

TRACY CITY COUNCIL AND THE SUCCESSOR
AGENCY TO THE CITY OF TRACY COMMUNITY
DEVELOPMENT AGENCY

REGULAR CITY COUNCIL MEETING

Tuesday, November 5, 2019, 7:00 P.M.

City Council Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

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

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

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

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

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

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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. DARE Presentation
2. Police Swearing in Ceremony
3. Employee of the Month
4. Proclamation - Homeless Youth Awareness Month
5. Proclamation - Sikh American Awareness & Appreciation Month

1. CONSENT CALENDAR

- 1.A. APPROVAL OF OCTOBER 15, 2019, CLOSED SESSION, SPECIAL MEETING AND REGULAR MEETING MINUTES
- 1.B. APPROVE A MEMBER AGENCY ADMISSION AGREEMENT WITH MARK 43 AND THE CITY OF WEST COVINA, FOR A FIVE-YEAR TERM, NOT TO EXCEED \$1,047,536, FOR THE UPGRADE PURCHASE, USAGE, AND ON-GOING MAINTENANCE OF THE POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH SYSTEM AND RECORDS MANAGEMENT SYSTEM, AND FIND IT IS IN THE BEST INTEREST OF THE CITY TO FORGO THE FORMAL BID PROCESS
- 1.C. RECEIVE A LISTING OF ALL CITY OWNED PROPERTIES
- 1.D. ACCEPT THE CONSTRUCTION OF THE LOWELL AVENUE SIDEWALK CONSTRUCTION PROJECT, CIP 73160, STATE PROJECT NUMBER ATPSB1L-5192(044), COMPLETED BY TAYLOR BACKHOE SERVICE INCORPORATED OF MERCED, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER; AND AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT
- 1.E. APPROVE THE FEE DEFERRAL AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR TRACY HILLS WELCOME CENTER, AND AUTHORIZE THE CITY CLERK TO FILE THE FEE DEFERRAL AGREEMENT WITH OFFICE OF THE SAN JOAQUIN COUNTY RECORDER
- 1.F. APPROVE A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY (CITY), ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (AGENCY), AND MANTECA HOSPITALITY, INC., AND AUTHORIZE THE MAYOR ON BEHALF OF THE CITY AND THE CHAIRMAN ON BEHALF OF THE SUCCESSOR AGENCY TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS
- 1.G. WAIVE SECOND READING AND ADOPT ORDINANCE 1273, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3560 OF THE TRACY MUNICIPAL CODE RELATING TO LANDSCAPING REQUIREMENTS FOR PARKING AREAS

- 1.H. ACCEPT THE CONSTRUCTION OF THE MCDONALD PARK SPLASH PAD RECIRCULATION SYSTEM PROJECT, CIP 78162, COMPLETED BY CAZADORO CONSTRUCTION OF SAN FRANCISCO, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AUTHORIZE AN APPROPRIATION OF \$6,500 FROM THE GENERAL PROJECTS FUND (F301); AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT
 - 1.I. ACCEPT THE CONSTRUCTION OF ROOF IMPROVEMENTS TO THE POLICE ANNEX AND FIRE ADMINISTRATION BUILDINGS, CIPs 71102 & 71105, COMPLETED BY BARTH ROOFING COMPANY OF TRACY, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT
 - 1.J. REJECT ALL BIDS RECEIVED FOR CONSTRUCTION OF THE CHERRY BLOSSOM COURT LANDSCAPING PROJECT, CIP 73172, AND AUTHORIZE STAFF TO RE-ADVERTISE THE PROJECT
 - 1.K. ACCEPT THE CONSTRUCTION OF 2016-2017 OVERLAY PROJECT, CIP 73142-B, FEDERAL PROJECT NUMBER STPL-5192(043), COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT
 - 1.L. APPROVE CHANGE ORDER NO. 3 IN THE AMOUNT OF \$1,881,610 TO MOUNTAIN CASCADE, INC., TO EXTEND THE RECYCLED WATER PIPELINE BY APPROXIMATELY 4,120 LF ON LAMMERS ROAD AS PART OF THE TRACY RECYCLED WATER TRANSMISSION MAINS, PHASE 2, CIP 74091, STATE PROJECT AGREEMENT NUMBER 4600011424 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CHANGE ORDER
2. ITEMS FROM THE AUDIENCE
 3. REGULAR AGENDA
 - 3.A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE WATER AND WASTEWATER DEVELOPMENT IMPACT FEES FOR NEW DEVELOPMENT IN THE FUTURE PHASES OF THE NORTHEAST INDUSTRIAL AREA
 - 3.B. INTRODUCE AN ORDINANCE ADOPTING, BY REFERENCE, THE 2019 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING LOCAL STANDARDS RELATED TO EMERGENCY HOUSING, STRAW-CLAY CONSTRUCTION, CORROSIVE SOILS, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, OTHER EMERGENCY RESPONDER REQUIREMENTS AND FLOOD PLAIN REGULATIONS AND SET A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE

- 3.C. PUBLIC HEARING TO APPROVE AN AMENDMENT TO THE CITYWIDE STORM DRAINAGE MASTER PLAN AND ADOPT STORM DRAINAGE IMPACT FEE STUDY AND NEW AND UPDATED FEES FOR THE LAMMERS AND MOUNTAIN WATERSHED AREAS OF THE CITY
- 3.D. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 5.24 WASTE DISPOSAL AND ADDING A NEW CHAPTER 5.26 DISCHARGE OF FATS, OILS AND GREASE, TO THE TRACY MUNICIPAL CODE TO BE CONSISTENT WITH STATE AND FEDERAL LAWS REGARDING THE DISPOSAL OF WASTEWATER
- 3.E. PUBLIC HEARING TO ADOPT THE AMENDED SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEE FOR 2020
- 3.F. INTRODUCE ORDINANCES AMENDING CHAPTER 6.36 OF THE TRACY MUNICIPAL CODE (TMC) REGARDING COMMERCIAL CANNABIS ACTIVITY AND AMENDING SECTION 10.08.3196 OF THE TMC REGARDING ESTABLISHING ZONING AND LOCATION REQUIREMENTS FOR COMMERCIAL CANNABIS ACTIVITY IN TRACY
- 3.G. ADOPT COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE
- 3.H. DISCUSS COUNCIL VACANCY POLICY 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 15, 2019, 5:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Rickman called the meeting to order at 5:31 p.m. for the purpose of a closed session to discuss the items outlined below.

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

Council Member Arriola arrived at 5:41 p.m., after roll call.

3. ITEMS FROM THE AUDIENCE – None

4. CLOSED SESSION

A. Conference with Legal Counsel – Existing Litigation (Gov. Code § 54954.5(d)(1))

Tracy Rural County Fire Protection District v. LAFCo of San Joaquin (City of Tracy, Real Party in Interest) (San Joaquin County Superior Court Case No. STK-CV-UWM-2019-9687)

5. RECESS TO CLOSED SESSION - Motion was made by Council Member Vargas and seconded by Council Member Ransom to recess the meeting to closed session at 5:31 p.m. Roll call vote found Council Members Vargas, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Arriola absent.

Council Member Arriola arrived at 5:41 p.m. after roll call.

6. RECONVENE TO OPEN SESSION – The meeting reconvened to open session at 5:58 p.m.

7. REPORT OF FINAL ACTION – There was no report of final action.

8. ADJOURNMENT – Motion was made by Council Member Vargas and seconded by Council Member Ransom to adjourn. Roll call vote found Council Members Vargas, Ransom, Arriola, and Mayor Rickman in favor; passed and so ordered. Mayor Pro Tem Young absent from adjournment. Time: 5:59 p.m.

The agenda was posted at City Hall on October 10, 2019. The above are action minutes.

Mayor

ATTEST:

City Clerk

October 15, 2019, 6:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

1. Mayor Rickman called the meeting to order at 6:01 p.m.
2. Roll call found Council Members Arriola, Ransom, Vargas, Mayor Pro Tem Young, and Mayor Rickman present.

DEVIATION

4. WORKSHOP TO DISCUSS PROPOSED COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, Interim City Attorney provided the staff report.

Henry Cole did not support time limits on Council Member comments.

Eleassia Davis did not agree with reducing speaker time limits or closing the meeting at 10:30 p.m.

Robert Tanner shared his concerns about speaker time limits for City Council and requested the public comment remain at five minutes.

Yubo Cody did not support limiting time for public comment.

Alice English did not support reducing public comment time, and added Council should read the agenda prior to the meeting, and not take away the public's time.

City Council questions followed. Council suggested the following amendments/additions to the protocols:

- Council's requests for items to be placed on an agenda should be made publicly unless it is time sensitive (items with deadlines). The request should be seconded by another Council member. All Council shall be notified of time sensitive requests.
- Section 2.3 – Clarify that newly elected Council members have to comply with Code of Conduct.
- Section 3.4.2 – Add language: *or other legal remedies per the Government Code*.
- Section 4.3.1: Add language that indicates if a Council member requests support from another Council member (outside of a Council meeting), to place an item on an agenda and if the request is denied, the Council member must publicly request a third Council member for support of the item.
- Section 5.7.1 - Keep speaker time limits at five minutes except if there are a large number of speakers. Council consensus agreed to decrease the time limit to three minutes if there are 15 or more speakers.

- Section 5.14.1 – Add language to include why a Council member is abstaining.
- Section 6.1 – Add language regarding items that are within the Council's subject matter jurisdiction.
- Section 6.4 – Add language to include the Penal Code 403 in this section.
- Items from the Audience – Clarification regarding subject matter and items under Council purview.

Staff to look at the capability of downloadable sections of the recorded Council meeting from the website instead of having to download the complete meeting.

3. ITEMS FROM THE AUDIENCE - Alice English shared her concerns regarding the Katerra hearing that was before City Council on October 1, 2019, and the lack of noticing to the public.
5. ADJOURNMENT – Time: 7:02 p.m.

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

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

ATTEST:

Mayor

City Clerk

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

City Council Chambers, 333 Civic Center Plaza

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

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

Mayor Rickman led the Pledge of Allegiance.

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

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

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

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

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

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

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

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

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

No one from the public wished to speak.

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

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

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

City Council questions and comments followed.

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

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

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

Alice English pulled the item for discussion.

Christine Mabry, Management Analyst provided the staff report.

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

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

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

City Council questions and comments followed.

Brian MacDonald, Parks and Recreation Director responded to questions.

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

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

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

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

3. REGULAR AGENDA

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

Ed Lovell, Management Analyst provided the staff report.

Mayor Rickman opened the public hearing.

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

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

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

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

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

Kimberly Matlock, Associate Planner provided the staff report.

Mayor Rickman opened the public hearing.

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

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

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

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

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

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

Kim Scarlata, Division Manager provided the staff report.

City Council questions and comments followed.

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

No one from the public wished to speak.

City Council comments followed.

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

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

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

No one from the public wished to speak.

There were no comments from City Council.

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

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

Randall Bradley, Fire Chief provided the staff report.

No one from the public wished to speak.

City Council comments followed.

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

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

Randall Bradley, Fire Chief provided the staff report.

No one from the public wished to speak.

There were no comments from City Council.

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

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

Jenny Haruyama, City Manager provided the staff report.

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

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

City Council questions and comments followed.

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

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

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

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

6. COUNCIL ITEMS

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

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

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

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

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

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

7. ADJOURNMENT – Time: 9:15 p.m.

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

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

ATTEST:

Mayor

City Clerk

AGENDA ITEM 1.B

REQUEST

APPROVE A MEMBER AGENCY ADMISSION AGREEMENT WITH MARK 43 AND THE CITY OF WEST COVINA, FOR A FIVE-YEAR TERM, NOT TO EXCEED \$1,047,536, FOR THE UPGRADE PURCHASE, USAGE, AND ON-GOING MAINTENANCE OF THE POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH SYSTEM AND RECORDS MANAGEMENT SYSTEM, AND FIND IT IS IN THE BEST INTEREST OF THE CITY TO FORGO THE FORMAL BID PROCESS

EXECUTIVE SUMMARY

The Police Department request Council approval of a 5-year agreement with Mark 43 and the City of West Covina will provide for the upgrade, usage, and maintenance of the Police Department's Computer Aided Dispatch System (CAD) and the Records Management System (RMS).

DISCUSSION

The Police Department is asking Council to approve a 5-year agreement with Mark 43 and the City of West Covina to upgrade the Department's Computer Aided Dispatch System (CAD) and the Records Management System (RMS). The upgrade will include information technology support, software development, project management, remote and onsite training, pre-configuration and loading of existing data (data conversion), and device and security recommendations.

In 2012, the Department entered into an agreement with a CAD/RMS vendor in an effort to launch a new CAD/RMS system, however; the vendor failed to fulfill their obligations, which resulted in a termination of that agreement, and the department returned to West Covina Service Group, operated under the City of West Covina.

RMS and CAD technology has progressed significantly since the implementation of the current product utilized by the Tracy Police Department. Upgrading the current system, with the added enhancements provided by Mark 43 and West Covina will immediately provide operational efficiency and lend many opportunities for further enhancements to the way Tracy Police Department processes and distributes information.

Upgrading to the web-based system proposed by the City of West Covina and Mark 43, provides the department advantages in the realms of support and integration between both the CAD and RMS systems. These advantages include real time data and statistics immediately available to officers, detectives, dispatch, and other department personnel, immediate upload and availability of photos to case files and department personnel, a new and improved Property and Evidence module for efficiency in tracking the intake, storage, and outcome of property and evidence, a Case Management module to track and manage case assignments and case load, and integration with various systems used by the department such as Body Worn Cameras, tasers, Live Scan arrest and booking system, Laserfiche, Brazos (electronic citation system, COPlogic (Online Citizen portal), 911 Transfer, and other interfaces utilized by the Tracy Police Department.

Department of Justice has mandated all California agencies transition from the Uniform Crime Reporting System (UCR) to the National Incident Based Reporting System (NIBRS) for statistical reporting by February 2021. In order to meet compliance, Tracy Police Department must either replace its entire CAD/RMS system or upgrade its current system.

Due to the Department of Justice mandate, the City of West Covina's current platform will reach the end of life by the end of 2021. Due to the mandate, the City of West Covina was also faced with the need to build a new CAD/RMS platform in order to maintain compliance and offer their contract cities a product that would provide the means to gain compliance. The City of West Covina partnered with a CAD/RMS vendor, Mark 43, to build and upgrade a Computer Aided Dispatch System and Records Management System that would deliver newer technology, meet Department of Justice compliance, and offer their contract cities the same West Covina Service Group technology support and maintenance as provided in the current service agreement.

By electing to retain West Covina Service Group and upgrading the Department's current system, the Department will enter into an agreement with The City of West Covina and Mark 43. The benefits of remaining as a West Covina Member Agency include:

- Negotiated reduced pricing structure for Mark 43 subscription;
- Full historical data transfer of 20 years of agency records into the Mark 43 Records at no cost to the Tracy Police Department;
- Transfer and building of tables for field entries, command line, and selection options;
- Development and re-implementation of all existing interfaces in existence with West Covina CAD and RMS to use the Mark 43 Application Programming Interfaces at no cost to the Tracy Police Department;
- Simplified acquisition and transfer process with purchasing agreements remaining in place between Tracy PD and West Covina;
- Continued and on-going customer services and support from existing West Covina Service Group resources in addition to the client support offered by Mark 43.

After researching several CAD/RMS options, Tracy Police Department has determined the best option is to retain the City of West Covina (West Covina Service Group), and upgrade the existing system. Due to the Department of Justice mandate, time is of the essence to meet the compliance deadline. West Covina has provided reliable service and excellent customer service to the Tracy Police Department since 1999. The upgrade will offer full historical data transfer of over 20 years of data and retention of department interfaces at no cost along with the new technology enhancements. Due to these reasons, it is requested that the Council determine, in accordance with Tracy Municipal Code Section 2.20.140 (b) (6), that it is in the best interest of the City to forgo the formal bid process and approve the Member Agency Admission Agreement with the City of West Covina and Mark 43.

STRATEGIC PLAN

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

FISCAL IMPACT

The total cost of the upgrade, usage, and annual maintenance, for the 5-year agreement term is \$997,536 with a \$50,000 contingency for additional system interfaces for a total not to exceed \$1,047,536. There is sufficient funding through the Police Department's annual operational budget.

RECOMMENDATION

Staff recommends the Council, by resolution, find it is in the best interest of the city to forgo the formal request for bid process due to the time constraints needed to comply with Department of Justice mandates and approve a Member Agency Admission Agreement with Mark 43 and the City of West Covina, for the period November 12, 2019 to November 12, 2024, not to exceed \$1,047,536, for the upgrade purchase, usage, and on-going maintenance of the Police Department's computer aided dispatch system and records management system.

Prepared by: Beth Lyons-McCarthy, Support Operations Manager
Luis Mejia, Police Captain

Reviewed by: Alex Neicu, Interim Police Chief
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS:

Attachment A: Member Agency Admission Agreement

Attachment B: Memorandum Requesting to Forgo Formal Bid Process

Member Agency Admission Agreement

This Member Agency Admission Agreement (the "Admission Agreement") between Mark43, Inc. ("Mark43"), the City of West Covina ("West Covina"), and the agency listed in the signature below (the "Member Agency") is effective as of November 12, 2019. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Software License and Services Agreement between Mark43, Inc. and the City of West Covina dated as of April 18, 2019 (the "Mark43-West Covina Agreement"). Mark43, West Covina, and the Member Agency shall constitute the "Parties".

