated July 16, 2001 was prepared, which analyzed and identified the costs, funding, and cost-benefit of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, and

WHEREAS, The purpose of the SJMSCP Development Fee is to finance the goals and objectives of the SJMSCP that include, but are not limited to, preserve land acquisition, preserve enhancement, land management, and administration that compensate for such lands lost as a result of future development in the City of Tracy and in San Joaquin County, and

WHEREAS, After considering the Fee Study and the testimony received at the public hearing, the Tracy City Council approved said report; and further found that the future development in the City of Tracy will need to compensate cumulative impacts to threatened, endangered, rare and unlisted SJMSCP Covered Species and other wildlife and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses, and

WHEREAS, The Tracy City Council approved updated SJMSCP Development Fees annually since 2006, and

WHEREAS, The current SJMSCP Development Fee for open space lands is \$6,412 an acre for the year 2020 due to annual adjustments consistent with the SJMSCP, and

WHEREAS, The current SJMSCP Development Fee for natural lands and agricultural lands is \$12,822 an acre for the year 2020 due to annual adjustments consistent with the SJMSCP, and

WHEREAS, The updated fee per acre for open space lands as adjusted pursuant to land sale comparables and the Consumer Price Index for the year 2021 is \$8,682, and

WHEREAS, The updated fee per acre for natural lands and agricultural lands as adjusted pursuant to land sale comparables and the Consumer Price Index for the year 2021 is \$17,363, and

WHEREAS, To ensure that the SJMSCP development fees keep pace with inflation, annual adjustments, based on the method set forth in this resolution, shall be made to the fees annually, and

WHEREAS, The method of annual adjustments was modified in 2011, 2016 and again in 2020, and

WHEREAS, The 2020 adjustment resulted in a minor change to category “A” with an adjustment to the easement to fee title percentage used in the fee model and category “C” with pivoting to a more robust diversified endowment investment for higher return on investment, and

WHEREAS, The City Council conducted a Public Hearing on November 17, 2020 to consider an amendment to the SJMSCP development fees, and

WHEREAS, The updated fees were available for public inspection and review in the office of the City Clerk for more than 10 days prior to the date of this Public Hearing;

NOW, THEREFORE, BE IT RESOLVED, That:

1. The City Council finds and declares that the purposes and uses of the Development Fee, and the determination of the reasonable relationship between the fees’ uses and the type of development project on which the fees are imposed, are all established in Resolution No. 2001-050 and No. 2007-021, and remain valid, and the City Council therefore adopts such determinations.
2. The City Council finds and declares that since adoption of Resolution No. 2001-050 and No. 2007-021, the cost of land has changed in San Joaquin County and that in order to maintain the reasonable relationship established by Resolution No. 2001-050 and No. 2007-021, it is necessary to adjust the Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.
3. The City Council adopts a 2021 Development Fee for open space in the amount of \$8,682 an acre, as adjusted pursuant to land sale comparables and the Consumer Price Index, as shown in Exhibit 1 attached hereto.
4. The City Council adopts a 2021 Development Fee for natural lands and agricultural land in the amount of \$17,363 an acre as adjusted pursuant to land sale comparables and the Consumer Price Index, as shown in Exhibit 1 attached hereto.
5. The City Council adopts a 2021 Development Fee for vernal pool habitat and multi-purpose open space conversion in an amount consistent with the table identified in Exhibit 1 and attached hereto.
6. The Fee provided in this resolution shall be effective on January 1, 2021, which is at least sixty days after the adoption of this resolution.

* * * * *

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 17th day of November 2020, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK



SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

***San Joaquin County Multi-Species Habitat Conservation &
Open Space Plan (SJMSCP)***

Sol Jobrack
CHAIR

Leo Zuber
VICE CHAIR

Andrew T. Chesley
PRESIDENT

Member Agencies
CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

2021 Updated Habitat Fees*

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$8,682
Natural	\$17,363
Agriculture	\$17,363
Vernal Pool - uplands	\$71,544
Vernal Pool - wetted	\$161,286

* Effective January 1, 2021 – December 31, 2021

2021 Endowment Fees with In-lieu Land**

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$4,942.00	\$681.00	\$5,623.00
Natural Lands	\$4,942.00	\$681.00	\$5,623.00
Vernal Pool Habitat			
<i>Vernal Pool Grasslands</i>	\$12,826.00	\$1,682.00	\$14,508.00
<i>Vernal Pool Wetted</i>	\$103,580.00	\$1,649.00	\$105,229.00

** Effective January 1, 2021 – December 31, 2021 in lieu of fees to be used as the endowment for the dedicated land preserves (Category B + C) based on impacted acres.

VELB Mitigation

A special fee category shall apply when removal of the Valley Elderberry Long-horned Beetle (VELB) habitat of elderberry shrubs occurs. The fee shall be paid to SJCOG, Inc. or a VELB mitigation bank approved by the Permitting Agencies. The current fee, as established in the VELB Conservation Fund Account managed by the Center for Natural Lands Management, and approved by the USFWS, is \$1,800 per VELB Unit (one unit= one stem over 1" in diameter at ground level which is removed). Fees shall be established by the JPA during preconstruction surveys (i.e., counts of stems to be removed with and without exit holes shall be completed during preconstruction surveys) and shall be paid to the JPA prior to ground disturbance or stem removal, whichever comes first.

AGENDA ITEM 3.C

REQUEST

RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

Pursuant to direction from City Council, staff has been negotiating terms of a potential project labor agreement (PLA), which would establish important requirements regarding workforce and contracting on certain City public construction projects (commonly referred to as capital improvement projects ("CIPs")). The City's negotiating team (City team) and the San Joaquin Building and Construction Trades Council (Trades Council) have met for numerous negotiation sessions, and exchanged several draft proposals. However, the City team and the Trades Council have been unable to reach agreement on a full proposed agreement to recommend to City Council for approval. There are several unresolved issues, including the important matter of the dollar threshold that would trigger application of the PLA to a City construction contract.

Because of the complexity of the proposed agreement, and because it would affect various issues of public interest, staff wishes to ensure that Council is fully briefed on the agreement and the outstanding issues. Council is not being asked to approve an agreement at the present time; staff requests that the Council provide direction regarding desired resolution of outstanding issues.

BACKGROUND

A PLA is a pre-hire collective bargaining agreement between one or more labor organizations (generally negotiated by the local building trades council) and the owner of one or more construction projects. The PLA establishes key terms and conditions of employment on the project work. The purpose of a PLA is to facilitate construction of the project with minimal labor-related disruptions that would adversely impact the public and/or delay the project. PLAs also can advance additional public purposes relating to job and training quality, and in some cases local and/or disadvantaged hiring.

Generally, the terms of the agreement apply to all contractors and subcontractors who are awarded contracts on a City construction project. PLAs typically include provisions that prohibit unions from engaging in strikes, and contractors from engaging in lockouts, in relation to the covered construction project. In exchange for the unions' commitment not to engage in labor stoppages, PLAs require both union and non-union contractors working on the project to comply with terms of union collective bargaining agreements. PLAs generally require that contractors hire workers referred from union hiring halls, and that all workers pay dues or fees to the applicable union while employed on the project. Furthermore, contractors must comply with compensation provisions of collective bargaining agreements, including contribution to union trust funds. PLAs also contain procedures to resolve disputes between unions regarding work assignments without labor disruption.

Since the late 1990s, public sector PLAs have been used in many jurisdictions in California, particularly the San Francisco Bay Area. Initially, these PLAs only covered large construction projects, such as San Francisco International Airport (1995) and the Port of Oakland (1999), where the value of the covered work exceeded \$1 billion. However, more recently, many jurisdictions – starting with school districts and then municipalities and counties – began applying PLAs comprehensively, meaning to multiple smaller projects that cumulatively have significantly less value than earlier PLAs. Several dozen PLAs have been negotiated in Alameda and Contra Costa Counties. However, PLAs are relatively new in San Joaquin County. Staff has found only two precedents for PLAs adopted by public entities in the county: City of Stockton's PLA (2016) and Delta Community College.

Negotiations to Date

On September 3, 2019, City Council directed staff to initiate negotiations of a PLA with the Trades Council. The City's negotiating team includes Assistant City Manager Andrew Malik, City Engineer Robert Armijo; Human Resources Director Kimberly Murdaugh; and City Attorney Leticia Ramirez. In addition, the City retained the services of special counsel Renne Public Law Group (RPLG), a firm with extensive experience negotiating PLAs on behalf of public entities throughout California.

The City Team and the Trades Council held in-person negotiation sessions on October 28, 2019; November 6, 2019; November 21, 2019; December 4, 2019; February 25, 2020; and March 9, 2020. The Trades Council cancelled a negotiation session scheduled for January 8th. Negotiations were suspended in mid-March due to the COVID-19 emergency. The parties met virtually on July 14, 2020 and August 13, 2020. To supplement the negotiating sessions with full teams, the negotiating parties' attorney representatives have met separately to discuss line edits and technical issues on various occasions. Over the course of these negotiations, the City and the Trades Council have traded several complete proposals and counterproposals, in the form of draft agreements, term sheets, and position letters.