RECITALS

- A. WHEREAS, the Member Agency wishes to use the Services purchased by West Covina under the Mark43-West Covina Agreement;
- B. WHEREAS, the Member Agency may wish to purchase additional related Services from Mark43;
- C. WHEREAS, West Covina and the Member Agency may enter into a separate agreement to govern their respective rights and obligations, solely as between them, regarding use of the Services; and
- D. WHEREAS, Mark43 requires the Member to agree to this Admission Agreement to become admitted as a Member Agency under the Mark43-West Covina Agreement.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

- 1. The Member Agency will be admitted as a Member Agency under the Mark43-West Covina Agreement.
- 2. The Member Agency agrees to be bound by all obligations of Subscriber under the Mark43-West Covina Agreement as if it were the Subscriber.
- 3. Mark43 reserves the right to enforce violations of the Member Agency against the Member Agency.
- 4. West Covina shall notify Mark43 if it knows of any Member Agency who is acting in violation of the terms of the Mark43-West Covina Agreement.
- 5. Any new Services offered to Member Agency, or changes to the Services shall be identified on Exhibit A to this Admission Agreement. Such Services shall be included within the definition of Services under the Mark43-West Covina Agreement, provided that Mark43 shall have no obligation to offer such new or additional Services to Subscriber or any other Member Agency.
- 6. In consideration for Member Agency's use of the Services and Mark43's performance, Member Agency shall pay the fees to West Covina as agreed upon separately between Member Agency and West Covina based on the Services purchased and the Member Agency's number of sworn officers, each set forth below.

- a. Services: CAD (including Dispatcher and First Responder), RMS (including Property & Evidence), Data Lake and Business Intelligence Suite (5 dashboard builder licenses); Data Exchange will be provided by West Covina.
- b. Number of sworn officers: 99

West Covina shall invoice the Member Agency for the amounts owed and shall forward the portion of such fees due to Mark43 upon receipt of payment from the Member Agency. Any funds received by West Covina from the Member Agency relating to the Services (as provided by Mark43) shall be held in trust for the benefit of Mark43 until Mark43 has been paid.

7. The implementation timeline for Services provided to Member Agency is as set forth in separate writing (such as a statement of work) agreed by the Parties, attached hereto as Exhibit B.
8. Unless otherwise specified herein, all notices and other communications between the parties required or permitted by this Admission Agreement or by Applicable Law, will be deemed properly given, if given by (i) personal service, (ii) registered or certified mail, postage prepaid, return receipt requested, or (iii) nationally recognized private courier service, to the respective addresses of the parties set forth below or such other addresses as the respective parties may designate by like notice from time to time. Notices so given will be effective upon (a) receipt by the party to which notice is given; or (b) on the fifth (5th) business day following mailing, whichever occurs first:

If to Mark43:

Mark43, Inc.
28 E. 28th Street
12th Floor
New York, NY 10016
Attn: David Jochim
Email: dave@mark43.com

Copy to:

Mark43, Inc.
28 E. 28th Street
12th Floor
New York, NY 10016
Attn: General Counsel
Email:
contractnotices@mark43.com

If to West Covina

City of West Covina
1444 West Garvey Ave.
West Covina, CA 92790
Attn: Police Lt. Ken Plunkett
Email: ken.plunkett@wcpd.org

Copy to:

Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835
Attn: West Covina City Attorney
Email: sep@jones-mayer.com

If to Member Agency:

Tracy Police Department
1000 Civic Center Dr
Tracy, CA 95376
Attn: Beth Lyons-McCarthy
Email: Beth.Lyons-
McCarthy@tracypd.com

9. This Admission Agreement may be executed, including by electronic signature, in two or more counterparts, each of which shall be an original and all such counterparts together shall constitute one and the same instrument. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.
10. West Covina is not a subcontractor of Mark43, and Mark43 will not be liable for acts or omissions of West Covina in connection with West Covina's performance of services to Member Agency.

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

MARK43, INC.

CITY OF WEST COVINA

By: [Signature] Steven Silber

By: [Signature] David Young

Title: Chief Financial Officer

Title: Acting Chief

Date: 10/10/2019

Date: 10/10/19

MEMBER AGENCY:

City of Tracy

By: _____

Title: _____

Date: _____

EXHIBIT A

ADDITIONAL SERVICES

None.

EXHIBIT B

IMPLEMENTATION TIMELINE

The below proposed implementation timeline is only valid should this Admission Agreement be executed by the end of the fourth quarter of 2019. The below timing with respect to the period from contract to go-live date is predicated on resource availability from the Member Agency and West Covina and can be adjusted to satisfy staffing requirements.

Task Name	Duration	Start	Finish
Project Schedule Planning	195 days	Tue 11/12/19	Mon 8/10/20
Phase One - Analysis and Assessment	7.5 days	Tue 11/12/19	Thu 11/21/19
Contract Signed	0 days	Tue 11/12/19	Tue 11/12/19
Project Schedule Planning Meetings	0.5 days	Wed 11/13/19	Wed 11/13/19
Business Process Review	1 day	Wed 11/13/19	Thu 11/14/19
Analysis of Workflows	2 days	Thu 11/14/19	Mon 11/18/19
Complete Foundation Questionnaires	2 days	Mon 11/18/19	Wed 11/20/19
Review Process, Protols and Hurdles	1 day	Wed 11/20/19	Thu 11/21/19
Phase Two - Planning	5.75 days	Mon 11/18/19	Tue 11/26/19
Project Plan Review and discussion	0.25 days	Mon 11/18/19	Mon 11/18/19
Experts, Hardware and Training	0.25 days	Mon 11/18/19	Mon 11/18/19
Finalized Planning Meeting	0.25 days	Mon 11/18/19	Mon 11/18/19
Order hardware required on-site	0.25 days	Tue 11/19/19	Tue 11/19/19
Send Notifications Hardware Received	5 days	Tue 11/19/19	Tue 11/26/19
Installation of Equipment Hardware	6.25 days	Tue 11/19/19	Wed 11/27/19
Physical or Virtual Installation and Configuration Complete	2.5 days	Wed 11/27/19	Fri 11/29/19
Phase Three - Execution	187.5 days	Thu 11/21/19	Mon 8/10/20
Phase Four - Switch Over - GO LIVE	3 days	Tue 7/28/20	Thu 7/30/20
Live System CAD	1 day	Tue 7/28/20	Tue 7/28/20
Live System RMS	1 day	Tue 7/28/20	Tue 7/28/20
Live System Mobile	1 day	Tue 7/28/20	Tue 7/28/20
Day-1 CAD (Post Live Review)	1 day	Wed 7/29/20	Wed 7/29/20
Day-1 RMS (Post Live Review)	1 day	Wed 7/29/20	Wed 7/29/20
Day-1 Mobile (Post Live Review)	1 day	Wed 7/29/20	Wed 7/29/20
Day-2 CAD (Post Live Review)	1 day	Thu 7/30/20	Thu 7/30/20
Day-2 RMS (Post Live Review)	1 day	Thu 7/30/20	Thu 7/30/20
Day-2 Mobile (Post Live Review)	1 day	Thu 7/30/20	Thu 7/30/20
Phase Five - Completion and Sign-Off	3.5 days	Mon 8/3/20	Thu 8/6/20

Itemized list of product and services:

Itemized below are any additional professional services, products, and associated annual maintenance required to complete the SaaS subscription commitment to Mark43. Interfaces identified for Tracy PD include; Intrado (911 transfer), CopLogic, LiveScan, Brazos, Laserfiche, and CLETS direct (CLETS inquiries via Mark43 SaaS). Additional interfaces, (ATIMS, DataWorks, Chameleon) are under review and scope of work along with financial implications, will be provided to Tracy PD. If an additional interface is already in production and needs minor modification for a Tracy use-case, a small configuration and set-up fee may get added to the proposal. If an interface does not exist and has to be developed from scratch, West Covina and Mark43 engineering will provide a Scope of Work and pricing for a new interface to Tracy PD for approval. Some external interfaces may also incur fees from the 3rd party vendor.

All CLETS Administrative Messaging accomplished using the existing West Covina RMS tool (or software provided by the County). The West Covina RMS Administrative CLETS functionality will be upgraded to a new web-service replacing the existing graphical user interface during 2019.

#	Type	SKU	One-Time Price to TPD	Annual Recurring Price to TPD
1	Subscription/License	Computer Aided Dispatch (CAD)	\$0.00	\$97,416.00
2	Subscription/License	CAD Fire First Responder	\$0.00	\$0.00
3	Subscription/License	Records Management System (RMS)	\$0.00	\$97,416.00
4	Subscription/License	GPS AVL	\$5,000.00	\$0.00
5	Subscription/License	Hosting	\$0.00	\$0.00
6	Subscription/License	Property & Evidence	\$0.00	\$0.00
7	Subscription/License	UCR & NIBRS	\$0.00	\$0.00
8	Subscription/License	Case Management	\$0.00	\$0.00
9	Subscription/License	Datalake	\$0.00	\$10,000.00
10	Subscription/License	Message Switch - Inquiry	\$3,500.00	\$4,574.00
11	Subscription/License	Message Switch - Admin	\$5,500.00	\$6,930.00
12	Subscription/License	Dashboard tool for data analysis (M43 BI for 5 users)	\$0.00	\$2,000.00
13	Services	ANI/ALI (Intrado e-911)	\$10,000.00	\$0.00
14	Services	CAD data to Axon BWC import program to evidence.com	\$0.00	\$0.00
15	Services	Data Conversion	\$0.00	\$0.00
16	Services	ATIMS booking and PII from the County Jail (TBD)	TBD	TBD
17	Services	Coplogic (LexisNexis)	\$3,500.00	\$0.00
18	Services	DataWorks boking module from RMS	TBD	TBD
19	Services	Chameleon CAD data to Chameleon Event	TBD	TBD
20	Services	LexisNexis Accurant (Bair Analytics)	\$3,500.00	\$0.00
21	Services	Mark43 to LiveScan (County Booking)	\$15,000.00	\$0.00
22	Services	Tyler/Brazos Citation data into RMS	\$3,500.00	\$2,673.00
23	Services	WCSG Project Management and Implementation Fee	\$12,000.00	\$0.00
24	Services	WCSG Tables & Config	\$0.00	\$0.00
25	Services	WCSG Training & Support	\$6,000.00	\$0.00
26	Services	Mark43 Product Support (24/7 live support)	\$0.00	\$0.00
27	Services	Mark43 Project Management	\$46,000.00	\$0.00
		Total	\$113,500.00	\$221,009.00

The total One-Time Price to TPD of \$113,500.00 and the Annual Recurring Price to TPD of \$221,009 includes the Mark43 SaaS, additional professional services, interfaces, and related products.

**TBD items are under review and pricing for both initial cost, and annual recurring will follow shortly.

Summary Invoicing for Member Agency: City of Tracy

FY 2019-2020

Estimated Implementation/conversion - Signature to "Go-Live" (estimated Go-Live by Aug 2020)

Full First-Year implementation, training, and installation **\$113,500**

FY 2020-2021

First Year Subscription Member Agency with Mark43 July 2020 **\$221,009**

FY 2021-2022

On-going Subscription Member Agency with Mark43 July 2021 **\$221,009**

FY 2022-2023

On-going Subscription Member Agency with Mark43 July 2022 **\$221,009**

FY 2022-2023

On-going Subscription Member Agency with Mark43 July 2022 **\$221,009**

**** An estimation of TBD integration items for budgetary purposes is \$15k - \$20k per interface.**



POLICE DEPARTMENT

MAIN 209.831.6550
FAX 209.831.4022
www.ci.tracy.ca.us

Memorandum

Date: October 3, 2019
To: Jenny Haruyama, City Manager
From: Beth Lyons, Support Operations Manager
Subject: Request for forgo formal bid process

The police department's Computer Aided Dispatch and Records Management Systems are in need of an upgrade in order to meet Department of Justice's mandate to transition from Uniform Crime Reporting (UCR) to NIBRS (National Incident Based Reporting System) by February 2021.

The Tracy Police Department has been utilizing a CAD/RMS platform provided by the West Covina Service Group, operated under the City of West Covina since 1999. Due to the Department of Justice's mandate, The City of West Covina's current platform will reach the end of life by the end of 2021. Due to the mandate, The City of West Covina was also faced with the need to build a new CAD/RMS platform in order to maintain compliance and offer their contract cities a product that would provide the means to gain compliance. The City of West Covina partnered with a CAD/RMS vendor, Mark 43, to build and upgrade a Computer Aided Dispatch System and Records Management System that would deliver newer technology, meet Department of Justice compliance, and offer their contract cities the same West Covina Service Group technology support and maintenance as provided in the current service agreement.

Be electing to retain West Covina Service Group and upgrading our current system, the department will enter into an agreement with The City of West Covina and Mark 43. The benefits of remaining as a West Covina Member Agency include:

- Negotiated reduced pricing structure for Mark 43 subscription
- Full historical data transfer of 20 years of agency records into the Mark 43 Records at no cost to the Tracy Police Department.
- Transfer and building of tables for field entries, command line, and selection options
- Development and re-implementation of all existing interfaces in existence with West Covina CAD and RMS to use the Mark 43 Application Programming Interfaces at no cost to the Tracy Police Department.
- Simplified acquisition and transfer process with purchasing agreements remaining in place between Tracy PD and West Covina
- Continued and on-going customer services and support from existing West Covina Service Group resources in addition to the client support offered by Mark 43.

After researching several CAD/RMS options, Tracy Police Department has determined the best option is to retain The City of West Covina (West Covina Service Group), and upgrade the existing system. Due to the Department of Justice mandate, time is of the essence to meet the compliance deadline. West Covina has provided reliable service and excellent customer service to the Tracy



October 3, 2019

Page 2 of 2

Police Department since 1999. The upgrade will offer full historical data transfer of over 20 years of data and retention of department interfaces at no cost along with the new technology enhancements.

Pursuant to Tracy Municipal Code 2.20.140(b)(1)(3) the City Manager can approve or dispense with the request for proposals because the timeline to meet the compliance deadline with Department of Justice, and based on the retention of the department's historical data and existing interfaces at no cost to the city would be in the best interest of the City.



Approve/Concur
Jenny Haruyama, City Manager

CC: Alex Neicu, Interim Chief of Police

RESOLUTION _____

AUTHORIZING A MEMBER AGENCY ADMISSION AGREEMENT WITH MARK 43 AND THE CITY OF WEST COVINA, FOR THE PERIOD NOVEMBER 12, 2019 TO NOVEMBER 12, 2024, NOT TO EXCEED \$1,047,536, FOR THE UPGRADE PURCHASE, USAGE, AND ON-GOING MAINTENANCE OF THE POLICE DEPARTMENT'S COMPUTER AIDED DISPATCH SYSTEM AND RECORDS MANAGEMENT SYSTEM, AND FINDING IT IS IN THE BEST INTEREST OF THE CITY TO FORGO THE FORMAL BID PROCESS

WHEREAS, The Police Department's Computer Aided Dispatch System (CAD) and Records Management System (RMS) are in need of an upgrade, and

WHEREAS, The Police Department currently contracts with West Covina Service Group, operated by the City of West Covina, for its Computer Aided Dispatch System and Records Management System, and

WHEREAS, The Department of Justice has mandated that all law enforcement agencies transition to the National Incident Based Reporting System (NIBRS) by February 2021, and

WHEREAS, West Covina Service Group (City of West Covina) and Mark 43 have partnered together to provide newer technology and a CAD/RMS platform which will meet Department of Justice Compliance, and

WHEREAS, Time is of the essence to comply with the Department of Justice's mandate and the upgrade to the CAD/RMS platform provided by the West Covina Service Group and Mark 43 will retain historical data and existing interfaces, and for these reasons, the City Council has determined it is in the City's best interest to forgo the formal bid process, in accordance with Tracy Municipal Code Section 2.20.140 (b) (6), and

WHEREAS, West Covina Service Group and Mark 43 has agreed to enter into a (5) five-year contract, and

WHEREAS, The annual payment of \$221,009 will be absorbed within the Police Department's budget;

NOW, THEREFORE, BE IT RESOLVED That the City Council finds it is in the best interest of the City to forgo the formal bid process and approves a Member Agency Admission Agreement with the City of West Covina and Mark 43 for a period of five (5) years, for the upgrade, purchase, usage, and on-going maintenance of the Police Department's Computer Aided Dispatch System and Records Management System, in the amount not to exceed \$1,047,536.

The foregoing Resolution 2019-____ is hereby passed and adopted by the Tracy City Council this 5th day of November, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

RECEIVE A LISTING OF ALL CITY OWNED PROPERTIES

EXECUTIVE SUMMARY

Council Member Ransom, seconded by Mayor Rickman, requested to place an item on the consent agenda to inform Council and the public on all City-owned parcels.

DISCUSSION

At the May 21, 2019 City Council meeting, Council Member Ransom requested a listing of all City-owned properties to be detailed in a staff report and placed on the consent agenda.

The City owns approximately 291 parcels throughout the City and County. Typical property type includes City parks, City buildings, water and wastewater treatment plants, the Tracy Municipal Airport, storm detention basins, storm channels, and land leased for farming purposes.

Attached to this agenda item is a parcels table which lists the Assessor's Parcel Number (APN), site address, size of the parcel and a description for each parcel. Vacant land parcels (leased or not) are denoted in red. Additionally, an accompanying map showing the locations of the parcels will be uploaded to the City's website for ease of access.

FISCAL IMPACT

None

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends Council receive the listing.

Prepared by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachments: 2019 City Owned Parcels table

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
1	20911043	W SCHULTE RD	0.92	40,075	PATTERSON PASS WATER PUMPS
2	20911044	16700 W SCHULTE RD	0.71	30,927	PATTERSON PASS WATER PUMPS
3	20911045	W SCHULTE RD	0.22	9,583	PATTERSON PASS WATER PUMPS
4	20923029	15580 W SCHULTE RD	50	2,178,000	ANTENNA FARM
5	20923030	15178 W SCHULTE RD	150.18	6,541,840	ANTENNA FARM
6	21204003	13150 W MIDDLE RD	19.51	849,855	STORM POND
7	21204004	12800 W MIDDLE RD	19.51	849,855	STORM POND
8	21204005	12700 W MIDDLE RD	13.69	596,336	STORM POND
9	21204011	21401 S NAGLEE RD	37.25	1,622,610	STORM POND
10	21213014	SUGAR CUT - EAST SIDE	3.4	148,104	SUGAR CUT
11	21213022	SUGAR CUT - WEST SIDE	22.87	996,217	FARM LEASE
12	21213023	SUGAR CUT - WEST SIDE	13.79	600,692	SUGAR CUT
13	21213024	SUGAR CUT - WEST SIDE	4.71	205,167	SUGAR CUT
14	21214006	19842 S CORRAL HOLLOW RD	71.21	3,101,907	FARM LEASE
15	21214007	19575 S TRACY BLVD	87.43	3,808,450	FARM LEASE
16	21215002	CORRAL HOLLOW RD	108.02	4,705,351	LEGACY FIELDS/FARM LEASE
17	21215003	TRACY BLVD	133.17	5,800,885	FARM LEASE
18	21215004	TRACY BLVD	325.32	14,170,939	LEGACY FIELDS
19	21216005	20150 S TRACY BL	197.55	8,605,278	FARM LEASE/LEASE
20	21216011	9251 W ARBOR AVE	17.1	744,876	LEASE
21	21216012	110 E ARBOR AVE	4.86	211,701	WASTE WATER TREATMENT PLT
22	21216015	SUGAR CUT - WEST SIDE	74.39	3,240,428	FARM LEASE
23	21216016	SUGAR RD	26.22	1,142,143	FARM LEASE/LEASE
24	21219006	21583 S CORRAL HOLLOW RD	2	87,120	SEWER LIFT STATION
25	21220001	4350 N TRACY BLVD	0.917	39,985	FARM LEASE
26	21220006	LARCH RD	0.025	1,115	SEWER LIFT STATION
27	21222011	HOLLY DR	0.002	100	SEWER LIFT STATION
28	21223003	500 W ARBOR AVE	17.03	741,826	WASTE WATER TREATMENT PLT
29	21223005	500 W ARBOR AVE	27.57	1,200,949	WASTE WATER TREATMENT PLT
30	21223006	3908 N HOLLY DR	17.03	741,826	WASTE WATER TREATMENT PLT
31	21224006	LARCH RD	1.029	44,837	STORM CHANNEL/SEWER LINE
32	21226009	3055 N CORRAL HOLLOW RD	0.461	20,096	VACANT LOT
33	21226026	CORRAL HOLLOW RD	0.071	3,136	ROADWAY
34	21226027	CORRAL HOLLOW RD	0.139	6,097	ROADWAY
35	21229040	NAGLEE RD	0.613	26,714	DRIVEWAY ACCESS
36	21229042	NAGLEE RD	0.304	13,284	CITY WATER WELL
37	21229052	NAGLEE RD	0.149	6,532	DRIVEWAY ACCESS
38	21305008	4701 S MACARTHUR DR	67.68	2,948,140	WASTE WATER TREATMENT PLT
39	21306035	MACARTHUR DR/I-205	0.069	3,049	SEWER LIFT STATION
40	21306042	PESCADERO AVE	0.478	20,822	STORM CHANNEL
41	21306044	PESCADERO AVE	4.55	198,198	STORM CHANNEL
42	21307045	2399 E GRANT LINE RD	0.9	39,204	VACANT RESIDENCE/LOT
43	21307046	GRANT LINE RD - NORTH	0.939	40,946	SEWER PIPELINE
44	21307047	GRANT LINE RD - NORTH	0.9	39,204	SEWER PIPELINE
45	21307054	GRANT LINE RD - NORTH	3.44	149,846	STORM CHANNEL
46	21307058	GRANT LINE RD - NORTH	1.185	51,662	STORM CHANNEL
47	21307064	GRANT LINE RD - NORTH	1.261	54,943	STORM CHANNEL
48	21307082	1035 E GRANT LINE RD	1.049	45,714	FIRE STATION 92
49	21307086	GRANT LINE/PESCADERO RD	0.962	41,925	STORM LINE
50	21307088	GRANT LINE/PESCADERO RD	0.836	36,455	STORM LINE
51	21335060	I-205/TONI LN	1.905	82,990	STORM CHANNEL
52	21336301	584 PESCADERO AVE	2.1	91,476	GLOVER PARK
53	21344053	I-205/BENGAL LN	0.026	1,170	STORM CHANNEL
54	21344054	I-205/BENGAL LN	0.003	139	STORM CHANNEL
55	21402004	2875 N CORRAL HOLLOW RD	0.956	41,686	W. KAVANAGH EXTENSION
56	21407001	KAVANAGH AVE	6.02	262,231	KENNER PARK

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
57	21414021	1405 SUELLEN DR	0.5	21,780	SLAYTER PARK
58	21425037	I-205/CABRILLO DR	0.29	12,632	SEWER LINE
59	21425041	I-205/CABRILLO DR	1.623	70,725	STORM CHANNEL
60	21426023	3351 N MACARTHUR DR	0.839	36,590	STORM CHANNEL
61	21450001	250 KAVANAGH AVE	14.62	636,847	EL PESCADERO PARK
62	23202003	1800 W GRANT LINE RD	1.288	56,138	FIRE STATION 96
63	23202004	1698 W GRANT LINE RD	2.42	105,415	STORM LINE
64	23204021	1436 W GRANT LINE RD	0.016	734	ABANDONED SEWER LIFT
65	23215007	1629 N LINCOLN BLVD	0.226	9,845	STORM LINE
66	23215008	1628 N LINCOLN BLVD	0.533	23,261	STORM LINE
67	23216003	990 W LOWELL AVE	0.959	41,776	DR.POWERS PARK
68	23216004	900 W LOWELL AVE	8.83	384,634	DR POWERS PARK
69	23217019	1701 W ELEVENTH ST	0.919	40,075	FIRE STATION 91
70	23218022	1620 N BEHAVEN CT	0.771	33,628	STORM POND
71	23229070	1050 W TWELFTH ST	0.169	7,405	CITY WATER WELL
72	23230091	1500 PROMENADE CIR	1.424	62,045	ZANUZZI PARK
73	23233001	1500 PROMENADE CIR	3.58	155,944	ZANUZZI PARK
74	23302001	2301 BESSIE AVE	10.09	439,520	TRACY BALL PARK
75	23304101	2302 BESSIE AVE	0.26	11,349	VACANT LOT
76	23305102	1936 N TRACY BLVD	0.309	13,503	TRACY BALL PARK
77	23305103	1959 N BESSIE AVE	0.289	12,632	TRACY BALL PARK
78	23305119	1937 N BESSIE AVE	0.13	5,663	TRACY BALL PARK
79	23311608	114 W TWELFTH ST	0.11	4,791	TRACY HISTORICAL MUSEUM
80	23312014	HOLLY DR	0.15	6,534	HOLLY DRIVE - ROADWAY
81	23313020	1141 ADAM ST	0.19	8,276	TRACY HISTORICAL MUSEUM
82	23338608	1390 N FRANKLIN AVE	0.64	27,878	FINE PARK
83	23352001	EATON AVE	0.04	1,747	LINCOLN PARK
84	23406019	607 W SIXTH ST	0.026	1,161	WATER TOWER (CELL)
85	23406020	607 W SIXTH ST	0.027	1,200	WATER TOWER (CELL)
86	23406024	607 W SIXTH ST	0.057	2,500	WATER TOWER (CELL)
87	23406025	607 W SIXTH ST	0.645	28,139	CITY WELL/WATER TOWER
88	23407005	520 TRACY BLVD	0.869	37,856	BOYD SERVICE CENTER
89	23410009	ALDEN GLEN DR	0.5	21,780	PATZER PARK
90	23411048	1925 FOXTAIL CT	0.559	24,367	KIT FOX PARK
91	23416001	500 N SEQUOIA BLVD	3.38	147,232	ALDEN PARK
92	23416009	585 N PALM CIR	0.15	6,534	ALDEN PARK
93	23416010	580 N PALM CIR	0.2	8,712	ALDEN PARK
94	23419038	240 N REDWOOD DR	1.3	56,628	STORM POND
95	23430082	HARVEST LANDING CT	0.463	20,200	HARVEST LANDING PARK
96	23432050	1893 GOLDEN LEAF LN	0.484	21,116	BAILER-HENNAN PARK
97	23435005	PHEASANT RUN CT	0.017	759	LANDSCAPE
98	23435016	1871 TENNIS LN	0.566	24,673	RIPPIN PARK
99	23435035	THOMAS DEHAVEN CT	0.012	541	LANDSCAPE
100	23505111	PARKER AVE	0.029	1,306	ROADWAY
101	23505615	15 W NINTH ST	0.373	16,250	DOWNTOWN PARKING LOT
102	23505616	31 W NINTH ST	0.162	7,094	DOWNTOWN PARKING LOT
103	23505617	41 W NINTH ST	0.155	6,769	DOWNTOWN PARKING LOT
104	23505619	50 W GILLETTE ALLEY	0.057	2,500	DOWNTOWN PARKING LOT
105	23505621	71 W NINTH ST	0.186	8,125	DOWNTOWN PARKING LOT
106	23505622	918 N B ST	0.373	16,250	DOWNTOWN PARKING LOT
107	23506701	835 N CENTRAL AVE	0.269	11,761	FIRE ADMIN
108	23506702	885 N CENTRAL AVE	0.219	9,583	FIRE ADMIN
109	23506806	729 N CENTRAL AVE	0.241	10,500	WEST SIDE MARKET
110	23506809	25 W SEVENTH ST	0.03	1,307	OLD JAIL HOUSE
111	23506817	713 N CENTRAL AVE	0.456	19,865	GRAND THEATRE
112	23510049	CENTRAL AVE	0.009	435	ABANDONED WATER WELL

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
113	23510063	270 COVEY LN	0.13	5,700	VACANT LOT
114	23510064	260 COVEY LN	0.13	5,700	VACANT LOT
115	23510065	250 COVEY LN	0.13	5,700	VACANT LOT
116	23513033	CENTRAL AVE	1.46	63,598	MC DONALD PARK
117	23515028	SIXTH ST	3.03	131,986	TRANSIT STATION
118	23515029	SIXTH ST	1.23	53,579	TRANSIT STATION
119	23517105	32 E ELEVENTH ST	0	0	CITY PARKING LOT
120	23517106	32 E ELEVENTH ST	0.31	13,504	CITY PARKING LOT
121	23519005	CIVIC CENTER DR	0.436	19,019	POLICE DEPT
122	23519011	516 E ELEVENTH ST	0.303	13,240	VACANT LOT
123	23519025	CIVIC CENTER DR	0.434	18,910	POLICE DEPT
124	23519026	CIVIC CENTER DR	0.007	336	POLICE DEPT (CELL)
125	23519029	CIVIC CENTER DR	0.009	400	CHANNEL 26 (CELL)
126	23519031	CIVIC CENTER DR	0.009	400	CHANNEL 26 (CELL)
127	23519034	CIVIC CENTER DR	1.577	68,708	POLICE DEPT
128	23519039	CIVIC CENTER DR	0.026	1,164	CITY HALL
129	23519041	CIVIC CENTER DR	0.415	18,105	CITY HALL PARKING LOT
130	23519042	CIVIC CENTER DR	0.209	9,144	CITY HALL/POLICE DEPT
131	23519044	CIVIC CENTER DR	0.209	9,113	ALLEY TO MACARTHUR DR
132	23519046	CIVIC CENTER DR	0.066	2,897	CITY HALL
133	23519048	CIVIC CENTER DR	0.127	5,551	ALLEY TO EAST ST
134	23519049	CIVIC CENTER DR	0.164	7,164	ALLEY TO EAST ST
135	23519050	CIVIC CENTER DR	0.273	11,923	CITY HALL PARKING LOT
136	23519051	CIVIC CENTER DR	0.509	22,188	CITY HALL
137	23519052	CIVIC CENTER DR	7.52	327,571	COMMUNITY/SENIOR CENTERS
138	23523076	STEVENS PARK	0.494	21,519	LANDSCAPE
139	23524001	STEVENS PARK	0.08	3,500	LANDSCAPE
140	23524019	STEVENS PARK	0.082	3,615	LANDSCAPE
141	23524036	STEVENS PARK	0.207	9,017	LANDSCAPE
142	23524049	STEVENS PARK	0.476	20,778	STEVENS PARK
143	23525009	STEVENS PARK	0.08	3,500	LANDSCAPE
144	23525011	DALE ODELL DR	0.658	28,672	HOYT PARK - XERISCAPE
145	23525022	THIRD ST	4.87	212,137	HOYT PARK
146	23529093	WAGTAIL DR	0.498	21,720	HUCK PARK
147	23533045	THIRD ST	0.8	34,853	HOYT PARK
148	23537048	THIRD ST	1.119	48,787	LANDSCAPE
149	23537049	LEAMON ST	0.23	10,019	LANDSCAPE
150	23538001	520 S TRACY BLVD	7.24	315,374	BOYD SERVICE CENTER
151	23538004	ROCKINGHAM WAY	0.03	1,348	LANDSCAPE
152	23541026	564 CENTRE COURT DR	2	87,120	FISHER PARK
153	23803021	JOSEPH MENUSA LN	0.749	32,629	STORM CHANNEL
154	23803025	JOSEPH MENUSA LN	0.015	694	STORM CHANNEL
155	23803029	JOSEPH MENUSA LN	1.185	51,650	STORM CHANNEL
156	23809092	TAMMI CT	0.747	32,565	KELLY PARK
157	23810082	2131 HILLCREST DR	0.5	21,780	NEW HARMON PARK
158	23810083	ORCHARD PKWY	1.915	83,448	STORM CHANNEL
159	23811057	VALENCIA DR	0.504	21,971	FABIAN PARK
160	23814059	2112 JOSEPH DAMON DR	0.5	21,780	POMBO FAMILY PARK
161	23819013	ORCHARD PKWY	0.619	27,007	STORM CHANNEL
162	23820066	2751 OXFORD LN	0.527	22,968	EAGAN PARK
163	23822013	2341 W LOWELL AVE	4.63	201,682	GALLI FAMILY PARK
164	23824045	ORCHARD PKWY	0.85	37,026	STORM CHANNEL
165	23825038	VALENCIA DR	0.5	21,801	FABIAN PARK
166	23825039	BELCONTE DR	6.42	279,655	STORM CHANNEL
167	23827001	2125 FIELDVIEW DR	0.793	34,563	MCCRAY FAMILY PARK
168	23830053	VERANDA CT	0.805	35,092	ALLEN PARK