During the course of these negotiations, the City has received public input from various parties regarding the prospect of the City entering into a PLA, including meeting with various local contractors and representative from construction industry groups. In addition, members of the City Team have reached out to contacts in other jurisdictions to obtain information regarding PLA implementation.

The City Team's goal throughout this process has been to reach agreement with the Trades Council on a complete agreement that staff could recommend that the Council approve. Unfortunately, however, we have not been able to reach agreement on several "deal points" regarding the PLA; these are described in further detail below (*Outstanding Issues*).

The City Team and the Trades Council have reached agreement on numerous substantive issues, encompassing the bulk of a prospective agreement. Agreed issues include:

- term of agreement of three years;
- requirement that both union and non-union contractors pay compensation as required by collective bargaining agreements;

- prohibitions on labor stoppages by unions or contractors, including expedited dispute resolution systems and liquidated damages in case of violation;
- expedited resolution systems for disputes regarding assignment of work between different unions, with a commitment of no work stoppages during dispute resolution;
- procedures and topics for pre-job conferences;
- exclusions of coverage of work performed by City employees, and certain categories of non-construction workers;
- prohibition of discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for covered projects;
- ratio between Core Workers and hiring hall workers for non-union contractors; and
- technical terms, including: duration of PLA coverage when a project is being deemed completed; mechanisms for contractors becoming bound by the PLA; and other matters.

The Trades Council's latest draft proposal is attached to this report as Attachment A, for informational purposes. Redlines in Attachment A indicate the differences between the Trades Council's proposal, and the most recent City proposal.

Outstanding Issues

The following are key items that remain unresolved:

- **Threshold for PLA Coverage.** In general, while a PLA offers important benefits to the City and the public, it is an untested approach in Tracy and the City Team recommends an initial application of the PLA's on larger projects with a dollar threshold of \$6 million or more. (See Attachment A, Section 1.8.) The Trades Council has proposed a threshold of \$1.5 million, however, larger projects are better equipped to absorb the administrative costs of application of the PLA and attract a robust bidder response. The City Team's proposal of \$6 million is higher than other PLAs, however the team informed the Trades Council that if the parties reached agreement on other provisions including those relating to core workers the City Team would be supportive of lowering the threshold amount. As stated above the initial term of the PLA is proposed to be three years. If the City's experience during the initial term is positive, the City may consider extending the term and also adjusting the threshold. The City Team recommends a formal review eighteen months following the application of the PLA to evaluate the threshold and other terms of the agreement.
- **Cost Control.** The City Team proposed two measures to ensure that the PLA did not drive up costs by discouraging bids from non-union contractors. City proposals included a "carve out" of 10% of subcontract dollar value that can be performed without PLA coverage; and a City option to re-bid without PLA coverage if bids come back higher than 25% above engineers' estimate. The Trades Council has not agreed to either of these proposals.
- **Terms of Non-union Contractor Participation / Core Workers.** The PLA is required by law to allow both union and non-union contractors to participate. The PLA therefore includes terms regarding participation of non-union contractors on covered projects. Ensuring that non-union contractors can participate under

reasonable terms is important for cost-control and to promote competition for City projects. Note that non-union contractors performing work under the PLA are required to comply with all compensation requirements of union collective bargaining agreements while their employees can voluntarily agree to pay union dues.

The “core workers” provision of a PLA provides terms for non-union contractors to utilize their existing workforce on a PLA project, as opposed the requirement to hire workers from a union hiring hall. The more restrictions there are for who can be a core worker, the harder it is for a non-union contractor to participate on PLA projects, and the less likely they are to bid. Limitations on use of existing crews is often raised by non-union contractors as a concern regarding PLAs.

While the parties have agreed on the ratio between core workers and union hiring hall workers for non-union contractors, however we do not agree on the more basic terms of who can qualify as a core worker, and which contractors can retain core workers. (See Attachment A, Section 9.3.)

The City Team proposal includes a provision for non-union contractors to use their core workers up to the agreed limit (See Attachment A, Section 9.3.) A core worker is defined as an individual who has worked for the contractor for a set number of hours and possesses proper licenses. The language the City Team has proposed is consistent with the vast majority of existing PLAs in the Bay Area. Limitations on use of existing crews is often raised by non-union contractors as a concern regarding PLAs. The more restrictions there are for who can be a core worker, the harder it is for a non-union contractor to participate on PLA projects, and the less likely they are to bid. The City team’s believes this is a reasonable compromise allowing non-union contractors to use qualified members of their existing crews on PLA jobs while requiring them to balance those crews with union workers from hiring halls. Allowing core workers is also a key cost-control issue, because it allows specialized contractors to use a portion of their trained workforce.

The Trades Council has proposed requirements for non-union contractors utilizing core workers to be *either* a local business *or* the particular core workers used must be local residents. This language is *not* consistent with similar PLAs. In addition, the Trades Council proposal includes a requirement for core workers to meet additional standards regarding work experience and knowledge beyond industry or legal requirements. The determination of whether a core worker meets these requirements may subject the non-union contractor to the grievance procedure if the unions disagree with contractors’ assessment of their core workers qualifications.

- **Local Hiring.** In an effort to provide employment opportunities to Tracy residents on PLA projects the City Team has proposed the establishment of an effective local hiring program. However, we have not achieved an agreement with the Trades Council on use of apprentices and percentage goals, discussed below. The City’s draft conceptual proposal, to be implemented through the City construction contracts/bid package is attached as Attachment B, for Council’s review and information.

PLA terms related to local hiring include the following unresolved issues:

- **Use of Local Apprentices.** The Trades Council has proposed that only apprentices from union-affiliated apprenticeship programs are eligible to work on covered projects. The City team agrees that the unions run strong programs, but has proposed that non-union contractors also be allowed to draw apprentices *who are Tracy residents* from state-approved programs that are not affiliated with a union. (See Attachment A, Section 8.1.) The rationale for this proposal is to ensure that Tracy residents beginning their careers, who happen to be enrolled in non-union apprenticeship programs that are approved by the State of California's Division of Apprenticeship Standards, are permitted to work on covered projects.
- **Percentage goals.** In the attached proposed local hiring program, the City Team recommends City resident hiring goals for *each contractor* of 25% of all work hours, and 25% of apprentice hours for new local apprentices. The Trades Council has proposed 30% hiring goals for journey-level and apprentice workers for *each project*, which could be met by residents of the City, the County, or adjoining counties (with City residents having first priority. (See Attachment A, Section 9.6.) The City Team's proposal will create more direct job opportunities to Tracy residents and would be focused on contractor's participation, as opposed to compliance through utilization of residents of a four-county region. While the City Team's proposal includes ambitious local hiring goals, the City's proposal includes a provision for contractors unable to secure a qualified local workforce due to lack of availability will not be found to be out of compliance.
- **Modular Construction.** In recent years, the City has contracted with off-site modular construction facilities to construct certain components of City projects, such as prefabricated bathroom facilities in certain park projects. Given the rapidly-changing field of construction technology, the City Team would like to ensure that the "off-site" coverage provisions of the PLA do not interfere with the City's ability to utilize the full range of construction techniques, taking into account cost, quality, and speed of construction. This may be particularly important if the City desires to rapidly construct low-cost housing units in the future.

For this reason, the City Team proposed that the off-site fabrication provision of the PLA include the limitation: "[O]ff-site construction of complex modular components that involve work within multiple prevailing wage scopes does not constitute Covered Work." The Trades Council has not agreed to this language. (See Attachment A, Section 2.3.2.)

- **Technical Provisions.** There are several technical provisions of the PLA that may have implications for the City during implementation and therefore the City Team and Trades Council have not reached agreement.
 - **Warranty.** The City Team proposed language clearly indicating that the PLA would not be applied in cases where application would void a product warranty. (Some equipment warranties require installation by certain contractors or workers, which could conflict with PLA requirements.) The Trades Council has not agreed to this language. The Trades Council proposed language requiring an independent assessment of the rationale for a manufacturer's requirement, and making this process subject to the

grievance process which could impair the City's ability to purchase and install equipment in a manner that would protect warranty coverage. (See Attachment A, Section 2.4.5.) Clear warranty language is especially important because modern buildings contain many proprietary electronic systems that require all work performed on the system to be done by factory-certified experts.

- **Dispute Resolution.** As this is a new and complex agreement for the City and for many local contractors, disputes regarding PLA interpretation, coverage, and compliance may arise. The City Team has proposed language allowing the City to become a party to grievances for which the City has a direct interest in the outcome (financial, policy, or administrative). The Trades Council has not agreed to this proposal. (See Attachment A, Section 13.4.)
- **Indemnification.** As with many types of public contracts (including public construction contracts), the City proposed inclusion of an indemnification clause, protecting the City's financial interests in case of claims filed against the City based on the City's application of the PLA to public projects. The Trades Council has not accepted this language. (See Attachment A, Sec. 19.)

FISCAL IMPACT

There is no fiscal impact associated with this item. The implementation of the PLA could potentially impact the City's ability to attract a robust bidder response for CIPs. The City Team's proposals are consistent with the City's fiscal priorities (e.g. protect warranty and City indemnification) while encouraging local preference on contracting and hiring.

STRATEGIC PLAN

This agenda item does not relate to Council Strategic Priorities 2019-20.

RECOMMENDATION

Staff requests that the City Council provide staff direction on the outstanding issues described above.