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
169	23833089	JOSEPH MENUSA LN	1.096	47,785	THRASHER PARK
170	23835042	LANKERSHIRE DR	1.789	77,972	RICHARD HASTIE PARK
171	23837042	ANTONIO LOOP	2.3	100,188	SOUSA FAMILY PARK - SOUTH
172	23840037	CHOISSER CT	0.018	806	LANDSCAPE
173	23841036	1166 CROSSROADS DR	0.157	6,877	BUSCH PARK
174	23841037	TOLBERT DR	0.068	3,000	SEWER LINE
175	23845070	ROCHESTER CT	0.068	2,966	SEWER/STORM/WATER LINES
176	23847056	1904 THELMA LOOP	1.578	68,781	SOUSA FAMILY PARK - NORTH
177	23853035	LANKERSHIRE DR	1.65	71,874	RICHARD HASTIE PARK
178	23859036	JOSEPH MENUSA LN	0.087	3,832	THRASHER PARK
179	23859037	JOSEPH MENUSA LN	0.045	1,999	STORM CHANNEL
180	23860029	LOWELL AVE	8.67	377,665	CLYDE BLAND PARK
181	23862070	1904 THELMA LOOP	0.005	239	SEWER/STORM/WATER LINES
182	24002009	CROSSROADS DR	0.013	600	TRACY SPORTS COMPLEX (CELL)
183	24002010	CROSSROADS DR	27.02	1,176,991	TRACY SPORTS COMPLEX
184	24003002	12350 W KROHN RD	5	217,800	PLASENCIA FIELDS
185	24003003	12100 W KROHN RD	8.78	382,456	PLASENCIA FIELDS
186	24003008	905 N CORRAL HOLLOW RD	7.18	312,760	PLASENCIA FIELDS
187	24015059	ROBERT GABRIEL DR	1.726	75,188	CHADEAYNE PARK
188	24017042	2428 CAROL ANN DR	1.78	77,580	SPARKS PARK
189	24021043	EVERGLADES CT	0.036	1,607	LANDSCAPE
190	24024021	SUMMER LN	2.12	92,347	HANSON PARK
191	24048036	ADAIRE LN	3.87	168,577	MARLOW BROTHERS PARK
192	24051016	657 BARCELONA CT	2.53	110,206	ERB PARK
193	24051037	GRAND TETON DR	1.209	52,707	STORM CHANNEL
194	24054051	NABOR CT	0.024	1,066	LANDSCAPE
195	24059007	SUMMER LN	1.339	58,370	HANSON PARK
196	24204046	DOVE LN	5.44	236,966	TALLEY PARK
197	24204050	MITTS WAY	1.1	47,916	TALLEY PARK
198	24206082	LARKSPUR DR	0.504	21,962	VALLEY OAK PARK
199	24209083	1587 PARKSIDE DR	1.34	58,392	BARBOZA PARK
200	24210049	PARKSIDE DR	0.437	19,067	LANDSCAPE
201	24210050	PARKSIDE DR	0.296	12,928	LANDSCAPE
202	24211047	PARKSIDE DR	0.604	26,331	EVANS PARK
203	24211048	PARKSIDE DR	0.531	23,162	EVANS PARK
204	24212038	TAHOE CIR	0.296	12,913	MT. OSO PARK
205	24214028	TAHOE CIR	0.245	10,690	MT. DIABLO PARK
206	24216075	KERN ST	0.514	22,394	GOLDEN SPIKE PARK
207	24217064	WILLIAMS ST	0.124	5,429	LANDSCAPE
208	24218018	824 CHRISTY CT	0.359	15,664	ICARDI PARK
209	24219023	842 SADDLEBACK CT	0.5	21,780	SISTER CITIES PARK
210	24221078	CLAREMONT DR	0.524	22,832	COSTA PARK
211	24225024	BOGETTI LN	0.469	20,473	BARBOZA PARK
212	24226076	WHITEHAVEN CT	0.034	1,488	PEDESTRIAN PATHWAY
213	24228069	824 CHRISTY CT	0.053	2,310	ICARDI PARK
214	24228070	SYCAMORE PKWY	1.47	64,076	STORM CHANNEL/LANDSCAPE
215	24230041	HEPBURN CT	0.519	22,651	WESTSIDE PIONEER PARK
216	24232040	APPALOSA CT	0.039	1,726	LANDSCAPE
217	24232041	PALOMINO CT	0.047	2,071	PEDESTRIAN PATHWAY
218	24233023	1335 DOLORES LN	0.098	4,288	PEDESTRIAN PATHWAY
219	24233066	SCHULTE RD/UP RAILROAD	0.081	3,567	LANDSCAPE
220	24234043	1312 SIENNA PARK DR	1.177	51,292	LANDSCAPE
221	24234044	925 BOGETTI LN	0.283	12,342	BARBOSA PARK
222	24235047	SIENNA PARK DR	0.014	650	LANDSCAPE
223	24235048	SIENNA PARK DR	0.014	650	LANDSCAPE
224	24235049	WEeping WILLOW LN	0.052	2,286	TRACY PRESS PARK

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
225	24235050	WEeping WILLOW LN	0.319	13,920	TRACY PRESS PARK
226	24236073	PERSIMMON WAY	0.098	4,277	STORM RELIEF
227	24239037	ALHAMBRA CT	0.005	222	LANDSCAPING
228	24239038	GIBSON CT	0.005	226	LANDSCAPING
229	24244045	SYCAMORE PKWY	0.155	6,788	LANDSCAPING
230	24402010	CHERRY BLOSSOM LN	0.254	11,076	STORM CHANNEL
231	24402015	ENGLISH OAK AV	4.69	204,296	ADAMS PARK
232	24402024	MASON LN	3.42	148,975	SCHWARTZ PARK
233	24402040	1780 WHIRLAWAY LN	3.79	165,092	COSE PARK
234	24404008	SYCAMORE PKWY	1.515	66,000	STORM CHANNEL
235	24404011	CAMBRIDGE PL	5.31	231,303	THOMING PARK
236	24404012	SYCAMORE PKWY	1.36	59,242	STORM CHANNEL
237	24408057	1355 BLUEGRASS LN	0.456	19,903	FITZPATRICK PARK
238	24410031	1407 JONATHAN PL	0.48	20,909	EMHOFF PARK
239	24412020	VALPICO RD	0.124	5,423	WATER PUMP STATION
240	24413041	WINDHAM DR	0.146	6,369	STORM CHANNEL
241	24415072	WINDHAM DR	0.68	29,664	STORM CHANNEL
242	24415073	844 TOM FOWLER DR	0.515	22,447	KIMBALL PARK
243	24419025	SAGEWOOD LN	0.023	1,017	LANDSCAPE
244	24420017	MAPLE CREST CT	0.027	1,193	LANDSCAPE
245	24433059	BURR CT	0.098	4,294	STORM RELIEF
246	24603024	540 W BUENA TIERRA DR	0.503	21,947	STORM POND
247	24603025	SCHULTE RD	0.02	871	ABANDONED SEWER LIFT
248	24606003	CENTRAL AVE	5.09	221,720	LARSEN PARK
249	24609001	595 W CENTRAL AVE	0.2	8,719	FIRE STATION 97
250	24613009	2500 S TRACY BLVD	1.938	84,456	STORM POND
251	24616067	HENRY CT	0.497	21,692	SULLIVAN PARK
252	24620051	SCHULTE RD	1.187	51,707	STORM POND
253	24623057	300 E SCHULTE RD	1.213	52,846	STORM POND
254	24632074	2286 STALSBURG DR	0.54	23,539	ABBOTT PARK
255	24803016	AREZZO WAY	0.889	38,768	LANDSCAPE
256	24805022	238 GLENHAVEN DR	7.8	339,768	VETERANS PARK/WATER TANK
257	24805027	GLENHAVEN DR.	0.725	31,598	WATER LINE (SSJID)
258	24826009	516 GLENBRIAR CIR	3.1	135,036	YASUI PARK
259	24838006	RIDGEVIEW CT	0.055	2,425	PEDESTRIAN PATHWAY
260	24838029	RIDGEVIEW CT	0.011	504	PEDESTRIAN PATHWAY
261	24845044	238 GLENHAVEN DR	0.04	1,742	VETERANS PARK
262	24847015	MARS CT	9.98	434,728	STORM POND
263	24848047	REGIS DR	0.257	11,220	LANDSCAPING
264	24848048	REGIS DR	0.148	6,459	LANDSCAPING
265	24848049	REGIS DR	2.003	87,288	LOWES PARK
266	24849063	238 GLENHAVEN DR	4.31	187,743	VETERANS PARK
267	24849064	REGIS DR	0.123	5,389	LANDSCAPE
268	25003002	2375 PARADISE AVE	4.24	184,694	ANIMAL SHELTER
269	25003006	6901 W ELEVENTH ST	59.36	2,585,721	FARM LEASE
270	25003007	7301 W ELEVENTH ST	56.62	2,466,367	FARM LEASE
271	25018013	SCHULTE RD	1.603	69,841	STORM CHANNEL
272	25024006	ELEVENTH ST/MACARTHUR DR	10.03	436,906	STORM POND
273	25024008	MACARTHUR DR	3.54	154,202	STORM CHANNEL
274	25024010	ELEVENTH ST BRIDGE	0.38	16,582	ACCESS ROAD/VACANT LAND
275	25026017	MACARTHUR DR	3.64	158,558	STORM CHANNEL
276	25027009	MACARTHUR DR (ACACIA ST)	0.58	25,265	SEWER/STORM LINES
277	25027027	MACARTHUR DR	3.98	173,368	STORM CHANNEL
278	25203008	SCHULTE ROAD	4.15	180,774	STORM CHANNEL
279	25205014	1260 EASTLAKE CIR	3.94	171,626	TIAGO PARK
280	25227008	2224 MOUNT PELLIER ST	4.08	177,724	KELLOGG PARK

2019
City of Tracy City-Owned Parcels Table

NO.	APN	Site Address	Acreage	Sq. Feet	Description
281	25240045	CHRISMAN RD	0.27	11,799	STORM RELIEF
282	25241047	1458 SENTINEL DR	1.489	64,904	RAYMOND PARK
283	25310003	6649 S TRACY BLVD	13.72	597,643	POLICE DEPT SHOOTING RANGE
284	25311016	29387 S TRACY BLVD	153.5	6,686,460	TRACY AIRPORT/WATER PLANT
285	25311022	29494 S CORRAL HOLLOW RD	9.17	399,445	TRACY AIRPORT
286	25311030	CORRAL HOLLOW RD	2.07	90,169	TRACY AIRPORT
287	25311031	29633 S TRACY BL	121.93	5,311,270	TRACY AIRPORT
288	25312054	S. TRACY BLVD	0.12	5,320	ROADWAY
289	25337034	STARCROSS DR	13.31	579,783	STORM POND
290	25337039	TRACY HILLS DR	0.22	9,583	SEWER PUMP STATION
291	25527008	505 E DURHAM FERRY RD	393.99	17,162,204	NEW JERUSALEM AIR-FARM LEASE

Vacant property denoted in red

AGENDA ITEM 1.D

REQUEST

ACCEPT THE CONSTRUCTION OF THE LOWELL AVENUE SIDEWALK CONSTRUCTION PROJECT, CIP 73160, STATE PROJECT NUMBER ATPSB1L-5192(044), COMPLETED BY TAYLOR BACKHOE SERVICE INCORPORATED OF MERCED, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER; AND AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

EXECUTIVE SUMMARY

The contractor has completed construction of the Lowell Avenue Sidewalk Construction Project, CIP 73160, an Active Transportation Program (ATP) grant funded Project ATPSB1L-5192(044). Project costs are within the available budget. Staff recommends Council accept the Project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

On December 18, 2018, City Council awarded a construction contract for the Lowell Avenue Sidewalk Construction Project, CIP 73160, an Active Transportation Program (ATP) grant funded Project ATPSB1L-5192(044), to Taylor Backhoe Service of Merced, California, in the total amount of \$300,217.

The scope of work included the installation of 8,000 square feet of concrete sidewalk on Lowell Avenue from Tracy Boulevard to Chester Drive and at Dr. Powers Park. Work included concrete sidewalk, earthwork, landscaping, irrigation, miscellaneous asphalt paving, concrete curb-gutter, and ADA ramps.

The Project improvement plans and specifications were prepared in-house by the Engineering Division.

Three change orders in the net amount of \$5,817 were issued for the Project, which included the removal of one dead oak tree, installation of additional irrigation lines, and additional grading of the site.

Project costs were as follows:

A.	Construction Contract Amount	\$	300,217
B.	Approved Change orders	\$	5,817
	Design, construction management, inspection, Testing & miscellaneous project management		
C.	Expenses	\$	62,181
	Total Project Costs	\$	368,215
	Total Budget	\$	385,600
	Budget Remaining	\$	17,385

The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

FISCAL IMPACT

The Lowell Avenue Sidewalk Construction Project, CIP 73160, is an approved Capital Improvement Project with total funding in the amount of \$385,600, with \$153,400 funded from the Gas Tax Fund (F245) and \$232,000 from the Transportation Program (ATP) grant Project ATPSB1L-5192(044). The total Project cost was \$368,215. A remaining balance of \$17,385 will be released back into the Gas Tax Fund Balance (F245). The project will be closed once the grant has been closed out by Engineering.

RECOMMENDATION

Staff recommends that City Council accept, by resolution, the construction of the Lowell Avenue Sidewalk Construction Project, CIP 73160, an Active Transportation Program (ATP) grant funded Project ATPSB1L-5192(044), completed by Taylor Backhoe Service of Merced, California; authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; and authorize the City Engineer to release the bonds and retention payment.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

ACCEPTING THE CONSTRUCTION OF THE LOWELL AVENUE SIDEWALK CONSTRUCTION PROJECT, CIP 73160, STATE PROJECT NUMBER ATPSB1L-5192(044), COMPLETED BY TAYLOR BACKHOE SERVICE INCORPORATED OF MERCED, CALIFORNIA, AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER, AND AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, On December 18, 2018, City Council awarded a construction contract for the Lowell Avenue Sidewalk Construction Project, CIP 73160, an Active Transportation Program (ATP) grant funded Project ATPSB1L-5192(044), to Taylor Backhoe Service of Merced California, in the total amount of \$300,217, and

WHEREAS, The scope of work included the installation of 8,000 square feet of concrete sidewalk on Lowell Avenue from Tracy Boulevard to Chester Drive and at Dr. Powers Park. Work included concrete sidewalk, earthwork, landscaping, irrigation, miscellaneous asphalt paving, concrete curb-gutter, and ADA ramps, and

WHEREAS, Three (3) change orders in the net amount of \$5,817 were issued, and

WHEREAS The status of budget costs is as follows, and

Project costs are as follows:

A.	Construction Contract Amount	\$	300,217
B.	Approved Change orders	\$	5,817
	Design, construction management, inspection, Testing & miscellaneous project management		
C.	Expenses	\$	62,181
	Total Project Costs	\$	368,215
	Total Budget	\$	385,600
	Budget Remaining	\$	17,385

WHEREAS, The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards, and

WHEREAS, The Lowell Avenue Sidewalk Construction Project, CIP 73160, is an approved Capital Improvement Project with total funding in the amount of \$385,600, with \$153,400 funded from the Gas Tax Fund (F245) and \$232,000 funded from the Transportation Program (ATP) grant project ATPSB1L-5192(044). The total Project cost was \$368,215. A remaining balance of \$17,385 will be released back into the Gas Tax Fund Balance (F245) and the Project will be closed once the grant has been closed out by Engineering;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of Lowell Avenue Sidewalk Construction Project CIP 73160 Transportation Program (ATP) grant funded project ATPSB1L-5192(044) , completed by Taylor Backhoe Service of Merced, California; authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder and authorizes the City Engineer to release the bonds and retention payment.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.E

REQUEST

APPROVE THE FEE DEFERRAL AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR TRACY HILLS WELCOME CENTER, AND AUTHORIZE THE CITY CLERK TO FILE THE FEE DEFERRAL AGREEMENT WITH OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

Tracy Hills Phase 1, LLC, a Delaware Limited Liability Company, ("Developer") is the master developer of Tracy Hills Phase 1A within the Tracy Hills Specific Plan Area. Prior to the issuance of a building permit for the Tracy Hills Welcome Center, the Developer paid the estimated Development Impact Fees for the Property under protest and requested that the City recalculate the fee based on a limited development scope for the Welcome Center Project and to defer payment of any remaining development impact fees until the property further develops with more intense uses. Based on the request, staff has prepared a Fee Deferral Agreement to address the refund of excess fees collected and deferral of fees until the processing of future development applications for the Welcome Center parcel.

DISCUSSION

On April 16, 2018, the Development Services Director reviewed and approved the Development Review Application Number D17-0033 for construction of the Tracy Hills Welcome Center, a development consisting of an information center, general store, restrooms, outdoor multipurpose room, plus an outdoor swimming pool, landscaping, and parking area on the approximately two acres parcel located at the northeast corner of Tracy Hills Road and School Road.

Prior to issuance of the building permit for the Welcome Center building, the Developer paid under protest the estimated Development Impact Fees for the approximately 2-acre property. The Developer requested for the fees to be recalculated based on the limited scope of the development of the property described in the development application Site Plan, and to allow deferral of the remaining Development Impact Fees to such time as the Developer (or their successors-in-interest) seek further development approvals for the property.

The currently applicable fees (based on the currently approved uses of the property as described in the development application) totals \$86,187. Under the terms of the Fee Deferral Agreement, if the property, in whole or part, is ever the subject of future development applications, the developments will be subject to the City's Development Impact Fees then in effect.

The Fee Deferral Agreement also requires the City to refund to the Developer any excess amounts paid under protest within 15 business days of recordation of this Agreement. The total amount paid by Tracy Hills in fees for the Welcome Center was \$597,647, and therefore the refund amount will be \$511,460.

The City Attorney's Office has reviewed the Fee Deferral Agreement, and the Developer has executed the Agreement.

FISCAL IMPACT

Development Impact Fees in the amount of \$597,647 have been paid for the Welcome Center building, based on the Development Impact Fee estimate provided by the City. The new total fee calculation for the Project based on the limited approved scope of the Project is \$86,187. Therefore, per the Fee Deferral Agreement, the City shall refund to the Developer excess fees paid under protest in the amount of \$511,460. Any future development applications, within the Welcome Center property will be subject to the City's applicable Development Impact Fees then in effect.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the Fee Deferral Agreement for Tracy Hills Phase 1A Welcome Center, and authorize the City Clerk to file the Agreement 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 Director of Development Services
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Vicinity Map
Attachment B – Fee Deferral Agreement



VICINITY MAP

Recording Requested By

City of Tracy
Development & Engineering 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
FEE DEFERRAL AGREEMENT
TRACY HILLS - PHASE 1A WELCOME CENTER**

This **FEE DEFERRAL AGREEMENT** (hereinafter "**Agreement**") is made and entered into by and among the **CITY OF TRACY**, a municipal corporation ("**City**"), **TRACY PHASE I, LLC**, a Delaware limited liability company ("**Developer**") and **TRACY HILLS PHASE 1 COMMUNITY ASSOCIATION**, a nonprofit mutual benefit corporation ("**Owner**").