Prepared by: Leticia Ramirez, City Attorney
Julian Gross, Esq. RPLG

Reviewed by: Kimberly Murdaugh, Human Resources Director
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

San Joaquin Building Trades Council's draft proposal, September 25, 2020 (redlines against the City Team's previous proposal)

**CITY OF TRACY
COMMUNITY WORKFORCE AND TRAINING AGREEMENT**

INTRODUCTION/FINDINGS

This Community Workforce and Training Agreement is entered into this ____ day of _____, 20____, by and between the City of Tracy (hereinafter the “City”), the San Joaquin Building and Construction Trades Council (hereinafter the “Council”), and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the “Union(s)”). Contractors and subcontractors of any tier shall become signatory to this Agreement by signing the “**Agreement to be Bound**” (**Addendum A**) (hereinafter the “Contractor(s)/Employer(s)”).

The purposes of this Agreement are to promote the efficiency of construction operations through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Covered Projects(s) covered by this Agreement; and to facilitate the training and employment of local workers in order to increase the pool of skilled labor for work on future City projects.

WHEREAS, the timely and successful completion of Covered Projects is of the utmost importance to meet the needs of the City and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of construction work on Covered Projects and will be represented by the Unions who are signatory to this Agreement and employed by the Contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on Covered Projects of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Unions, and the Contractors would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the City and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Covered Projects and to encourage close cooperation among the Contractors and the Unions so that a satisfactory, continuous and harmonious relationship will exist; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Covered Projects if Union and non-union workers of different employers were to work side by side on the Covered Projects, potentially leading to labor disputes that could delay completion of the Covered Projects; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Covered Projects, insofar as a legally binding agreement exists between the Contractors and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the construction industry; and

WHEREAS, the contract(s) for construction work on the Covered Projects will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Covered Projects;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I **DEFINITIONS**

- 1.1 “Agreement” means this Community Workforce and Training Agreement.
- 1.2 “Agreement to be Bound” means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor as a condition of working on Covered Projects.
- 1.3 “City” means the City of Tracy, California and its governing board, officers, agents and employees, including managerial personnel.
- 1.4 “Completion” means that point at which there is final acceptance by the City Council of a Covered Project and the City has filed a Notice of Completion.
- 1.5 “Construction Contract” means a ~~construction contract awarded by the City under Public Contract Code section 20161 for its Capital Improvements Program, and any subcontract thereunder, of any tier which~~ Covered Work is performed.
- 1.6 ~~“Contractor”~~ means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and that has entered into a Construction Contract.
- 1.7 “Council” means the San Joaquin Building and Construction Trades Council.
- 1.8 “Covered Project” means ~~a Construction~~ any City public works construction project, subject to the Public Contract Code, where the engineer’s estimate or the total cost of the actual bid amount(s) exceeds six one million and five hundred thousand dollars (\$6,000,500,000). The City shall not divide Construction Contracts to intentionally evade this monetary threshold. The City and the Council may mutually agree in writing to add additional projects or components to be covered by this Agreement. The term “Covered Project” applies to each and all projects as defined in this section, whether used in the singular or plural herein.
- 1.9 “Covered Work” means tasks in furtherance of a Covered Project, ~~specified for inclusion as set forth~~ in Section 2.3, excluding tasks and activities specified for exclusion in Section 2.4.
- 1.10 “Joint Apprenticeship Training Program” means a joint labor-management apprenticeship program currently registered with the State of California’s Division of Apprenticeship Standards.
- ~~1.11 “Local Hiring Policy” means the City established local hiring policy included in the City’s prime contracts.~~
- ~~1.12 “Local Resident” means an individual domiciled in the City of Tracy.~~
- ~~1.13~~ 1.11 “Master Agreement” means the Master Collective Bargaining Agreement of a Union.
- ~~1.14 “New Local Apprentice” means a Local Resident who at time of the individual’s commencement of Covered Work has completed less than 15% of the required apprentice work hours to attain journey level status, in a state registered apprenticeship program.~~
- ~~1.15~~ 1.12 “Project Manager” means the person(s) or entity(ies) designated by the City to oversee all phases of construction on a Covered Project and the implementation of this Agreement.

~~1.161.13~~ "Union" or "Unions" means the San Joaquin Building and Construction Trades Council and its affiliated Unions that are signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

ARTICLE II

SCOPE OF AGREEMENT

2.1 **Parties:** The Parties to this Agreement are the City, the Council, and the Unions. This Agreement also applies to and is limited to all Contractors performing work under a Construction Contract on a Covered Project (including subcontractors at any tier) and their successors and assigns, ~~the City, the Council, and the Unions who shall become bound by this agreement by executing an Agreement to be Bound.~~

2.2 **Applicability:** This Agreement governs all Construction Contracts awarded on a Covered Project until Completion, as well as repairs, warranty work, ~~or~~ modifications or punch list work if pursuant to a Construction Contract, or when a Contractor performs work under a change order for the Construction Contract.

2.3 **Covered Work:** Covered Work includes, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit, painting or repair of buildings, structures and other works, and related activities for Covered Projects that are within the craft jurisdiction of one of the Unions and that are directly or indirectly part of the Covered Projects, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, soils and materials testing and inspection, pipelines (including those in linear corridors built to serve the Covered Projects), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for the Covered Projects in temporary yards, dedicated sites, or areas adjacent to the Covered Projects, and at any on-site or off-site batch plant constructed to supply materials to the Covered Projects.

2.3.1 Covered Work includes any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems performed pursuant to a Construction Contract.

2.3.2 Covered Work includes all on-site fabrication work over which the City, Contractors or subcontractor(s) possess the right of control (including work done for the Covered Projects in any temporary yard or area established for the Covered Projects). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by the Unions and is directly or indirectly part of the Covered Projects, provided such work is covered by a Master Agreement or local addenda to a national agreement of the applicable Union(s). ~~Notwithstanding the above, off-site construction of complex modular components that involve work within multiple prevailing wage scopes does not constitute Covered Work.~~

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, Covered Work includes all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractors, including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by the bid specifications.

2.3.4 Covered Work within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XIII and XIV of this Agreement shall apply to such work.

2.4 **Exclusions:** The following shall be excluded from the scope of this Agreement.

2.4.1 Covered Work does not include work performed by the City's own employees.

2.4.2 Covered Work does not include work performed by a Contractor's non-construction craft executives, managerial employees, administrative personnel, and supervisors above the level of general foreman (unless covered by a Master Agreement).

2.4.3 Covered Work does not include non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.4 Covered Work does not include off-site maintenance of leased equipment and on-site supervision of such work.

2.4.5 In limited circumstances requiring special knowledge of the particular item(s), Covered Work does not include work by employees of, or contractors retained by, a manufacturer or vendor, ~~or as otherwise necessary to maintain the manufacturer's or vendor's warranty or guaranty, provided that the manufacturer or vendor can demonstrate by an enumeration of specific tasks that the work cannot be performed by craft workers covered by this Agreement.~~ All such work shall be identified and discussed at the Pre-Job Conference as provided in Article V of this Agreement, or within 30 days after purchase ~~of components requiring such work in order to preserve warranty or guaranty. Upon request from the Council, the City shall discuss with the manufacturer or vendor whether installation or application may be performed pursuant to terms of this Agreement without affecting the status of the warranty. The issue of whether it is necessary to use construction persons of the vendor or other companies to protect the warranty shall be subject to the grievance and arbitration clause of this Agreement, whichever is later. In no event shall the application of this provision alone void a manufacturer's warranty or guaranty.~~

2.4.6 This Agreement shall not apply to projects for which the City receives funding or assistance from any federal, state, local or other public entity if a requirement, condition or other term of receiving that funding or assistance, prohibits application of this Agreement. ~~The; provided, however, that the City may will make good faith efforts to apply this Agreement, including by making a written request to such entity, requesting permission to apply this Agreement- if practicable. The Parties to this Agreement shall confer to discuss modification of this agreement in cases where such modification would allow application of this Agreement within the requirements of the funding sources. Should only a specific provision of this Agreement be prohibited by the funding source, then, upon mutual agreement of the Council, the City shall modify the requirements of this Agreement to allow this Agreement to remain applicable. In no case shall this Agreement be applied so as to require the City to forego any portion of funding for a project.~~

2.5 Award of Contracts: It is understood and agreed that the City has the right to select any qualified bidder for the award of a Construction Contract, and that all requirements of Public Contract Code section 2500 shall apply to Covered Projects. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on Covered Projects. ~~This Agreement permits all qualified contractors and subcontractors to bid for and be awarded work on Covered Projects without regard to whether they are otherwise parties to collective bargaining agreements.~~

ARTICLE III

EFFECT OF AGREEMENT

3.1 By executing this Agreement, the Council, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Covered Projects, whether as a Contractor or subcontractor thereunder, all Contractors agree to be bound by each and every provision of this Agreement and agree to evidence their acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on the Covered Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) with respect to compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other parties to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a party shall not affect the rights, liabilities, obligations and duties between the other parties to this Agreement.

3.6 The provisions of this Agreement, including the Master Agreements incorporated herein by reference, shall apply to Covered Work, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Master Agreement, the provision of this Agreement shall prevail. Where a provision of a Master Agreement does not conflict with this Agreement, the provision of the Master Agreement shall apply.

ARTICLE IV **WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

4.1. The Unions, the City, and the Contractors covered by this Agreement agree that with regard to each Covered Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Covered Project, at the job site of the Covered Project or any other City facility because of a dispute on a Covered Project. Disputes arising between the Unions and Contractor(s)/ Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor of workers employed on the Covered Project.

4.1.3 If a Master Agreement expires before the Contractor completes the performance of work under a Construction Contract and the Union or Contractor gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Covered Projects during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Covered Projects, the Union shall give the City and the Contractor three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractors' or their subcontractor's workforce, during which time the Contractor may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the City or any Contractor contends that any Union has violated this Article, it will so notify in writing (via e-mail or hard copy) the Council, and the senior executive of the Union if known, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article, including immediate notification of the Union in question. The leadership of the Union will immediately inform the workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or Barry Winograd, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 13.4: (for grievances to which the City is not a party). Notice to the arbitrator shall be by the most expeditious means available, with notice by email and telephone to the City, the involved Contractor, and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance with the above procedure, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE V

PRE-JOB CONFERENCES

5.1 **Timing:** The Project Manager shall convene and conduct, at Tracy City Hall and at a time mutually agreeable to the City, the Council and the prime contractor, a pre-job conference with the Unions and the representatives of all involved Contractors, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and City may attend at their discretion.

5.3 The pre-job conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 **Review Meetings:** In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the City, the Unions and the Contractors are addressed, the Project Manager and the Senior Executive of the Council, or designated representatives thereof, shall meet on a periodic basis during the term of this Agreement. The City and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

ARTICLE VI

NO DISCRIMINATION

6.1 The Contractors and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Covered Projects. This Agreement prohibits discrimination based on race, national origin, religion, sex, sexual orientation, political affiliation, or membership in a labor organization in hiring and dispatching workers for Covered Projects.

ARTICLE VII

UNION SECURITY

7.1 The Contractors recognize the Unions as the sole bargaining representative of all craft employees working within the scope of this Agreement, and all such employees must be represented by a Union for the duration of their employment on the Project.

7.2 This Agreement does not require any employee to join a Union or pay dues or fees to a Union as a condition of working on a Covered Project. ~~The; however,~~ Contractors shall make and transmit all deductions for Union dues, fees, and assessments that have been voluntarily authorized by employees in writing in accordance with the applicable Master Agreement. Nothing in this section is intended to supersede the requirements of the applicable Master Agreements as to those Contractors otherwise signatory to such Master Agreements and as to the employees of those Contractors.

7.3 Authorized representatives of the Unions shall have access to the Covered Projects whenever work covered by this Agreement is being, has been, or will be performed on the Covered Projects.

ARTICLE XVIII **APPRENTICES**

8.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors shall employ apprentices from California state-approved ~~apprenticeship programs~~ Joint Apprenticeship Training Program in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured. ~~Contractors shall utilize apprentices enrolled in Joint Apprenticeship Training Programs; except that Tracy residents enrolled in any valid apprenticeship program registered with the State of California's Division of Apprenticeship Standards may be employed on Covered Projects.~~

8.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

8.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly indentured and supervised. ~~Unions agree to refer apprentices to both signatory and non-signatory contractors, so long as non-signatory contractors complete Form DAS 7, Agreement to Train Apprentices. If a Contractor has completed the DAS 7 form and provided it to the relevant Union or apprenticeship program, and the Union or apprenticeship program will not refer apprentices to that Contractor, then that Contractor may obtain registered apprentices from any other available sources.~~ The Unions agree to refer apprentices to all Contractors on Covered Projects pursuant to the Unions' non-discriminatory referral procedures.

ARTICLE XVIII **REFERRAL, LOCAL HIRE, AND WORKFORCE DEVELOPMENT PROGRAM**

9.1 Contractors performing construction work on the Covered Projects shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractors shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

9.2 Contractors shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

9.3 Core Workers. A Contractor that is not signatory to a collective bargaining agreement may employ Core Workers in performance of Project Work as described in this Section ~~89~~.3.

9.3.1 Definition: Core Workers of Local Contractors. A Core Worker is defined as an employee Contractor/Employer with its primary place of business within seven (7) miles of City Hall may request

by name, and the Union will honor, referral of Core Workers who ~~washave~~ applied to the Union for work on the Contractor's Covered Project and demonstrated to the Union the following qualifications:

- a. Has worked a total of at least four thousand (4,000) hours in the craft;
- b. Has been on the Contractor/Employer's active payroll for at least ~~sixty (60)~~ninety (90) out of the one hundred and ~~forty (40)~~twenty (120) calendar days prior to the contract award, and who possesses demonstration;
- ~~a-c.~~ Possesses all required licenses to perform the work-; and
- d. Has the ability to perform safely the basic functions of the applicable craft.

9.3.2 Core Workers of Non-Local Contractors. All other Contractors may request by name, and the Union will honor, referral of Core Workers who have applied to the Union for work on a Covered Project and demonstrated to the Union the following qualifications

- a. Has worked a total of at least four thousand (4,000) hours in the craft;
- b. Has been on the Contractor/Employer's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the demonstration;
- c. Possesses all required licenses to perform the work;
- d. Has the ability to perform safely the basic functions of the applicable craft; and
- e. Is a resident of the City of Tracy, demonstrated by proof of address that is not a post office box.

~~9.3.19.3.3~~ Ratio and Hiring Process. The Contractor may first employ up to two Core Workers. The third and fourth workers on the crew shall be requested Union will refer to a Contractor that is not signatory to a collective bargaining agreement one journeyman employee from the applicable Union hiring hall. The next worker shall be a out-of-work list for the affected trade or craft, and then will refer one Core Worker, and the following worker shall be requested from the applicable Union hiring hall as a journeyman. This process shall be repeated, one and one, until the Contractor's crew includes five (5) Core Workers. Thereafter, all of the Contractor's additional employees in the affected trade or craft performing Covered Work shall be hired from the Union's hiring hall out-of-work list(s).

~~9.3.29.3.4~~ When the Contractor's workforce is reduced, employees shall be reduced so as to maintain the same ratio of Core Workers to hiring hall referrals as was applied in the initial hiring.

~~9.3.39.3.5~~ The Contractor shall provide the appropriate Union with the name and all necessary information for each Core Worker, and each Core Worker shall register with the Union's hiring hall and comply with Article VII (Union Security) before commencing Covered Project work. If there is any question regarding an employee's eligibility as a Core Worker under this Section, the City, at the Union's request, shall obtain satisfactory proof from the Contractor.

9.4 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor, the Contractor shall be free to obtain the worker(s) from any source. A Contractor who hires a worker(s) to perform Covered Work on a Covered Project pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately refer such worker(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

9.5 City Local Hiring Policy-: The City's Local Hiring Policy requires Contractors to take specified steps to employ Local Residents and New Local Apprentices in an effort to reach percentage utilization goals. The policy includes percentage goals as follows: 30% of journey level work hours to be performed by Local Residents;

~~and 25% of apprentice level work hours to be performed by New Local Apprentices. The parties~~Parties to this Agreement intend to facilitate employment of ~~Local Residents and New Local Apprentices~~City residents in the construction of Covered Projects. ~~The~~In the event the City adopts a Local Hiring Policy that contains percentage goals for the employment of City residents as journeymen and apprentices on public works projects, and the policy is applicable to Covered Projects, the Unions will ~~therefore~~exert their utmost efforts to recruit sufficient numbers of craft persons residing in the ~~local area~~City to fulfill the Contractors' requirements, and will refer City residents on a priority basis ~~Local Residents and New Local Apprentices as needed for Contractors to satisfy requirements of the Local Hiring Policy~~, consistent with the non-discriminatory referral procedures of the applicable Union.

~~9.4~~ Workforce Development Program

~~9.6~~ Apprentice Utilization-Employment of Tracy Residents: The Parties commit to a goal that City residents shall perform at least thirty percent (30%) of the work hours on each Covered Project ("Local Hire Percentage Goal"). All Contractors shall be subject to the Local Hire Percentage Goal on Covered Projects. However, in the event that a Contractor is not able to fulfill the Local Hire Percentage Goal with City residents alone, the Contractor may count residents of San Joaquin County toward the Local Hire Percentage Goal. In the event that a Contractor is not able to fulfill the Local Hire Percentage goal with City and County residents, the Contractor may count residents of Stanislaus, Calaveras, and Tuolumne Counties toward the Local Hire Percentage Goal.

9.6.1 Contractor Efforts: The Contractors shall make best faith efforts to reach the Local Hire Percentage Goal through utilization of their existing workforce, consistent with Section 9.3, and through the Unions' hiring hall procedures. The Contractors shall also provide workforce projections to the appropriate Union representatives prior to the Pre-Job Conference and follow the appropriate procedures for referral of local residents.

9.6.2 Union Referrals: To the maximum extent allowed by law, and consistent with the Unions' hiring hall procedures, the Unions shall refer residents for work on Covered Projects in order to meet the Local Hire Percentage Goal.