RECITALS

- A. The Developer is the master developer of Tracy Hills Phase 1A within the Tracy Hills Specific Plan area. Developer has conveyed the Property to Owner consistent with the plan of development for the Tracy Hills community as common area for the benefit of future homeowners and residents.
- B. The Developer is developing a Welcome Center on certain real property more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter "**Property**"). The Welcome Center consists of a single building of approximately 4354 square feet with surrounding parking and landscaping ("**Welcome Center**"), as described in the Exhibit "B" attached hereto and incorporated herein by reference ("**Site Plan**"), resulting in the majority of the Property currently not being developed with uses that would be expected to generate development impacts intended to be addressed by the City's Development Impact Fees.
- C. The City, Owner, and Developer hereby intend to ensure that Developer and Owner fully mitigate the impacts expected from development of the Welcome Center and also ensure that if any further development is proposed for the Property, appropriate Development Impact Fees will be paid at that time.

CITY OF TRACY – FEE DEFERRAL AGREEMENT
TRACY HILLS PHASE 1A WELCOME CENTER
Page 2 of 4

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **DETERMINATION OF AND TIME FOR PAYMENT OF DEVELOPMENT IMPACT**

FEES. Prior to issuance of a building permit for the Welcome Center building, Developer paid under protest the estimated Development Impact Fee for the Property. City has since agreed to recalculate the fee based on Developer's and Owner's agreement to limit the scope of their development of the Property to the development described in the Site Plan, and to allow Developer and Owner to defer payment of the remaining Development Impact Fees to such time as Developer and/or Owner (or their successors-in-interest) seek further development approvals for the Property. The currently applicable fees are based on the currently approved uses of the Property as described in the Site Plan and total Eighty-Six Thousand, One Hundred Eighty Seven Dollars and 27 Cents (\$86,187.27). If the Property, in whole or part, is ever the subject of future development applications, including but not limited to applications to subdivide the Property, to allow new uses, or to construct new or additional structures (collectively referred to herein as "***Additional Development***"), Owner hereby acknowledges and agrees that such Additional Development will pay City's applicable Development Impact Fees then in effect. City shall refund to Developer any excess amounts paid under protest remaining on deposit with City within 15 business days of the recordation of this Agreement as provided in Section 2.

2. **RECORDING OF AGREEMENT.** This Agreement shall be recorded in the records of the County Recorder of the County of San Joaquin.

3. **OBLIGATIONS RUN WITH THE LAND.** All obligations and provisions of this Agreement shall run with the Property, as more fully described in Exhibit "A", and shall bind the Owner and its successors and assigns in the Property.

4. **NOTICES.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective parties as follows:

To City:

City of Tracy
333 Civic Center Plaza
Tracy, California 95376
Attn: City Engineer

To Developer:

Tracy Hills Phase I, LLC
888 San Clemente, Suite 100
Newport Beach, CA 92660
Attn: John Stanek, Principal

To Owner:

Tracy Hills Phase 1 Community
Association
1034 Central Avenue
Tracy, CA 95376
Attn: John Stanek

**CITY OF TRACY – FEE DEFERRAL AGREEMENT
TRACY HILLS PHASE 1A WELCOME CENTER
Page 3 of 4**

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.

5. **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.
6. **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.
7. **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.
8. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
9. **NO MONEY DAMAGES.** The parties hereby acknowledge and agree that money damages are excluded as a remedy available to any party for a breach of this Agreement, and that specific performance is the sole and exclusive remedy available to any party for a breach of this Agreement.
10. **INDEMNIFICATION.** Developer and Owner, jointly and severally, and/or their successors-in-interest, as applicable, 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 performance of this Agreement by the parties and/or their successors-in-interest.
11. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning its subject matter, and supersedes all prior negotiations, representations, or agreements relating thereto.
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, Owner and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

[Signatures on next page]

**CITY OF TRACY – FEE DEFERRAL AGREEMENT
TRACY HILLS PHASE 1A WELCOME CENTER
Page 4 of 4**

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

CITY OF TRACY,
a municipal corporation

By: Robert Rickman
Title: MAYOR
Date: _____

Attest:

By: Adrienne Richardson
Title: CITY CLERK
Date: _____

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

By: John Stanek
Title: Authorized Representative
Date: SEPTEMBER 12, 2019

OWNER
Tracy Phase I Community Association,
a California nonprofit public benefit
corporation

By: John Stanek
Title: AUTHORIZED REPRESENTATIVE
Date: SEPTEMBER 12, 2019

Approved As To Form:

By: Leticia Ramirez
Title: INTERIM CITY ATTORNEY
Date: _____

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)

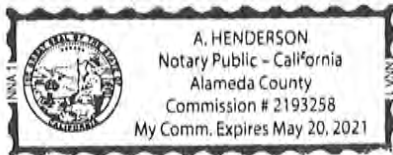
On SEPTEMBER 12, 2019 before me, A. HENDERSON, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer

personally appeared JOHN DAVID 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 A. Henderson
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: PHIA WC FEE DEFERRAL AGT Document Date: SEPTEMBER 12, 2019
Number of Pages: 7 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: _____

EXHIBIT A
Page 1 of 2

Exhibit "A"

Legal Description

Real property in the City of Tracy, County of San Joaquin, State of California, described as follows:

PORTIONS OF PARCELS 1 & 2 AS SHOWN ON THE PARCEL MAP FILED ON MARCH 22, 2019 IN BOOK 26 OF PARCEL MAPS, PAGE 131, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

NEW LOT 2

ALL OF PARCEL 2 AS SHOWN ON BOOK 26 OF PARCEL MAPS, PAGE 131, SAN JOAQUIN COUNTY RECORDS.

SAVE AND EXCEPTING THEREFROM THOSE PORTIONS OF PARCELS 1 & 2 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF PARCEL 2, THE SAME CORNER BEING AT THE SOUTHERLY TERMINUS OF THE LINE LABELED AS NORTH 40° 10' 13" EAST, 390.01 FEET; THENCE ACROSS PARCEL 2, NORTH 77° 55' 08" EAST, 40.19 FEET FOR THE POINT OF BEGINNING HEREOF; THENCE CROSSING THROUGH PARCELS 1 & 2 FOR THE FOLLOWING ELEVEN (11) COURSES: (1) SOUTH 67° 16' 54" EAST, 15.54 FEET; (2) NORTH 22° 43' 06" EAST, 10.12 FEET; (3) SOUTH 67° 16' 54" EAST, 19.21 FEET; (4) SOUTH 49° 49' 47" EAST, 58.44 FEET; (5) SOUTH 22° 43' 06" WEST, 14.36 FEET; (6) SOUTH 49° 49' 47" EAST, 16.09 FEET; (7) SOUTH 40° 10' 13" WEST, 71.10 FEET; (8) NORTH 49° 49' 47" WEST, 59.10 FEET; (9) NORTH 40° 10' 13" EAST, 19.07 FEET; (10) NORTH 67° 16' 54" WEST, 33.86 FEET; AND (11) NORTH 22° 43' 06" EAST, 58.50 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.

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.

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 JULY 20, 1992 AS DOCUMENT NO. 1992-83244 SAN JOAQUIN COUNTY RECORDS, AS TO THE PORTION OF SAID LAND DESCRIBED THEREIN.

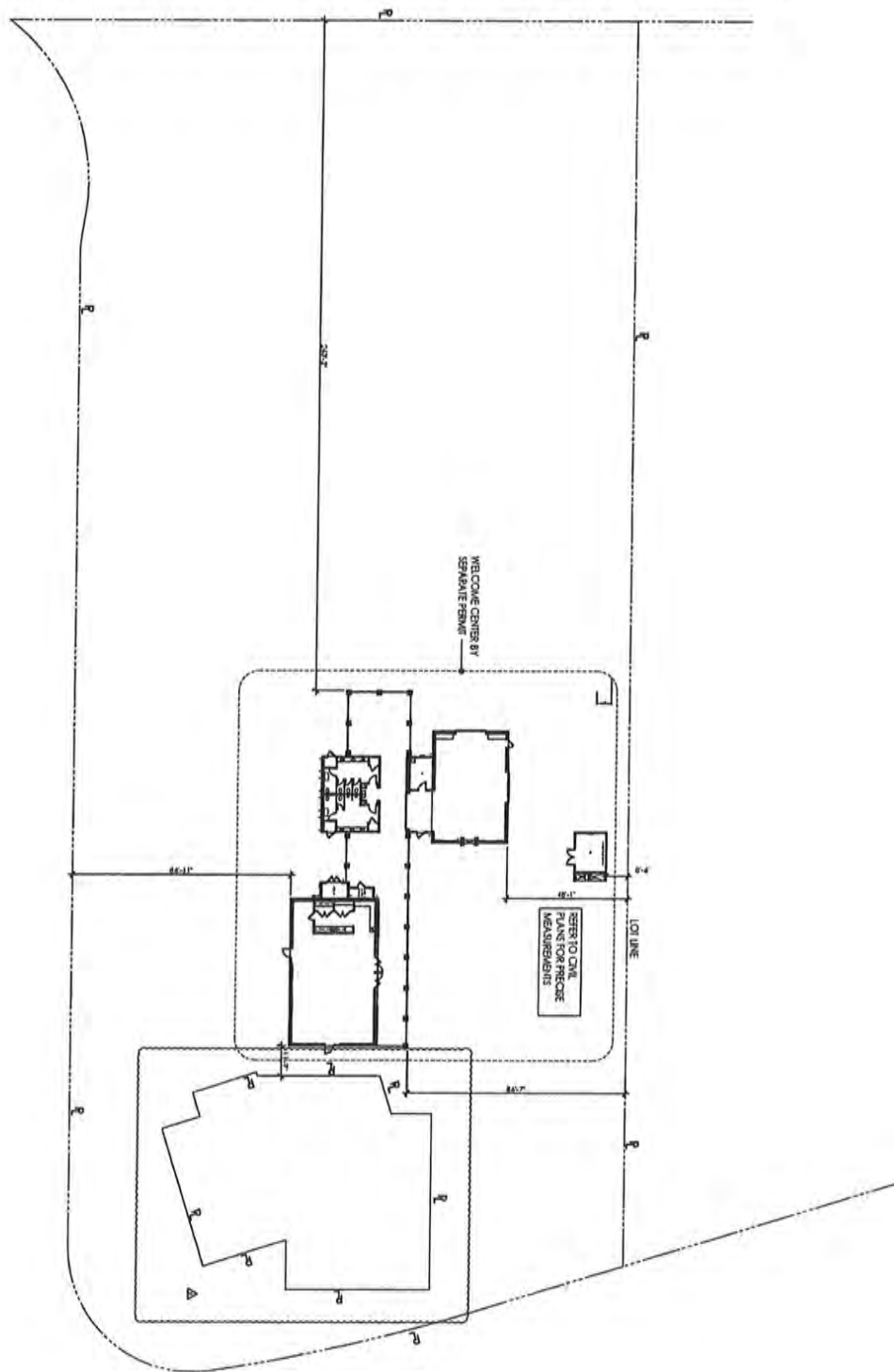
ALSO EXCEPTING THEREFROM, ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN, GEOTHERMAL STEAM AND ALL PRODUCTS DERIVED FROM ANY OF THE FOREGOING, THAT MAY BE WITHIN OR UNDER THE LAND, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFOR AND STORING IN AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM LANDS OTHER THAN THE LAND, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES WITHOUT, HOWEVER, THE RIGHT TO DRILL, MINE, STORE, EXPLORE OR OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND AS RESERVED IN THE

DEED FROM TRACY BPS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, RECORDED JULY 2, 2019, INSTRUMENT NO. 2019-069441, OFFICIAL RECORDS.

THIS LEGAL DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE APPROVING A LOT LINE ADJUSTMENT, CERTIFICATE NO. MS19-0003, RECORDED AUGUST 30, 2019, AS INSTRUMENT NO. 2019-095341 OF OFFICIAL RECORDS.

A.P.N.: Portion of 253-380-04

ARCHITECTURAL SITE PLAN
1" = 200'



RESOLUTION 2019-_____

APPROVING THE FEE DEFERRAL AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES
FOR THE TRACY HILLS WELCOME CENTER

WHEREAS, Development Review Application No. D17-0033 for construction of the Tracy Hills Welcome Center was approved by the Development Service Director on April 16, 2018, and

WHEREAS, Prior to issuance of the building permit for construction of the Welcome Center, Tracy Hills Phase 1, LLC, the master developer of Tracy Hills Phase 1A paid the estimated Development Impact Fees for the Welcome Center Project in the amount of \$597,647, under protest, and

WHEREAS, The Developer requested the City recalculate the Development Impact Fees for the Project based on the limited scope of the Project shown on the development application site plan; Said recalculated fees totaled \$86,187, and

WHEREAS, The City agrees to refund to the Developer a total of \$511,647 for excess development impact fee amounts paid to the City under protest within 15 business days of recordation of this Agreement, and

WHEREAS, The Developer requested to defer payment of the remaining Development Impact Fees to such time as the Developer (or their successors-in-interest), seek further development approvals for the Property, including but not limited to, applications to subdivide the property, to allow new uses, or to construct new or additional structures, and

WHEREAS, The City Attorney has reviewed the Fee Deferral Agreement, and Developer has executed the Agreement;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the Fee Deferral Agreement for Tracy Hills Welcome Center, and authorizes the City Clerk to file the Fee Deferral Agreement with the Office of the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

November 5, 2019

AGENDA ITEM 1.F

REQUEST

APPROVE A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY (CITY), ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (AGENCY), AND MANTECA HOSPITALITY, INC., AND AUTHORIZE THE MAYOR ON BEHALF OF THE CITY AND THE CHAIRMAN ON BEHALF OF THE SUCCESSOR AGENCY TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

EXECUTIVE SUMMARY

The City Council of the City of Tracy is the Governing Board of the Successor Agency to the Community Development Agency of the City of Tracy. This request is to sell approximately 20,081 square feet of unused, real property (Attachment A) formerly owned by the Community Development Agency to Manteca Hospitality, Inc., owners of adjacent real property. Staff recommends approval of the sale.

State legislation implementing the dissolution of Redevelopment in California requires the disposal or use of real property owned by the former Community Development Agency. The disposal or use process is to be carried out pursuant to a Long-Range Property Management Plan (LRPMP) and approved by the Successor Agency Oversight Board and the California Department of Finance. The attached LRPMP (Attachment B) was approved by both agencies in December of 2015. On July 19, 2016, the Tracy City Council approved the LRPMP providing for the execution of all related documents.

DISCUSSION

Prior to the dissolution of all California Redevelopment Agencies, the subject property was owned by the Community Development Agency of the City of Tracy. It was purchased in 1995 for the construction of the new Grant Line Road/Naglee Road/I-205 Interchange. On February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Community Development Agency were transferred to the Successor Agency pursuant to Health and Safety Code Section 34175(b).

In accordance with Health and Safety Code Section 34191.5, on December 3, 2015, the Oversight Board of the Successor Agency prepared and submitted to the Department of Finance a LRPMP providing for the disposition and use of real property assets of the former Agency. On December 8, 2015, the California Department of Finance issued a Finding of Completion, and on December 30, 2015, the City of Tracy received approval of the LRPMP, allowing for the sale of the subject property. On July 19, 2016, the Tracy City Council approved the LRPMP providing for the execution of all related documents.

The City recommended sale of the property in the LRPMP since the property had no useful value to the City. The size and shape of the property made it a significant challenge to develop by itself and it has no direct access to public streets, sewer, water,

or other utilities. In its current, undeveloped condition, the property is a maintenance liability for the City.

By selling this property, it can be incorporated into the future development of the adjacent parcel. This will promote economic development goals of the City and result in the efficient use of the property to benefit (1) the future business tenants, (2) consumers of Tracy who obtain services from businesses located at this site, and (3) the City as a whole from the increased property tax or other benefits.

On April 25, 2018, the City of Tracy Planning Commission determined that the sale of this property is in conformance with the City's General Plan.

Staff in consultation with area appraisers negotiated a sale price of \$0.75 per square foot, which totals \$15,060.75.

STRATEGIC PLAN

This proposal supports the City Council's Economic Development Strategy by supporting the creation of local employment and diversifying the local economic base.

FISCAL IMPACT

Funds received by the Successor Agency will be remitted to the County Auditor Controller for distribution to the taxing entities.

RECOMMENDATION

That City Council authorize a purchase and sale agreement between the City of Tracy, the Successor Agency to the Community Development Agency of the City of Tracy, and Manteca Hospitality, Inc., and authorize the Mayor on behalf of the City and the Chairman on behalf of the Successor Agency to execute the agreement and related documents.