9.6.3 Commitment to City of Tracy: The purpose of the Local Hire Percentage Goal is to increase and maximize the employment of City of Tracy residents on Covered Projects and develop a pool of skilled labor for employment on future City public works projects. The Parties are firmly committed to this goal and to growing the construction workforce in the City of Tracy.

9.7 Workforce Development Program for Apprentices: The Parties commit to a goal that City residents shall perform at least thirty percent (30%) of the apprentice hours on each Covered Project ("Apprentice Percentage Goal"). All Contractors shall be subject to the Apprentice Percentage Goal on Covered Projects. However, in the event that a Contractor is not able to fulfill the Apprentice Percentage Goal with City residents alone, the Contractor may count residents of San Joaquin County toward the Apprentice Percentage Goal. In the event that a Contractor is not able to fulfill the Apprentice Percentage goal with City and County residents, the Contractor may count residents of Stanislaus, Calaveras, and Tuolumne Counties toward the Apprentice Percentage Goal.

~~9.5-19.7.1~~ 9.7.1 Satisfaction of Labor Code Section 1777.5: Subject to any legal restrictions, the parties agree that apprentices will perform at least twenty percent (20%) of the total craft hours worked for each craft on a Covered Project.

~~9.5-29.7.2~~ 9.7.2 Contractor Efforts-: The Contractors shall make best faith efforts to reach ~~this goal~~the Apprentice Percentage Goal through the utilization of their existing workforce and through the Unions' hiring hall procedures,~~and shall~~ and procedures of the applicable Joint Apprenticeship Training Program. The Contractors shall also provide workforce projections to the appropriate Union representatives prior to the Pre-Job Conference and follow the appropriate procedures for employment of apprentices.

~~9.5-39.7.3~~ 9.7.3 Workforce Development Program-Union Referrals: To the maximum extent allowed by law, and consistent with the Unions' hiring hall ~~provisions~~procedures and the procedures of the applicable Joint Apprenticeship Training Program, the Unions shall refer apprentices for work on Covered Projects

to satisfy the ~~percentage goal, unless an applicable Master Agreement provides for a greater percentage~~ Apprentice Percentage Goal. Apprentices shall be properly supervised and paid in accordance with the provisions of the applicable Joint Apprenticeship Training Program and Union Master Agreement.

~~9.5.49.7.4~~ The Contractors and Unions shall make best faith efforts to reach the ~~Workforce Development Program goals set forth in this Section 8.6~~ Apprentice Percentage Goal through the utilization of normal hiring hall and apprentice procedures and, when appropriate, the identification of potentially qualified apprentices through community-based organizations working in collaboration with the apprenticeship programs. The Unions are committed to working with the Contractors and community based organizations to achieve these goals.

~~9.5.59.7.5~~ At least annually, the Unions and the City will conduct a Community Career Fair to provide at-risk youth, veterans and others an opportunity to learn about each craft and the process for entering Joint Apprenticeship Training Programs.

~~9.5.69.7.6~~ The Unions will work with Joint Apprenticeship Training Programs to host community based organizations at training centers.

~~9.5.79.7.7~~ The Unions will work with and provide information to the respective Joint Apprenticeship Training Programs regarding upcoming Covered Projects and corresponding staffing needs, to increase apprentice ~~enrollment as needed to meet or exceed the Local Hiring Policy's utilization goal for New Local Apprentices and resident enrollment.~~

~~9.5.89.7.8~~ In furtherance of its partnership with the Council, the City may provide a list of individuals to the Council on a quarterly basis who are interested in a career path in the trades. The Council and the Unions will contact and mentor each individual and provide access to all the programs currently serving City residents, including any and all pre-apprenticeship pathways.

~~9.5.99.7.9~~ The parties to this Agreement shall meet as reasonably requested, and no less than annually, to review this ~~program's Agreement's~~ effectiveness and discuss ways to further facilitate entry into such programs for ~~New Local Apprentices~~ local residents.

~~9.69.8~~ The Contractor or subcontractor may use the "name call", "rehire," or other available hiring hall procedures to reach the goals ~~of the Local Hiring Policy~~ set forth in this Article.

~~9.79.9~~ All Contractors shall attend scheduled Pre-Job Conferences held under this Agreement and shall submit to the City and the Council written workforce projections and projected work hours on a craft-by-craft basis and shall present a plan for reaching the goals ~~of the Local Hiring Policy~~ set forth in this Article.

ARTICLE IXX

WAGES AND BENEFITS

10.1 The Contractors agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Covered Projects, in the amounts designated in the applicable Master Agreement(s).

10.2 By signing this Agreement, the Contractors adopt and agree to be bound by the written terms of the legally established Trust Agreements described in Section ~~9~~10.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed by the Contractors. The Contractors agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

10.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Covered Projects shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

10.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

ARTICLE XI **HELMETS TO HARDHATS**

11.1 The Contractors and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

11.2 The Unions and Contractors agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Covered Projects and of apprenticeship and employment opportunities for the Covered Projects. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XII **COMPLIANCE**

12.1 It shall be the responsibility of the Contractors and Unions to investigate and monitor compliance with the provisions of Article ~~IX~~ of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent wages or Trust Fund contributions from Contractors on the Covered Projects. Because Covered Projects are a public works subject to the California Labor Code, the City shall comply with Labor Code requirements regarding monitoring and enforcement of Contractors' compliance with state prevailing wage requirements as well as this Agreement.

ARTICLE XIII **GRIEVANCE ARBITRATION PROCEDURE**

13.1 Project Labor Disputes: All disputes solely involving the application or interpretation of a Master Agreement to which a Contractor and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement other than disputes under Article IV and Article XIV, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

13.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Covered Projects shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. Contractors shall comply with all provisions of Master Agreements relating to discipline of employees, including prohibitions on discipline or discharge without just cause.

13.3 Notice: No grievance shall be recognized unless the grieving party provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to

the dispute. Time limits may be extended by mutual agreement of the parties. The grieving party shall also provide notice of the grievance to the City and the Council.

13.4 Procedure: Grievances shall be settled according to the following procedures. ~~The City may intervene in and become a party to any grievance regarding terms of this Agreement in which the City has a financial, policy, or administrative interest in the outcome, by providing notice during participation in the Step 2 meeting.~~

~~Step 1: Informal Meet and Confer.~~ Within five (5) business days after the receipt of the written notice of the grievance, the representatives of the parties to the grievance shall confer and attempt to resolve the grievance.

~~Step 2: Formal Meet and Confer.~~ If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting, any party to the grievance may ~~be~~ initiate a formal meet and confer process for attempted resolution. The party initiating this step shall notify all parties to the grievance, with notice to the Business Manager of each Union involved (if known~~;~~) or otherwise to the Union, the Labor Relations Manager of the Contractor (if known~~;~~) or otherwise to the Contractor, the City, and the Council. This time limit may be extended by mutual consent of all parties to the grievance. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2 meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The City and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2. The Step 2 meeting shall be held within five days or as otherwise agreed, after referral and notice as described above.

~~Step 3: Arbitration.~~ If the grievance is not resolved at Step 2, the party initiating the grievance may initiate arbitration within five (5) business days of the Step 2 meeting, through written notice to all parties to the grievance, and to the Council and the City. This deadline may be extended by mutual agreement of the parties to the grievance. ~~The party initiating arbitration shall pay costs and fees charged by the arbitrator to initiate arbitration; the arbitrator's order at conclusion of arbitration shall require all parties to the grievance to equally contribute to the costs and fees of arbitration (not including attorneys' fees and costs).~~

For grievances to which the City is not a party: Within five (5) business days after such written notice, the party initiating arbitration shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the following list: (1) William Riker; (2) Carol Vendrillo; (3) Morris Davis. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

For grievances to which the City is a party: Within five (5) business days after such written notice, the party initiating arbitration shall file for arbitration with the American Arbitration Association (AAA), using the "Fast Track Procedures" set forth in AAA's Construction Industry Arbitration Rules and Mediation Procedures.

13.5 The decision of the arbitrator shall be final and binding on all parties to the arbitration. The failure of any party to the dispute to attend the arbitration proceeding shall not delay the hearing of evidence or the issuance of any decision by the arbitrator. ~~Should any party seek confirmation of the award made by the arbitrator in court, the prevailing party shall be entitled to receive its reasonable attorney fees and costs in such court proceeding.~~

13.6 The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator. The expense of the arbitrator shall be borne equally by both parties.

13.7 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time

limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

13.8 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this grievance procedure, the parties agree that such settlements shall not be precedent setting.

13.9 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the City withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. To the extent permitted by law, and any applicable contract(s), the City ~~may~~shall retain such amount until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, in which case the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

13.10 Should any of the arbitrators listed in this Article or Article IV no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

ARTICLE XIV **WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

14.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

14.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

14.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an arbitrator shall be chosen by the procedures specified in Article V, Section 5 of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch and Thomas Pagan, and the arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) calendar days of the selection of the arbitrator. All other procedures shall be as specified in the Plan.

14.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

14.5 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The City and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

ARTICLE XV **MANAGEMENT RIGHTS**

15.1 Consistent with the Master Agreements, the Contractors shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that all lawful manning provisions in the Master Agreement shall be recognized.

ARTICLE XVI
DRUG AND ALCOHOL TESTING

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Master Agreement.