Prepared by: Kevin Tobeck, Project Specialist II

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

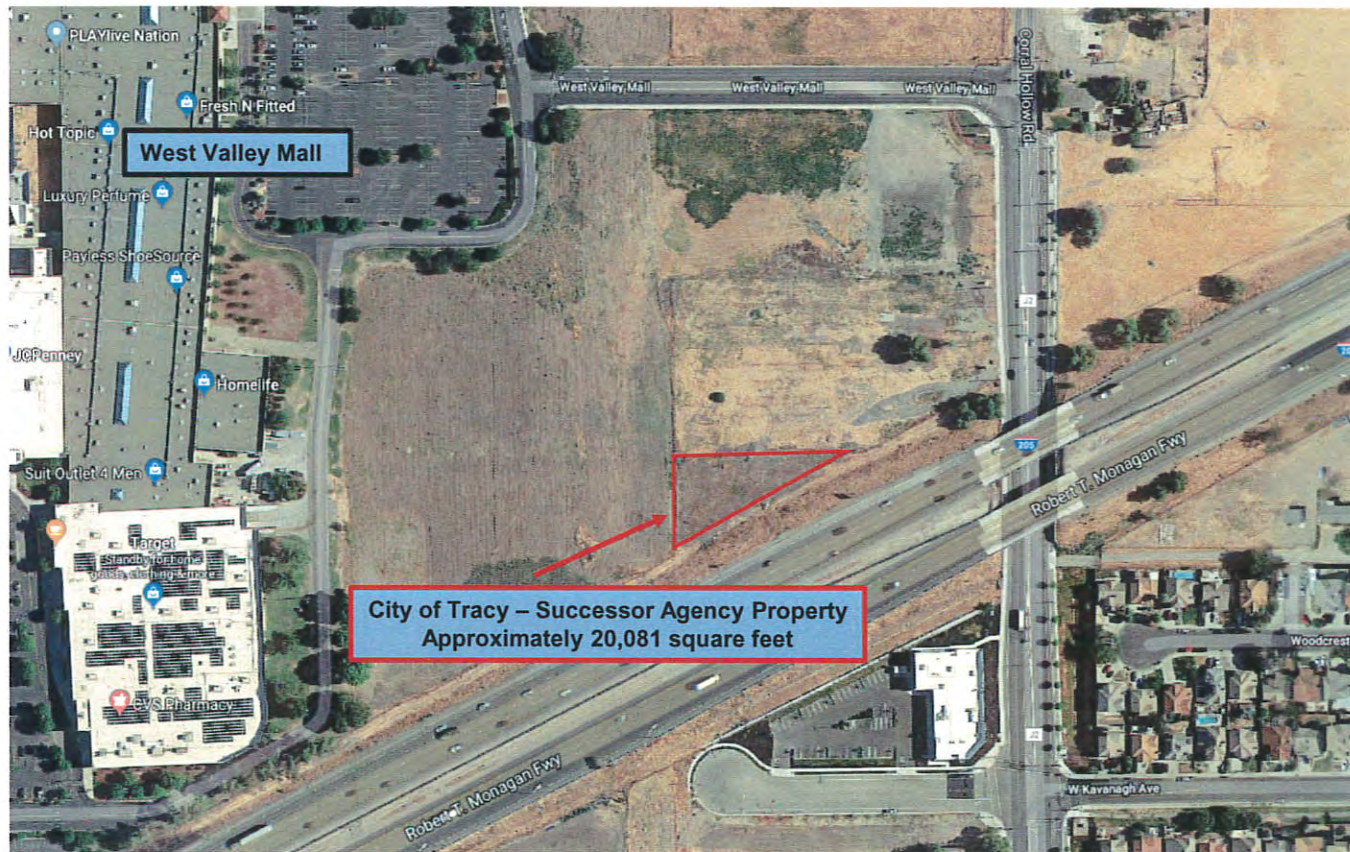
ATTACHMENTS

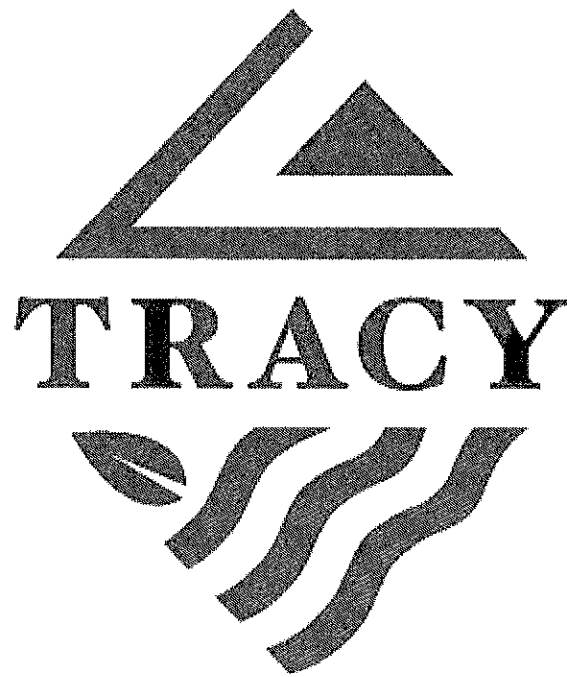
Attachment A – Location Map

Attachment B – Long-Range Property Management Plan

Attachment C – Purchase and Sale of Real Property Agreement

ATTACHMENT "A"





Think Inside the Triangle™

**SUCCESSOR AGENCY TO THE CITY OF TRACY
COMMUNITY DEVELOPMENT AGENCY**

LONG-RANGE PROPERTY MANAGEMENT PLAN

November 20, 2015

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Long Range Property Management Plan Successor Agency to the City of Tracy Community Development Agency

Introduction

As part of the dissolution process of former redevelopment agencies, State Assembly Bill 26 (ABX1 26) required successor agencies to dispose of real property assets owned by former redevelopment agencies “expeditiously and in a manner aimed at maximizing value.” State Assembly Bill 1484 (AB 1484) clarified how successor agencies should dispose of these assets with direction to prepare a Long Range Property Management Plan (LRPMP) governing the disposition and use of the former Agency owned properties to be submitted to their Oversight Board and the State Department of Finance (DOF) within six months of receiving a Finding of Completion. The Successor Agency to the City of Tracy Community Development Agency (Successor Agency) has not yet received its Finding of Completion; however, the dissolution statutes require that all LRPMP’s be approved by the DOF no later than December 31, 2015.

Section 34191.5 of the Health and Safety Code, which was added by AB 1484, requires that the LRPMP include an inventory and site history of each of the former Agency owned properties as well as a plan for the future use or disposition of each site. AB 1484 allows for four permissible uses of the properties, including: the retention of the property for governmental use, the retention of the property for future development, the use of the property to fulfill an enforceable obligation (either through sale of the property or revenue received), or the sale of the property. SB 107 further modifies this by allowing the retention of government use parking lots.

This document is the Long Range Property Management Plan for the Successor Agency to the City of Tracy Community Development Agency and incorporates the following:

- An inventory of all properties in the Property Trust Fund. The inventory consist of all of the following information:
 - The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.
 - The purpose for which the property was acquired.
 - Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.
 - An estimate of the current value of the parcel including, if available, any appraisal information.

- An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.
- The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.
- A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.
- A brief history of previous development proposals and activity, including the rental or lease of property.
- Addresses the use or disposition of all of the properties in the Property Trust Fund. Permissible uses include the retention of the property for governmental use, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The LRPMP shall separately identify and list properties in the Property Trust Fund dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:
 - If the LRPMP directs the use of the property for a project identified in an approved redevelopment plan, the property shall transfer to the City.
 - If the LRPMP directs the liquidation of the property or the use of revenues generated from the property for any purpose other than to fulfill an enforceable obligation or other than that specified immediately above, the proceeds from the sale shall be distributed as property tax to the taxing entities.

According to Health and Safety Code 34180(f), if a city wishes to retain any properties or other assets for future redevelopment activities, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

This plan contains no properties which the City desires to retain for future development or that require negotiating a Compensation Agreement.

Summary of Property Owned by the Successor Agency

The Successor Agency owns and controls various properties within the City of Tracy. Each site and the required information under AB 1484 will be discussed in greater detail in the "Summary" matrix. For three properties, the Successor Agency shares an undivided interest in the property with the City of Tracy. In those cases, the Successor Agency's interest is deemed to be 50%. Table 1 below is an overview of the classification of the Successor Agencies properties:

Table 1

Property/Parcel				AB 1484 Classification			
				Governmental Purpose Use	Enforceable Obligation Use	Approved Redevelopment Plan Use	Liquidation /Maximize Value of Proceeds Use
Ref #	APN	Description	Address				
1	235-056-15	Improved Public Parking Lot	15 W 9th St	X			
2	235-056-16	Improved Public Parking Lot	31 W 9th St	X			
3	235-056-17	Improved Public Parking Lot	41 W 9th St	X			
4	235-056-19	Improved Public Parking Lot	50 W Gillette Alley	X			
5	235-056-21	Improved Public Parking Lot	71 W 9th St	X			
6	235-056-22	Improved Public Parking Lot	918 "B" St	X			
7	212-040-28	Vacant Land/Sewer Easement *	Naglee Rd ROW	X			
8	212-290-44	Remnant Parcel 1	Abandoned Old Naglee Rd	X			
9	212-260-09	Remnant Parcel 2	305S N Corral Hollow Rd				X
10	212-290-39	Park-N-Ride Lot *	(Parcels "A" & "B")				X
* City of Tracy and Successor Agency shared property interest							

Property Inventory

Health and Safety Code Section 34191.5 requires that the Long Range Property Management Plan include an inventory of all properties owned by the Former Community Development Agency of the City of Tracy, which are held in a Property Trust Fund. The Successor Agency to the City of Tracy Community Development Agency has possession of ten (10) parcels that were referenced in the previous section and have been included in this plan. The properties have been placed into different categories based upon the specifics of the property and approach to its disposition. Several of these parcels have been combined into a single property (e.g. parking lot) and the combined parcels are treated as a group. Exhibit B contains the specific inventory with additional relevant information.

A. Properties that will be retained by the City for government purpose. These properties have no commercial value and include remnant pieces, landscape areas, ROW, slope area, and properties that are governmental use, and also include parking lots. The staff recommends that these properties be conveyed to the City at no cost. There are eight (8) properties listed under this category. These have been further categorized into two groups: parking lots and remnant parcels.

City parking lots are considered governmental use and will continue to be used as such. These parking lots generate no revenue, as the City provides free downtown parking and these are dedicated solely to public parking. The City has been responsible for all maintenance, upkeep and insurance since the dissolution of the Community Development Agency.

The balance of the government use parcels are remnant parcels. Due to the roadway uses, undevelopable nature, irregular shape, and inadequate sizes of the remnant parcels, it is not possible to determine a marketable value for the parcels. The Successor Agency proposes to transfer title of these properties to the City to be used for storage or other uses.

Parking Lots

The City parking lot consists of six (6) parcels combined to form two conjoining parking lots on a single city block. The parcels were purchased both separately and in a group over a period of 18 years for the purpose of providing free parking for retail, commercial and institutional businesses. The block is bounded by 9th St, B St and Gillette Alley with commercial buildings on the remaining side (N. Central). Two residences remain, abutting into the parcel on the 9th St side. The Successor Agency proposes transferring all six (6) parcels to the City of Tracy for government use. The City intends to continue to use these properties solely as public parking lots.

1. 15 W 9th St (APN 235-056-15) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
2. 31 W 9th St (APN 235-056-16) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
3. 41W 9thSt (APN 235-056-17) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.

4. 50 W Gillette Aly (APN 235-056-19) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
5. 71 W 9th St (APN 235-056-21) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
6. 918 B St (APN 235-056-22) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.

Remnant Parcels & Easements for Public Use

The remnant parcels consist of two (2) remnants from previous redevelopment activity and are not considered feasible for further development do to their roadway uses, irregular shape, inadequate size, location and accessibility. It is not possible to determine a marketable value for the parcels.

7. No address listed (APN 212-040-28) – This is vacant land with a sewer easement. The Successor Agency and the City of Tracy share an undivided interest in this property acquired through a condemnation and bankruptcy. The disposition of the Successor Agency's interest in this property is discussed in detail in the Discussion of Properties section on page 8.
8. No address listed (APN 212-290-44) – Remnant parcel. This parcel was created with the abandonment of Old Naglee Rd. The parcel is both landlocked and also set-aside for the future expansion of the I-205 Naglee Rd Interchange. As such, this property has no market value is not considered developable. The Successor Agency proposes ratifying the transfer of this property to the City of Tracy and subsequently to the State of California for government use for the Interchange expansion.

B. Properties for Liquidation. The Successor Agency proposes to liquidate several properties. Those properties are to be sold under Exclusive Negotiating Rights Agreements (ENRA), marketed through direct contact with interested parties or through the use of brokers. Proposals would be evaluated based upon acceptable development plans. There are two (2) parcels listed under this category that represent three (3) properties. The City has a negotiated sale pending on one of these properties. A second property will be sold after an appraisal is obtained. Two of these properties have an undivided interest with the City of Tracy.

9. 3055 N Corral Hollow Rd (APN 212-260-09) – Remnant parcel. This parcel is land-locked and due to the roadway uses, undevelopable nature, irregular shape, and inadequate size of this parcel, it is not possible to determine a marketable value for the parcel. The Successor Agency proposes to attempt to sell the property to an adjacent landowner.

10. Park-N-Ride Lot (APN 212-290-39):

Parcel “A” – This is a remnant parcel leftover from prior redevelopment activity and a Condemnation order (see APN 212-290-28). The Successor Agency and the City of Tracy share an undivided interest in the property. The parcel currently contains one-half of a Park-N-Ride commuter parking lot. The Successor Agency proposes to liquidate in coordination with the City, the Successor Agency’s interest in this parcel. This property has been appraised and the City currently has an offer for the appraised value. The City has entered into an ENRA with a developer to purchase this parcel for use as a restaurant. The Successor Agency proposes to subdivide this parcel and sell Parcel “A” for the \$550,000 appraised value upon approval of this plan. If that sale cannot be fulfilled, the City and the Successor Agency propose to seek a buyer that would both maximize the value of the property and provide the most benefit to the surrounding area. Upon the sale of the parcel, the net proceeds of sales would be split equally between the Successor Agency and the City of Tracy. The Successor Agency share would be distributed to the taxing entities.

Parcel “B” – This is a remnant parcel leftover from prior redevelopment activity and a Condemnation order (see APN 212-290-28). The Successor Agency and the City of Tracy share an undivided interest in the property. The parcel currently contains a Park-N-Ride commuter parking lot. The Successor Agency proposes to subdivide this parcel and liquidate in coordination with the City, the Successor Agency’s interest in Parcel “B” which contains one-half of the Park-N-Ride lot. Because of the commercial nature of this parcel and the surrounding area, the City and the Successor Agency propose to seek a buyer that would both maximize the value of the property and provide the most benefit to the surrounding area. Upon the sale of the parcel, the net proceeds of sale would be split equally between the Successor Agency and the City of Tracy. The Successor Agency share would be distributed to the taxing entities.

Discussion and Disposition of Properties

In researching each specific parcel, and in discussion with City staff, several abnormalities, ambiguities and peculiarities have surfaced regarding specific properties. This section discusses

each property, which may be a group of multiple parcels, the property history, where significant, specific issues with that property, and staff recommendations on the resolution and disposition of the property.

Parking Lots (Properties 1 – 6)

APN 235-056-15, APN 235-056-16, APN 235-056-17,
APN 235-056-19, APN 235-056-21, APN 235-056-22

The CDA acquired six (6) mostly contiguous parcels (Table 1) between 1990 and 2004 which comprise the majority of a city block. These properties, taken as a whole, comprise the largest city-owned parking lot in the Downtown Business Improvement District. The purpose was to acquire properties to provide free parking for retail, commercial and institutional customers in an area immediately adjacent to shopping, restaurants and financial institutions in an effort to revitalize the downtown area. Parking is unmetered so these do not generate any revenue.

Disposition – These properties will be transferred to the City of Tracy for continued Government Use.

Remnant – Old Naglee Rd (APN 212-290-44)

This parcel represents “Old Naglee Rd” which was abandoned by the City for the development of the Grant Line Rd/Naglee Rd I-205 Freeway Interchange. This parcel is needed by CalTrans for the future expansion of this interchange. The parcel is essentially land-locked and had been excluded from any development plans due to its planned use as a future freeway interchange right-of-way.

On September 28, 2012, following the transfer of the Property to the City and prior to the State Controller’s Office (SCO) audit of the Other Funds and Accounts Due Diligence Review (OFADDR). This property was transferred to the State of California for the purpose outlined above. In the SCO audit, the City was ordered to return all properties transferred to the City.

Disposition – Ratify the transfer of the property to the City and the City’s subsequent transfer to the State of California for Government Use and authorize staff to prepare any necessary documents ratifying said transfers.

Remnant – 3055 Corral Hollow Rd (APN 212-260-09)

This is a remnant parcel leftover from a ROW access purchase for the I-205 freeway. The parcel is land-locked and, due to the roadway uses, undevelopable nature, irregular shape, and inadequate size of this parcel, it is not possible to determine a market value for the parcel. This property could have value in the future if a) one of the adjoining property owners is willing to purchase it, or b) future development occurs in this area.

Disposition – Liquidate the parcel to an adjacent landowner or offer to highest bidder with the net proceeds of sale to be disbursed to the local taxing agencies.