ARTICLE XVII
SAVINGS CLAUSE

17.1 If any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent.

17.2 In the event a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, and the City accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

ARTICLE XVIII
TERM

18.1 This Agreement shall be included in all bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for the Covered Project.

18.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.4 and 2.2.

18.3 This Agreement shall become effective 30 days after the day it approved by the City Council, or upon the City's issuance of a request for proposals (or equivalent) for a project that satisfies the definition of Covered Project, whichever is earlier, provided that it has also been executed by the Trades Council, ~~and each Union has provided to the City a current copy of its Master Agreement.~~ This Agreement shall remain effective for three years from that date, at which time this Agreement shall be considered for extension or renewal. At least one hundred and twenty (120) days prior to expiration of this Agreement, the City and the Council shall meet to discuss proposed changes, if any, to the Agreement. This Agreement may be extended or amended through City Council action and written agreement of all Parties.

18.4 Each Union shall provide to the City a current copy of its Master Agreement.

ARTICLE XIX
MISCELLANEOUS PROVISIONS

19.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

19.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

19.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

19.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

~~19.5 To the extent permitted by applicable law, the Council and Unions shall indemnify and defend the City its officials and employees and hold them harmless from all actions, claims and liabilities, including attorneys' fees, to the extent caused by legal claims filed against the City based on the City's application of this Agreement to Covered Projects. Indemnity obligations hereunder shall survive completion or termination of this Agreement.~~

~~19.6~~19.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

CITY OF TRACY

By: _____
Name/Title: _____

Date: _____

SAN JOAQUIN BUILDING AND CONSTRUCTION TRADES
COUNCIL

By: _____
Name/Title: _____

Date: _____

†UNION SIGNATURES†

<u>Bricklayers, Tilesetters and Allied Craftworkers Local 3</u> <hr/>	<u>Boilermakers Local 549</u> <hr/>
<u>Cement Masons Local 400</u> <hr/>	<u>District Council 16, International Union of Painters and Allied Trades</u> <hr/>
<u>Heat and Frost Insulators and Allied Workers Local 16</u> <hr/>	<u>International Brotherhood of Electrical Workers Local 595</u> <hr/>
<u>International Union of Elevator Constructors Local 8</u> <hr/>	<u>Iron Workers Local 378</u> <hr/>
<u>Laborers Local 73</u> <hr/>	<u>Northern California Carpenters Regional Council, for itself and affiliated local Unions</u> <hr/>
<u>Operating Engineers Local 3</u> <hr/>	<u>Operative Plasterers and Cement Masons Local 300</u> <hr/>
<u>Roofers and Waterproofers Local 81</u> <hr/>	<u>Sheet Metal Workers Local 104</u> <hr/>
<u>Sign, Display and Allied Crafts Local 510</u> <hr/>	<u>Teamsters Local 439</u> <hr/>
<u>United Association, Plumbers and Steamfitters Local 442</u> <hr/>	<u>United Association, Road Sprinkler Fitters Local 669</u> <hr/>
<u>United Association, Underground Utility and Landscape Irrigation Local 355</u> <hr/>	

Addendum A
AGREEMENT TO BE BOUND

[Date]

[Addressee]

[Address]

Re: City of Tracy Community Workforce and Training Agreement
Agreement to be Bound

Dear _____:

The undersigned confirms that it agrees to be a party to and bound by the City of Tracy Community Workforce and Training Agreement ("Agreement") as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 910.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by the Agreement shall extend to all work covered by the City of Tracy Community Workforce and Training Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of the Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: _____

California Contractor State License No. or Motor Carrier (CA) Permit No.: _____

Name of Authorized Person (print): _____

Signature of Authorized Person: _____

Title of Authorized Person: _____

Telephone Number of Authorized Person: _____

Address of Authorized Person: _____

State Public Works Registration Number: _____

Attachment B

Proposed Local Hiring Program

[Attachment to Prime Contracts for Capital Improvement Projects]

City of Tracy Local Hiring Policy

The City of Tracy's Local Hiring Policy for Capital Improvement Projects aims to target employment and training opportunities to Tracy residents.

The Prime Contractor and all subcontractors shall implement and comply with the Local Hiring Policy for this project. In addition, the Project Labor Agreement for the project contains specified steps by which applicable trade unions will facilitate contractor compliance with the Local Hiring Policy.

I. Definitions (for purposes of Local Hiring Policy only)

<u>Construction Trade</u>	A construction trade classification as established for prevailing wage payment requirements by the California Department of Industrial Relations.
<u>Contractor</u>	A contractor of any tier that employs individuals to perform Project Work.
<u>Tracy Resident</u>	An individual domiciled within the City of Tracy.
<u>New Local Apprentice</u>	A Tracy Resident who at time of the individual's commencement of Project Work has completed less than 15% of the required apprentice work hours to attain journey-level status, in a state-registered apprenticeship program.
<u>Percentage Goals</u>	The goals indicated for employment of Tracy Residents and New Local Apprentices described in the "Percentage Goals" section below.
<u>Project Work</u>	Construction work performed pursuant to the prime contract.

II. Percentage Goals

The City establishes the following goals for each Contractor, for performance of Project Work in each Construction Trade:

- a) For journey-level workers:

- at least 25% of Project Work hours shall be performed by Tracy Residents.

b) For apprentice-level workers:

- At least 25% of Project Work hours performed by apprentices shall be performed by New Local Apprentices.

III. Contractor Hiring Responsibilities

Each Contractor shall follow the following hiring processes in an effort to satisfy each of the Percentage Goals. The Project Labor Agreement will contain relevant provisions regarding core workers, hiring of non-union workers and union hiring hall referrals.

Assignment of existing crew members:

Union-Signatory Contractors: Contractor shall assign any existing crew members that fit the Percentage Goal categories, until Percentage Goals are satisfied. (If Contractor cannot satisfy Percentage Goals through assignment of existing crew members not currently working other projects, then Contractor shall use union hiring hall referral system described below for any workers needed to hit goals.)

Non-union Contractors: Abide by the core worker restrictions and alternating hiring process described in Project Labor Agreement. When assigning existing crew members to the job as core workers as per Project Labor Agreement, Contractor shall prioritize assignment of crew members that fit Percentage Goal categories and are not currently working on other projects. For hiring hall positions within the alternating hiring process, Contractor and union hiring hall shall use the referral system described below.

Journey-level workers:

When a Contractor requests workers from the union hiring hall, it requests Tracy Residents if needed to satisfy the Percentage Goals. (If Contractor has already met the percentage goals at time of request, it instead makes a general request to the union hiring hall.)

If the union hiring hall has not sent sufficient workers in the requested category within two business days, the Contractor must request a worker in that category from other sources designated by the City.

Apprentice hires:

Same as journey-level process, except Contractors shall contact the relevant apprenticeship program or hiring hall, and request referral of New Local Apprentices as needed to satisfy the applicable Percentage Goal, and shall sponsor New Local Apprentices as needed. If necessary, Contractors shall contact other sources designated by the City to identify New Local Apprentices to

sponsor and employ. Contact to such programs shall include a specific request for workers ready to be sponsored to become New Local Apprentices.

IV. Miscellaneous

- a. Monitoring. Contractors shall provide information as requested by the City or its designee, and access to job sites and employees as requested, to enable determination of compliance with requirements of the Local Hiring Policy.
- b. Subcontracts. The Prime Contractor shall include compliance with the Local Hiring Policy as a material term of all subcontracts. The Prime Contractor is liable for any breach of this Policy by any subcontractor of any tier.
- c. Assurance Regarding Preexisting Contracts. Each Contractor represents that as of the date that a contract incorporating this Policy became effective, it has executed no contract pertaining to the project that would have violated this Policy had it been executed after that date, or would interfere with fulfillment of or conflict with terms of this Policy. If, despite this representation, an entity that has agreed to comply with this Policy has entered into such contract, then upon request from the City it shall either amend that contract to include the provisions required by this Policy, or terminate that contract.
- d. Liquidated Damages. If a Contractor fails to demonstrate that it made good faith efforts as described above and it fell short of the Percentage Goals, then the Contractor shall owe to the City as liquidated damages an amount equal to the minimum journeyman level wage (or apprentice-level wage, as applicable) under the prevailing wage classification for the Construction Trade in question, for each hour short of the Percentage Goals. Compliance and liquidated damages will be assessed on an annual basis, or prior to final payment for work under the subcontract in question. Liquidated damages may be withheld from progress payments or final payment from the City, upon compliance determination by the City.
- e. Out-of-State Workers. The Percentage Goals do not apply to Project Work hours performed by residents of states other than the State of California (and such hours shall not be considered Project Work Hours for purposes of determining satisfaction of the Percentage Goal).

November 17, 2020

AGENDA ITEM 3.D

REQUEST

DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

On September 1, 2020, Council Member Rhodesia Ransom, with a second from Mayor Pro Tem Young requested that a discussion regarding amending the Council Code of Conduct be agendaized to discuss campaign activities, including acts of those affiliated with a Council member's campaign.

DISCUSSION

Commencing in 2018, the City Council discussed the topic of Council norms and values with the goal of developing an ethics/conduct policy. In June 2019, the San Joaquin County Civil Grand Jury issued a report (Case No. 0418) on its investigation of the Tracy City Council. The report recommended the Council adopt an ethics policy to guide its conduct and also found that "unethical conduct" during Council campaigns "further damaged Council members' ability to work together." On July 16, 2019, Council unanimously agreed to develop and adopt an ethics/code of conduct policy.

On October 15, 2019, the Tracy City Council adopted a Code of Conduct ("Code") to outline the roles and responsibilities of Council and staff, and establish norms and values relating to ethics and conduct by Council, City Commissioners, and staff. The Code was amended on July 21, 2020 to add language regarding Council's participation in community messaging/public relations activities (Section 2.1.6) and City-issued mass communications 60 days prior to an election (Section 3.4.6.1).

The Code does not specifically address campaign activities. Various sections such as 3.2.2 and 3.4.5 reference compliance with laws including campaign laws and the prohibition on the use of public resources for political purposes. The Code applies to all Council members upon entering office which occurs once newly elected Council members are sworn into office. Thus, the Code does not apply to non-incumbent Council candidates, meaning candidates who do not hold a Council seat.

All candidates for City offices, including incumbents, are encouraged to subscribe to the "Code of Fair Campaign Practices" in accordance with Elections Code section 20400 et seq. (Attachment B). Section 20400 of the Elections Code states the following:

"The Legislature declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices."

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters. The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions."

Section 20440 of the Election Code contains the language of the Code of Fair Campaign Practices. The City Clerk, who serves as the City's election official, provides all candidates seeking a City elected position and individuals filing paperwork for an independent expenditure committee with the Code of Fair Campaign Practices. Subscribing to or endorsing the Code of Fair Campaign Practices is completely voluntary.

FISCAL IMPACT

There is no fiscal impact related to this update.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Governance Strategic Priority, Goal #2 to encourage the development of good governance policies.

RECOMMENDATION

It is recommended that the City Council discuss amending the Code of Conduct to include language regarding campaign activities and provide direction to staff.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Adrienne Richardson, City Clerk

Approved by: Jennifer D. Haruyama, City Manager

ATTACHMENTS

A - City Council Code of Conduct – last amended on July 21, 2020
B – Code of Fair Campaign Practices



CITY COUNCIL CODE OF CONDUCT

Adopted on October 15, 2019 by Resolution No. 2019-203

Amended by Resolution No. 2020-133

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- A. Tracy Municipal Code (TMC) 2.08.060
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- D. City Personnel Rule 9.2 (d)
- E. Resolution No. 2004-152 - Board, Commission, Committee Vacancy, Selection, and Defining Residency Requirements, for Appointee Bodies
- F. Ordinance 1094
- G. Resolution No. 2007-075 – Council Travel Procedures

ATTACHMENT 1 – City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2 – Council Advisory Body Norms and Values Statement

CHAPTER 1

FORM OF GOVERNMENT

1.1 Preamble

The legal responsibilities of the Tracy City Council are set forth by applicable state and federal laws. In addition, the City Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

1.2 Form of Government

The City of Tracy operates under a Council-Manager form of government as prescribed by the Tracy Municipal Code ("TMC"). Accordingly, the Mayor and members of the Council are elected at-large, provide legislative direction, set City policy, and ultimately answer to the public.

1.3 City Manager Appointment, Power and Duties

The City Manager is appointed by a majority vote of the Council and serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City and implementing policy direction per Section 2.08.060 of the TMC (attached). Specifically, Section 2.08.070 of the TMC prohibits interference by either the City Council or any of its members with the City Manager's execution of their powers or duties:

- The Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- Additionally, the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.
- Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- The City Council nor any of its members shall interfere with the administration of the City Attorney or give orders to the subordinates of the City Attorney.
- The City Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

The Council and its members shall deal only with the City Manager with respect to the administrative services or operational matters of the City.

1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the Council. Per Section 12.08.40, the City Attorney is responsible for approving as to form all subdivision improvement agreements and security, deferred improvement agreements, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion.

- The City Attorney and his/her senior staff shall at all times conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

CHAPTER 2

COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal entity and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, and/or State or Federal laws.
- 2.1.2 The Council acts as a body. Council policy and directives are established by majority vote, unless otherwise required by state law. A decision of the majority binds the Council to a course of action.
- 2.1.3 No Council Member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment.
- 2.1.5 Council Members are appointed by the Council body to serve on various committees, including Council standing and ad hoc committees, and third agency member committees.
- 2.1.6 Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at-large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication.

2.2 Mayor and Mayor Pro Tem - Appointment, Power, and Duties

- 2.2.1 The Mayor is directly elected by the voters to serve a two-year term. The selection of the Mayor Pro Tem occurs every two years in December

after the City receives the certified results from the County Registrar of Voters electing a Mayor.

2.2.2 A Mayor Pro Tem is appointed by the Council and can be replaced at any time by a majority vote of the Council.

2.2.3 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Mayor Pro Tem shall perform the duties of the Mayor.

2.2.4 The Mayor is the official head of the City for all ceremonial purposes.

2.2.5 Per Government Code, the Mayor, with the approval of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605).

2.2.6 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.

2.2.7 The Mayor may perform other duties consistent with the mayoral office as prescribed by the Tracy Municipal Code, California Government Code, or as determined by the Council.

2.2.8 The Mayor does not possess any power of veto.

2.2.9 The Mayor coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item. Additionally, the Mayor may rearrange the order of business on the agenda.

2.3 Council Actions

2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action (motion) duly made and passed by the majority (unless otherwise required).

- 2.3.2 Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council Members. The request can be made during open session or outside of a Council meeting.
- 2.3.3 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Council Members, except at the special request of a Council Member and with the consent of the Council.
- 2.3.4 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

2.4 Council Member Committees

- 2.4.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.
- 2.4.2 The Council may create or dissolve standing and/or special/ad hoc sub committees at any time by an affirmative vote of a majority of the Council. The Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.
- 2.4.3 The Council appoints and removes members to standing and ad hoc committees.
- 2.4.4 The Council also appoints and removes Council Members to third member agencies.
- 2.4.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety.

CHAPTER 3

LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted this Code of Conduct and the Norms and Values Statement (Attachment) to encourage public confidence in the integrity of local government and its fair and effective operation.

3.2 Public Interest

- 3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- 3.2.2 Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Tracy Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3.3 Conduct

- 3.3.1 Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.
- 3.3.2 Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.
- 3.3.3 Council Members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- 3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members and the public prior to taking action on the matter.
- 3.3.6 Council Members shall not attend internal staff meetings or meetings between City staff and third parties unless authorized by the City Manager.
- 3.3.7 Policy Role
 - 3.3.7.1 Council Members shall respect and adhere to the Council-Manager structure of the Tracy City government as provided in State law and Tracy Municipal Code.

3.3.7.2 Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Implementation

3.3.8.1 This Code of Conduct shall be included in the regular orientations for City Council candidates. Current Council Members, including those entering office upon election shall sign a City Council Norms and Values Statement (**Attachment 1**) affirming they have read and understand this Tracy City Council Code of Conduct.

3.4 Conflict of Interest

3.4.1 In order to assure their independence and impartiality on behalf of the public good, Council Members are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

3.4.2 In accordance with State law, Council Members must file an annual written disclosure (Form 700) of their economic interests.

3.4.3 Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.

3.4.4 Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.

3.4.5 City Council Members should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business or political campaigns.

3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain and, personal and political purposes.

3.4.6.1 A mass communication using City resources shall not be sent within the 60 days preceding an election that feature a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. When no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee.

3.4.7 In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.

3.4.8 To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.

3.4.9 Tracy City Municipal Code Provisions

3.4.9.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the Council, appointed employees, the City Treasurer and members of City boards and commissions during their term of office, to contract or subcontract with the City.

Section 2.04.050 also requires a City Council Member to recuse (as defined by the Fair Political Practices Commission) themselves

from any vote regarding any Memorandum of Understanding between the City and any lawfully recognized bargaining unit in which a City Council member has an immediate family member. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

3.4.9.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

3.4.9.3 Use of City Property for Private Purposes by City Official/Employee.

The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager. (City Personnel Rule 9.2 (d))

3.4.9.4 Political Activities Prohibited; Discrimination.

For informational purposes, the following provisions apply to City and contract employees and consultants:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.

2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.
3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during their work hours.
4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or on any other basis protected by state and/or federal law.

3.4.10 California State Law Regarding Conflicts

While not enforceable by the City, there are four key areas of California State law that regulate the ethics of public officials.

3.4.10.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

3.4.10.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Council Member) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering

into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ ownership interests, and certain membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

3.4.10.3 Political Reform Act - Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

3.4.10.3.1 Political Reform Act-Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters. Violators may also be removed from office pursuant to Government Code Section 3060.

3.4.10.4 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

3.4.10.5 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not “look” or “feel” right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

3.5 AB 1234-Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Those who enter office after January 1, 2006 must receive the training within a year of starting their service. They must then receive the training every two years after that.

The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act); Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process

NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Council Members should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

3.6 Code of Conduct Compliance and Enforcement

Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

- 3.6.1 A request for censure of a member of the Council may be submitted to the City Manager by any member of the Council ("Initiating Member"), with the support of another Council member ("Seconding Member"). Censure is a formal statement or resolution by the Council officially reprimanding a Council Member for conduct that may include sanctions. It is the intent of the Council

that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst Council.