APN 212-040-28

In September 1996, The City of Tracy and the CDA were awarded joint title through a Final Order of Condemnation (FOC) from the U.S. Bankruptcy Court, Eastern District of California Case No. 92-94652-A-11. The Successor Agency believes that this FOC awarded both title to real property through the reference to APN 212-040-28 and to a sewer easement across said real property.

The legal description in the attached order had been interpreted by City staff and is attached as Exhibit D. Staff believes that this covers an area between the newly aligned Naglee Rd and several parcels that the CDA previously owned or currently owns, more specifically, the Park & Ride lots. However, prior to the Final Order of Condemnation, this property was subdivided into multiple parcels and this specific APN no longer existed.

With the exception of the Park & Ride lot, City staff does not believe that there is any remaining property contained in this order that has not been addressed elsewhere in the report or has not been disposed of the former CDA.

- **Park & Ride Parcel**

The CDA and the City acquired APN 212-290-39 in 1994 as part of the overall I-205/Naglee Rd redevelopment. This parcel was subsequently improved as a Park & Ride lot due to its proximity to the I-205/grant Line Rd freeway Interchange. The CDA planned future development as the area built-out. As of this date, the parcel remains a Park & Ride commuter lot.

As the area built out and the value of the property increased, the City began exploring commercial uses for this parcel and subsequently entered into an Exclusive Negotiating Rights Agreement (ENRA) for approximately one-half of the

parcel, deemed Parcel "A".

In January 2015, the City had the parcel appraised and has since been working with a development interest on the acquisition of the parcel. The City has proposed dividing the parcel into Parcel "A" and Parcel "B" as it determined that this would provide maximum value in an expeditious manner while supporting the City's planning objectives for the area. As title is vested in both the City of Tracy and the former CDA, the City has taken the lead in developing and liquidating the property.

Parcel "A" has been appraised for \$550,000 and the city has a sale pending for this property, subject to final approval and authorization to execute the transfer pursuant to this plan.

The City and the Successor Agency believe that Parcel "B" can be sold in an expeditious manner through an ENRA and has some interested parties. By using an ENRA, the value of the parcel can be maximized while supporting the planning and redevelopment objectives of the City. The property could also be auctioned; however, while an auction would be faster, it is unlikely to maximize the value of the property.

Disposition – In order to maximize value and provide for the most expeditious liquidation of the property, the disposition of APN 212-290-39 is being addressed in multiple parts:

- Parcel Split – City staff, at the direction of the Successor Agency, will separately transfer Parcel "A" comprising approximately 42% and Parcel "B" comprising approximately 58% of APN 212-290-39.
- Parcel "A" – Parcel "A" has a negotiated sale pending for the appraised value of \$550,000 and will be sold by the City and Successor Agency. As the City and the Successor Agency have an undivided interest in the property, the net sales proceeds will be split equally between both entities with the Successor Agency share distributed to the local taxing agencies.
- Parcel "B" – The City, acting in coordination with the Successor Agency, shall seek to enter into an ENRA agreement with a qualified developer to maximize the value of parcel and the subsequent sale of the parcel at or near its appraised value. As the City and the Successor Agency have an undivided interest in the property, the sales net proceeds will be split equally between both entities with the Successor Agency share distributed to the local taxing

agencies.

- **Sewer Easement**

As discussed in APN 212-040-28 above, the CDA and the City received title to a sewer easement. This easement is critical for the City to provide utility services to the area and is vital to the health and safety of the community.

Disposition – Transfer title of the Successor's interest in the sewer easement to the City of Tracy for continued Government Use.

Environmental Remediation

Health and Safety Code Section 34191.5 requires that the Long Range Property Management Plan include any environment contamination studies and/or remediation and designation of a brownfield site. None of the properties in this plan have any history of environment contamination or remediation or have been designated as a brownfield site.

EXHIBIT A

LEGAL DESCRIPTIONS OF THE PROPERTIES

Summary of Parcels

<u>Parcel</u>	<u>APN</u>	<u>SITUS ADDRESS</u>	<u>ACRES</u>	<u>DESCRIPTION</u>
1	235-056-15	15 W 9th St	0.373	Improved as Downtown Parking
2	235-056-16	31 W 9th St	0.162	Improved as Downtown Parking
3	235-056-17	41W 9thSt	0.155	Improved as Downtown Parking
4	235-056-19	50 W Gillette Aly	0.057	Improved as Downtown Parking
5	235-056-21	71 W 9th St	0.186	Improved as Downtown Parking
6	235-056-22	918 B St	0.373	Improved as Downtown Parking
7	212-040-28	None Listed	9.880	Land/Sewer Easement
8	212-290-44	None Listed	0.759	Remnant Parcel/Old Naglee Rd
9	212-260-09	3055 N Corral Hollow Rd	0.461	Remnant Parcel
10a	212-290-39	None Listed	1.154	50% Interest in Park & Ride Lot (Parcel "A")
10b	212-290-39	None Listed	1.626	50% Interest in Park & Ride Lot (Parcel "B")

PARCEL 1 (235-056-15) (Figure 1):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 14, 15 16 AND 17, BLOCK 58, AS SHOWN AND SO DESIGNATED ON THE OFFICIAL MAP OR PLAT THEREOF FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 2 (235-056-16) (Figure 1):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOT 13, E. 16 2/3 OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 3 (235-056-17) (Figure 1):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 8 1/3 FEET OF LOT 10, AND THE WEST 8 1/3 FEET OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 4 (235-056-19) (Figure 2):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTHERLY 50 FEET OF EACH LOTS 7 AND 8 IN BLOCK 58 SHOWN ON THE OFFICIAL MAP OR PLAT THEREOF FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 5 (235-056-21) (Figure 2):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 8 1/3 FEET OF LOT 10, AND THE WEST 8 1/3 FEET OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 6 (235-056-22) (Figure 3):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LOTS 1, 2, 3 AND 4 IN BLOCK 58 AS SHOWN AND SO DESIGNATED ON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

235-05



THIS MAP FOR
ASSESSMENT USE ONLY

POR. TRACY

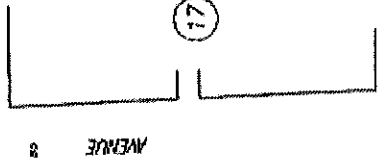
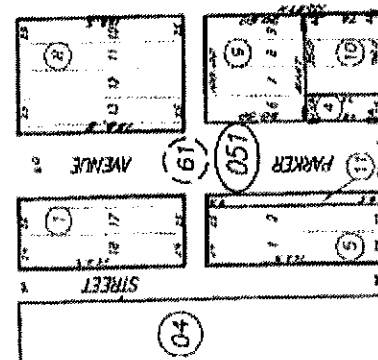
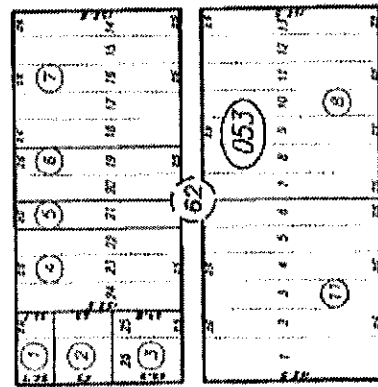
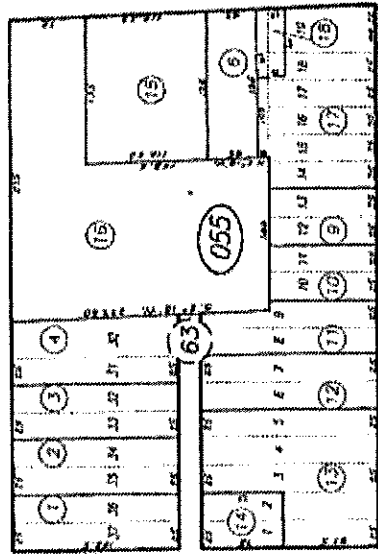
Bk
233

STREET

ELEVENTH

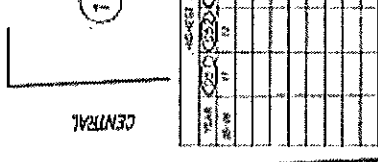
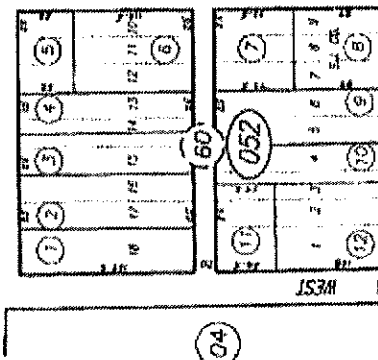
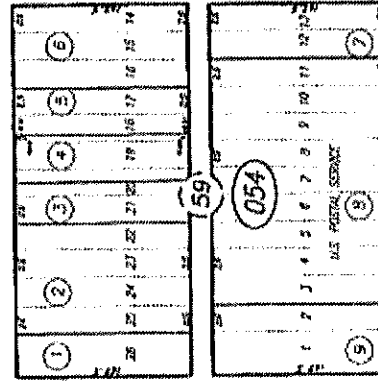
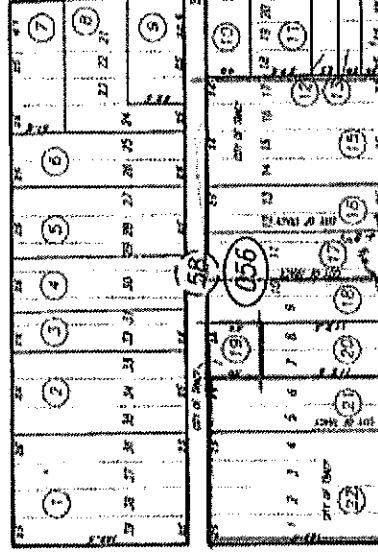
AVENUE

STREET



STREET

TENTH



CENTRAL

YEAR	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
APN	021	022	023	024	025	026	027	028	029	030	031

CITY OF TRACY

Assessor's Map Bk.235 Pg. 05
County of San Joaquin, Calif.

NOTE: Assessor's Parcel Numbers Shown in Circles
Assessor's Block Numbers Shown in Dashed

A - Bk. 233 Pg. 053
A - Bk. 234 Pg. 017

06

06

APN

235-056-15
235-056-16
235-056-17
235-056-19
235-056-21
235-056-22

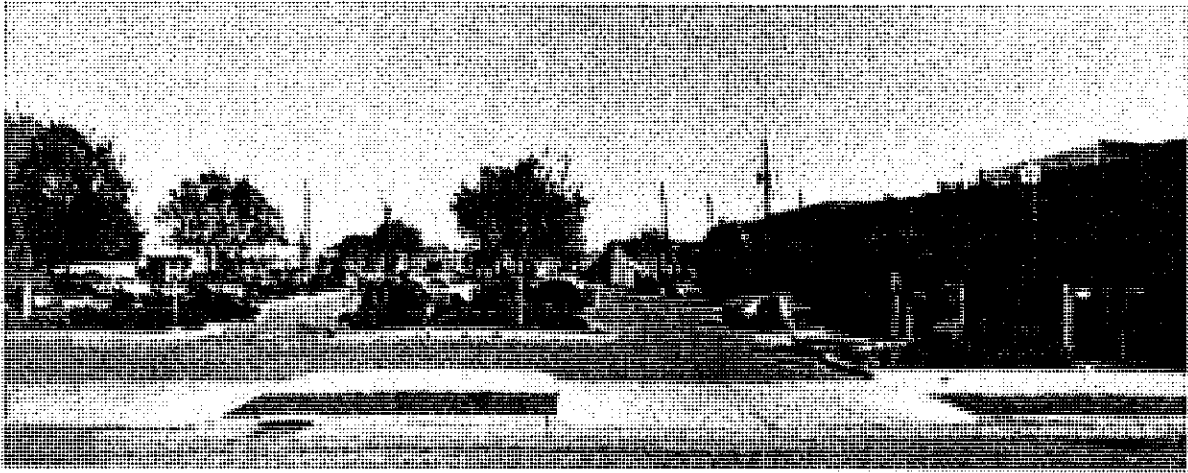


Figure 1 - 15, 31 & 41 W 9th St.



Figure 2 - 71 W 9th St & 818 B St



Figure 3 - 50 W Gillette Alley

PARCEL 7 (212-040-28):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THAT PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AS PER MAP RECORDED IN VOLUME 5, PAGE 18, OF BOOK OF MAPS AND PLATS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING at the intersection of the westerly line of said Lot 39 and the northerly line of Naglee Road as described as Parcel 5 in the Final Order of Condemnation recorded September 26, 1969 in Book 3338, Page 327, of Official Records in said office of the County Recorder, thence along said westerly line N. 0°02'45" W, 396.84 feet to the beginning of a curve concave to the southeast having a radius of 661.00 feet; thence leaving said line from a tangent line bearing N.58°01'49" E., northeasterly 184.30 feet along said curve through a central angle of 15°58'30"; thence N. 74°00'19" E, 405.89 feet to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence northeasterly 17.25 feet along said curve through a central angle of 1°50'00" to the beginning of a curve concave to the northwest having a radius of 35.00 feet; thence northerly 62.02 feet along said curve through a central angle of 101°31'52"; thence N. 29°21'33" W., 50.62 feet; thence N. 60°38'27" E, 134.50 feet; thence S. 29°21'33" E., 50.00 feet to the beginning of a curve concave to the north having a radius of 35.00 feet; thence easterly 62.23 feet along said curve through a central angle of 101°52'46" to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence easterly 180.50 feet along said curve through a central angle of 19°11'12" to the southerly line of Parcel B as per map recorded in Book 19, Page 122 of Surveys in the office of said County Recorder; thence along said line N. 89°57'15" E., 141.84 feet to the beginning of a Curve concave to the northwest having a radius of 666.00 feet; thence leaving said line from a tangent line bearing S. 23°31'57" W. southwesterly 306.71 feet along said curve through a central angle of 26°23'12" to Point A; thence on a non-tangent line S. 11°06'19" W., 43.87 feet; thence S. 27°41'51" E. 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of 3°40'30" to said northerly line of Naglee Road the beginning of a curve concave to the northwest having a radius of 570.00 feet; thence along said line from a tangent line bearing S. 35°32'38" W., southwesterly 345.3 feet along said curve through a central angle of 34°42'42"; thence S. 70°15'20" W., 405.62 feet to the beginning of a curve concave to the north having a radius of 570.00 feet; thence westerly 200.21 feet along said curve through a central angle of 20°07'30"; thence N. 89°37'10" W., 72.10 feet to the point of beginning.

Containing an area of 430,263 square feet (9.58 acres) more or less

PARCEL 8 (212-290-44) (Figure 6):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO ACCORDING TO THE OFFICIAL MAP, FILED IN VOLUME 5 OF MAPS AND PLATS, AT PAGE 18 OF THE SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PARCEL THAT IS SHOWN AND DESCRIBED AS ASSESSOR'S PARCEL NUMBER 212-290-44.

PARCEL 9 (APN 212-260-09):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

THAT PORTION OF LOTS 39 AND 40 OF NAGLEE BURK TRACT PER MAP FILED IN BOOK 5 OF MAPS AND PLATS, AT PAGE 18, OF THE SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

CONTAINING MORE OR LESS 2.78 ACRES (121,096 SQUARE FEET)

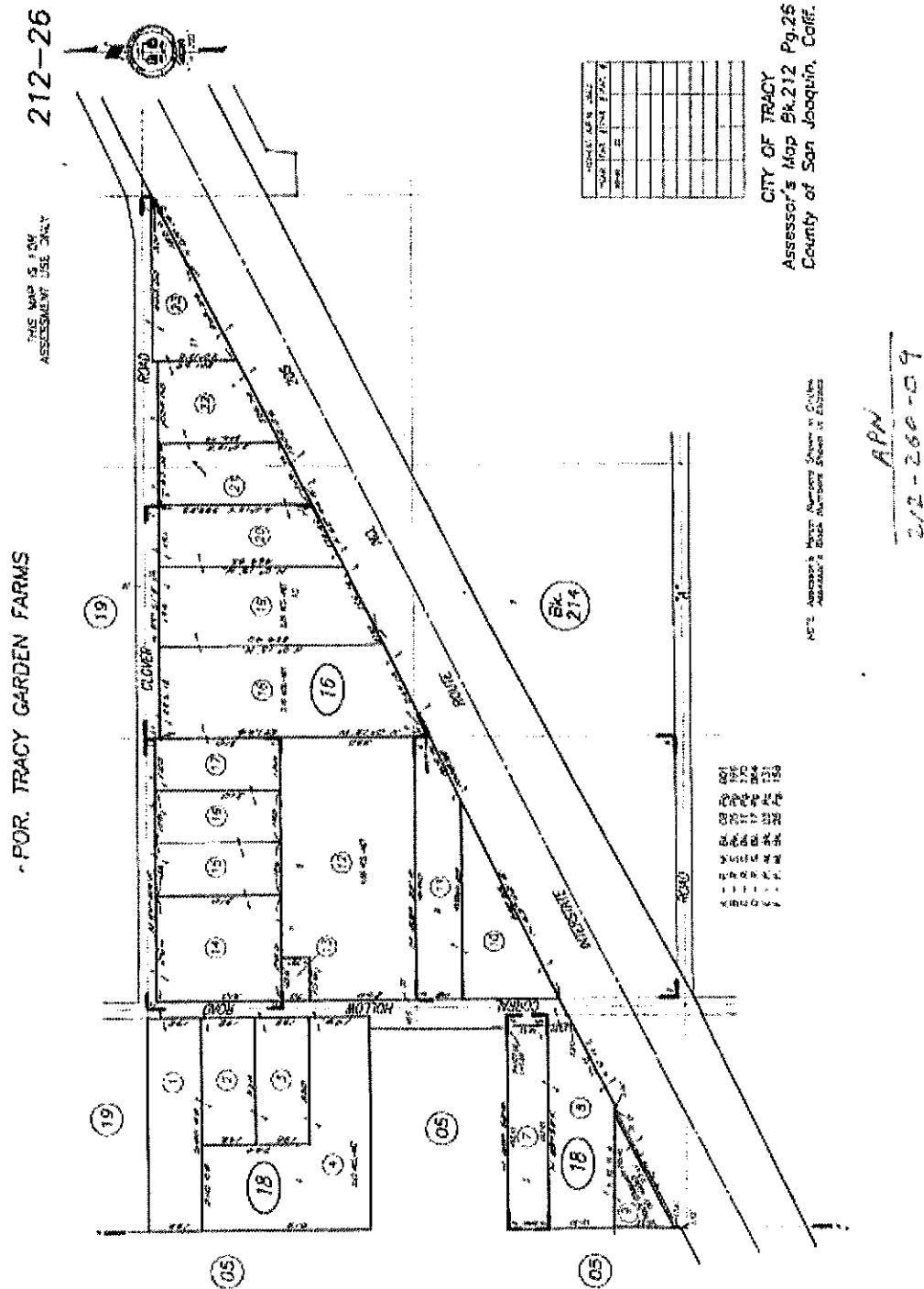
PARCEL 10 (APN 212-290-39) (Figures 4, 5):

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO ACCORDING TO THE OFFICIAL MAP, FILED IN VOLUME 5 OF MAPS AND PLATS, AT PAGE 18 OF THE SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PARCEL THAT IS SHOWN AND DESCRIBED AS ASSESSOR'S PARCEL NUMBER 212-290-39.