The request shall contain the specific charges on which the proposed censure is based. The City Manager shall deliver a copy of the request for censure and the charges to each member of the Council at least 72 hours after receipt of the request. The request for censure shall first be considered by a neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin. The neutral mediator shall conduct an investigation and prepare a written analysis of the allegation and their preliminary findings and recommendation. Said investigation shall, at a minimum, include interviews with the Initiating Member and the member who is the subject of the request. The neutral mediator's recommendation shall be to: (a) set the matter for a censure hearing and whether censure is warranted or (b) no further action should be taken with respect to the request. The neutral mediator shall present its recommendation to the Council for its consideration and action within thirty (30) days of completing their investigation.

- 3.6.1.1 The censure request shall be agendized at the next regular Council meeting following receipt of the neutral mediator's written findings and recommendation. Council shall determine whether or not to accept the neutral mediator's recommendation. If the Council decides to set the matter for a censure hearing, it shall schedule it no sooner than two weeks after its determination to hear the matter. It may not schedule the matter during any previously scheduled excused absence of the subject Council Member. Written notice of the hearing shall be delivered in person to the member of the Council subject to the censure hearing at least ten (10) days in advance of the scheduled hearing. If the Council decides that no further action is required, Council may also request the Initiating Member either reimburse the City the cost of the neutral mediator's services from personal funds (not campaign funds), not to exceed \$2,500, or forgo a month's salary as Council Member. A report regarding the Initiating Member's compliance with that request shall be presented to Council within sixty (60) days of that request.
- 3.6.1.2 At the censure hearing, the member of the Council who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on their behalf and to question their accusers. The member subject to the charges may be represented by a person or persons of their choice whether or not an attorney at law and may have that representative speak or question

witnesses on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the person chairing the hearing.

- 3.6.1.3 Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not be applied to this hearing, and the procedures shall be generally informal.

- 3.6.2 At the discretion of the Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:

- 3.6.2.1 Public Admonishment - —A reproof or verbal warning directed to a Council Member about a particular type of behavior that violates City policy.

- 3.6.2.2 Revocation of Special Privileges —A revocation of a Council Member's Council Committee assignments, such as standing and ad hoc committees, regional boards and commissions, and other board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.

- 3.6.3 Nothing in this Section shall limit Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one Council member to another, and a Council member to a Council advisory body member.

CHAPTER 4 COMMUNICATIONS

4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report. A Council Member shall not initiate any project or study without the approval of the majority of the Council.
- 4.1.2 Requests for information and corresponding responses made by Council Members will be shared with the full Council.
- 4.1.3 Council Members shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without first consulting with the City Manager and obtaining the approval of a majority of the Council.
- 4.1.4 When preparing for Council meetings, Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.
- 4.1.5 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 Council Members may direct routine inquiries to either the City Manager or appropriate department head.
- 4.1.7 Council Members serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City

staff member so designated and assigned will keep the City Manager appropriately informed.

4.2 Council Relationship/Communication with Council Advisory Bodies

4.2.1 Council Members shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council.

4.2.2 It is a best practice that Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety.

4.3 Handling of Litigation and Other Confidential Information

4.3.1 All written materials and verbal information provided to Council Members on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Council Members, the City Attorney, or City Manager.

4.3.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and documents must be returned to staff at the conclusion of the Closed Session.

4.3.1.2 Council Members may not request confidential written information from staff that has not been provided to all Council Members.

4.4 Representing an Official City Position

4.4.1 City Council Members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

- 4.4.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.
- 4.4.3 The Mayor is authorized to send letters on City letterhead stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.
- 4.4.4 City letterhead may be used by Council Members only for official City business and/or to represent a policy action taken by the Council body.
- 4.4.5 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Council Member should indicate the majority position and opinion of the Council.
- 4.4.6 Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the City Council.

4.5 Quasi-Judicial Role/*Ex Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

- 4.5.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

4.6 No Attorney-Client Relationship

Council Members who consult the City Attorney, their staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

CHAPTER 5

COUNCIL ADVISORY BODIES

5.1 Boards, Commissions, and Committees Generally

- 5.1.1 The Tracy Municipal Code establishes a Planning Commission to advise the Council on land use matters (Chapter 10.04) and a Parks and Community Services Commission (Chapter 7.16)
- 5.1.2 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory boards and commissions.
- 5.1.3 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions. The City Council has the inherent power to create advisory bodies.
- 5.1.4 City boards, commissions, and committees (collectively "Council advisory bodies") provide policy recommendation to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards, commissions, and committees are advisory in nature and therefore do not represent City's official position on city matters.
- 5.1.6 Appointments to boards, commissions, and committees are made by a majority vote of the Council. Appointees to Council advisory bodies serve at the pleasure of the City Council.
- 5.1.7 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.

5.2 Board, Commission, and Committee Organization and Conduct

- 5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the chair (presiding officer) and vice-chair.
- 5.2.2 Boards, commissions, and committees hold regular and special meetings as required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.
- 5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.
- 5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Norms and Values statement (**Attachment 2**) affirming they have read and understand this City of Tracy City Council Code of Conduct.

5.3 Board, Commission, and Committee Appointments

- 5.3.1 Resolution No. 2004-152 establishes the board, commission, and committee appointment/selection process and requirements for residency.
- 5.3.2 The term of office for each board, commission, or committee member is 4 years, with the exception of the Measure V Residents' Oversight Committee which is 3 years.
- 5.3.3 The City Clerk provides application forms, maintains a listing of all applications received, and solicits applications when vacancies occur.

5.4 Boards, Commissions, and Committees- Vacancy and Selection/Appointment Processes

- 5.4.1 Resolution No. 2004-152 outlines procedures for filling a board, commission or committee vacancy and selection and appointment process. The Council appoints all City boards, commissions, and committee members.

5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.

5.5 Boards, Commissions, and Committees - Removal

A board member, commissioner, or committee member serves at the pleasure of the Council and may be removed at any time. The removal of a planning commission member must comply with TMC Section in accordance with the applicable procedure.

CHAPTER 6 COUNCIL FINANCIAL MATTERS

6.1 Compensation

6.1.1 Pursuant to Ordinance No. 1094, the Tracy Mayor and City Council receive a monthly salary. The amount is the salary limit established by the State Legislature for members of the City Council of general law cities having a population range within which the City of Tracy falls, as specified in California Government Code Section 36516(a).

6.1.2 The salary of the Mayor and City Council should be reviewed every two years.

6.2 Benefits

6.2.1 The California Government Code provides that Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

6.3 City Council Budget and Expenses

6.3.1 City Council Resolution No. 2007-075 provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and eligible reimbursements.

CITY OF TRACY CITY COUNCIL
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted a Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

City Council Members shall sign this Norms and Values statement upon assuming office and upon reelection to office as a symbol of each Council Member's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions;

the Tracy City Municipal Code; laws pertaining to Council-Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4 Respect for Process

Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council Members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council Members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council Members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council Members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council Members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Council Members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council Members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Council Members entering office shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have **full** confidence in the integrity of City government.

This City Council Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council Members.

I affirm that I have read and understand the City of Tracy City Council Norms and Values statement.

Signature

Date

CITY OF TRACY
COUNCIL ADVISORY BODY
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Tracy City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Norms and Values statement at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during their term.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Tracy City Municipal Code; laws pertaining to the Council-

Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Council Members; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council advisory body members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

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Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Tracy. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.
Attachment 2 to City Council Code of Conduct

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

Attachment 2 to City Council
Code of Conduct

The Council Advisory Body Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council advisory body members.

I affirm that I have read and understand the City of Tracy City Council Code of Conduct.

Signature

Date



San Joaquin County
CODE OF FAIR CAMPAIGN PRACTICES
(Elections Code § 20440)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.
- (7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Print Name

Signature

Date

Office

PROVISIONS OF THE CODE OF FAIR CAMPAIGN PRACTICES

Chapter 5 of Division 20 of the California Elections Code

Chapter 5. Fair Campaign Practices

Article 1. General Intent

20400. The Legislature declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters.

The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.

Article 2. Definitions

20420. As used in this chapter, "Code" means the Code of Fair Campaign Practices.

Article 3. Code of Fair Campaign Practices

20440. At the time an individual is issued his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the elections official shall give the individual a blank form of the code and a copy of this chapter. The elections official shall inform each candidate for public office that subscription to the code is voluntary.

In the case of a committee making an independent expenditure, as defined in Section 82031 of the Government Code, the Secretary of State shall provide a blank form and a copy of this chapter to the individual filing, in accordance with Title 9 (commencing with Section 81000) of the Government Code, an initial campaign statement on behalf of the committee.

20441. The Secretary of State shall print, or cause to be printed, blank forms of the code. The Secretary of State shall supply the forms to the elections officials in quantities and at times requested by the elections officials.

20442. The elections official shall accept, at all times prior to the election, all completed forms that are properly subscribed to by a candidate for public office and shall retain them for public inspection until 30 days after the election.

20443. Every code subscribed to by a candidate for public office pursuant to this chapter is a public record open for public inspection.

20444. In no event shall a candidate for public office be required to subscribe to or endorse the code.