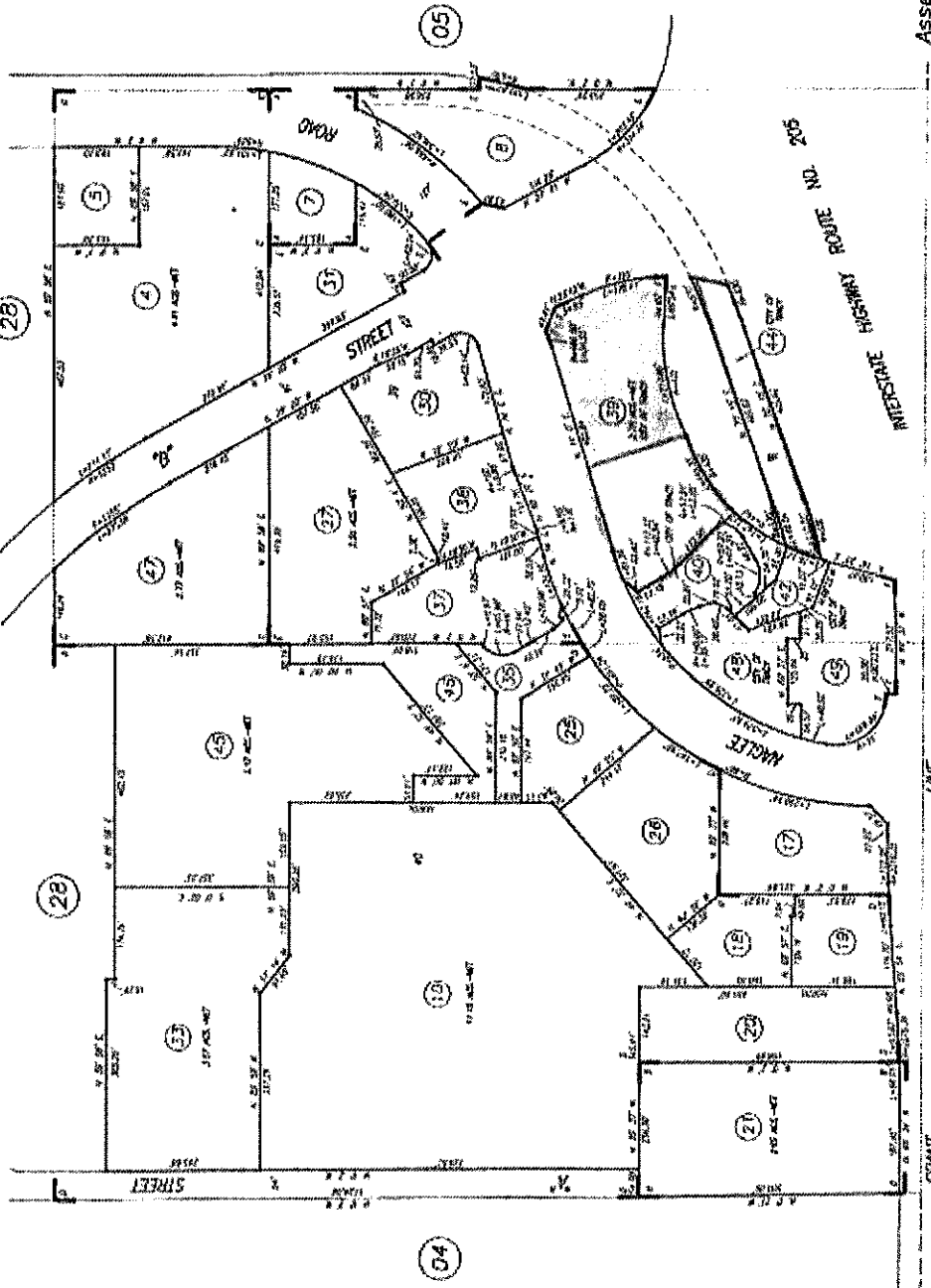
THAT CERTAIN REAL PROPERTY AS IDENTIFIED AS PARCEL 09 OF ASSESSOR'S MAP BOOK 212, PAGE 26, COUNTY OF SAN JOAQUIN.



212-29

THIS MAP IS FOR
ASSESSMENT USE ONLY

POR. NAGLEE BURK TRACT



A - R S 26 19 09 127
B - P M 06 05 06 047
C - P M 06 21 06 026
D - P M 06 22 06 044
E - P M 06 22 06 076
F - P M 06 23 06 126

APN	AREA	DATE
212-29-1	1.00	12/1/00
212-29-2	1.00	12/1/00
212-29-3	1.00	12/1/00
212-29-4	1.00	12/1/00
212-29-5	1.00	12/1/00
212-29-6	1.00	12/1/00
212-29-7	1.00	12/1/00
212-29-8	1.00	12/1/00
212-29-9	1.00	12/1/00
212-29-10	1.00	12/1/00
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212-29-17	1.00	12/1/00
212-29-18	1.00	12/1/00
212-29-19	1.00	12/1/00
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212-29-21	1.00	12/1/00
212-29-22	1.00	12/1/00
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212-29-98	1.00	12/1/00
212-29-99	1.00	12/1/00
212-29-100	1.00	12/1/00

CITY OF TRACY
Assessor's Map Bk.212 Pg.29
County of San Joaquin, Calif.

00-04

NOTE: Assessor's Parcel Numbers Shown in Black
Assessor's Block Numbers Shown in Blue

Bk. 238

APN
212-290-41 (from 212-290-39)
212-290-44

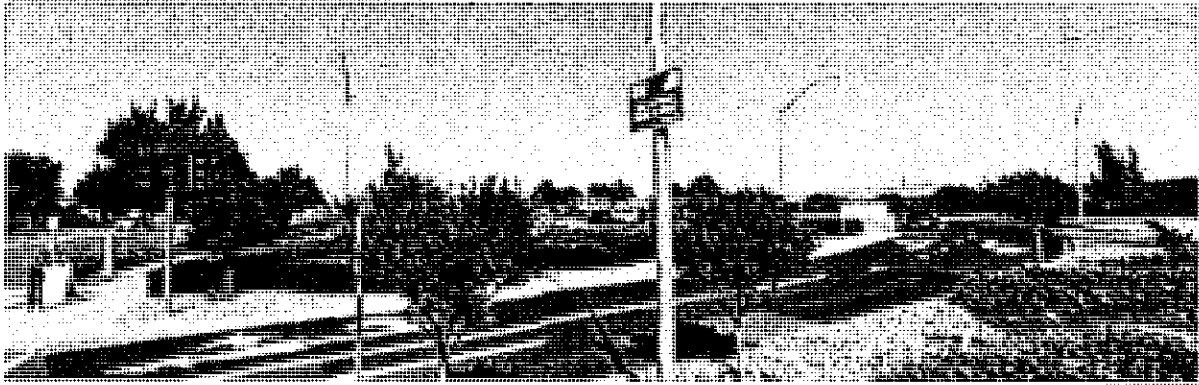


Figure 4 - Park-N-Ride (Entrance view)

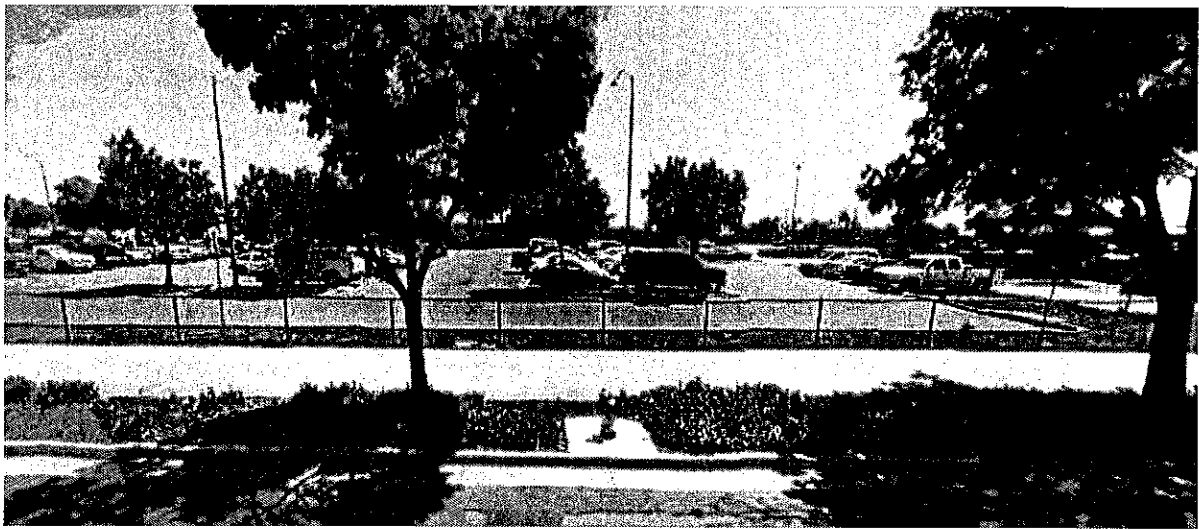


Figure 5 - Park-N-Ride (Street view)



Figure 6 - Remnant Parcel

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Property No.	1	2	3	4	5	6	7	8	9	10
HSC 34191.5 (c)(1)(D)	Estimate of Current Parcel Value		0				0	0	0	550,000 550,000
HSC 34191.5 (c)(1)(E)	Annual Estimate of Income/Revenue	\$0 - the City of Tracy provides free, unmetered parking.								
	Are there any contractual requirements for use of income/revenue?	No								
HSC 34191.5 (c)(1)(F)	Has there been historic environmental contamination, studies, and/or remediation, and designation as a brownfield site for the property?	No	No	No	No	No	No	No	No	No
	Does the property have the potential as a transit oriented development?	No								
HSC 34191.5 (c)(1)(G)	Were there advancements to the successor agency's planning objectives?	Yes								
HSC 34191.5 (c)(1)(H)	Does the property have a history of previous development proposals and activity?	No								

Property No.	1	2	3	4	5	6	7	8	9	10
Other Property Info							Sewer easement and narrow band of property acquired through condemnation & bankruptcy. The City and the Successor Agency have an undivided interest in the property.	This parcel created from the split of 212-290-44 which was originally acquired through condemnation proceedings during the construction of the I-205/Grant line Rd Interchange project. Abandoned 'Old Naglee Rd'. CalTrans requires this property for the future expansion of the I-205/Grant Line Rd expansion project.	Parcel is a land-locked remnant left over from the I-205/Grant Line Rd Interchange project.	These parcels created from split of 212-290-44 which were all originally acquired through condemnation proceedings during the construction of the I-205/Grant Line Rd Interchange project. The City and the Successor Agency have an undivided interest in the property.

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96100070

GARY R. RINEHART, SBN 34787
TODD A. AMSPOKER, SBN 111245
RINEHART & AMSPOKER
2201 Broadway, Suite 805
Oakland, California 94612
Telephone: (510) 763-5100

Attorneys for plaintiffs
City of Tracy and Tracy
Community Development Agency

FILED

SEP 5 1986

U.S. Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
(MODESTO DIVISION)

In re

M.Y. ASSOCIATES, INC. d/ba Y.M.
ASSOCIATES,
Debtor.

No. 92-94652-A-11

Adversary Proceeding No.
96-9044-A

CITY OF TRACY and TRACY COMMUNITY
DEVELOPMENT AGENCY,

Plaintiffs

FINAL ORDER OF
CONDEMNATION

vs.

M. Y. ASSOCIATES, et al.,
Defendants.

Pursuant to the Stipulation for Judgment and Judgment
entered in this proceeding;

IT IS HEREBY ORDERED AND ADJUDGED that the real property
situated in the County of San Joaquin, State of California, and
more particularly described in Exhibit "A", attached hereto and
made a part hereof, be condemned to Plaintiff in fee simple
absolute.

96100070

Recording Requested By:

City of Tracy

Return to: TODD A. AMESPOKER
RINEHART & AMSPOLER
2201 Broadway, Suite 805
Oakland, CA 94612
Attorneys for
City of Tracy

RECORDER
COUNTY CLERK
JAMES H. HUNTER

96 OCT -1 AM 11:07

SAN JOAQUIN COUNTY
ATTORNEY

FEE

exempt

Document Title(s)

FINAL ORDER OF CONDEMNATION

96100070

1 IT IS FURTHER ORDERED AND ADJUDGED that a certified copy of
2 this Order be recorded in the office of the Recorder of San
3 Joaquin County, State of California, and thereupon title to said
4 property described in Exhibit "A" shall vest in Plaintiff in fee
5 simple absolute and all interest of Defendants M.V. ASSOCIATES,
6 INC., dba Y.M. ASSOCIATES, GEORGE PADIS, JOSEPHINE PADIS, GEORGE
7 KASTELANIDES and his spouse, DONALD H. VALLEY, MARY J. POMBO,
8 JOYCE DONALDSON, individually and as trustee, ALICE E. BURROWS,
9 BETTY ROSE MATTOS, ALFRED P. POMBO, MABEL POMBO, VIRGINIA P.
10 ABEL, trustee, DAMON R. POMBO, PAULINE POMBO, ISABEL L. MATTOS,
11 KING, SHAPIRO, MITTELMAN & BUCHMAN, MILLER, STARR & REGALIA,
12 ANGELO TSAKOPOULOS, FROSA CHRISTOPHER, PEELE FINANCIAL
13 CORPORATION, ALL-AMERICAN FORECLOSURE SERVICE, YIANNI Y.
14 MICHAELIDES aka YIANNI Y. MICHAEL, JEAN MICHAELIDES, CALIFORNIA
15 TRUST DEEDS, INC., THE JONATHAN GROUP, FIRST AMERICAN TITLE
16 COMPANY, TRACY 19.6, a California general partnership, ANDREW
17 GIANULIAS, JULIE GIANULIAS, and GUS GIANULIAS shall be
18 terminated.

19 IT IS FURTHER ORDERED AND ADJUDGED that the underground
20 sewer easement more particularly described in Exhibit "B"
21 attached hereto and made a part hereof be condemned to Plaintiff
22 and as against Defendants M.V. ASSOCIATES, INC., dba Y.M.
23 ASSOCIATES, GEORGE PADIS, JOSEPHINE PADIS, GEORGE KASTELANIDES
24 and his spouse, DONALD H. VALLEY, MARY J. POMBO, JOYCE DONALDSON,
25 individually and as trustee, ALICE E. BURROWS, BETTY ROSE MATTOS,
26 ALFRED P. POMBO, MABEL POMBO, VIRGINIA P. ABEL, trustee, DAMON R.
27 POMBO, PAULINE POMBO, ISABEL L. MATTOS, KING, SHAPIRO, MITTELMAN
28 & BUCHMAN, MILLER, STARR & REGALIA, ANGELO TSAKOPOULOS, FROSA

96100070

1 CHRISTOPHER, PEELE FINANCIAL CORPORATION, ALL-AMERICAN
2 FORECLOSURE SERVICE, YIANNI V. MICHAELIDES aka YIANNI V. MICHAEL,
3 JEAN MICHAELIDES, CALIFORNIA TRUST DEEDS, INC., THE JONATHAN
4 GROUP, FIRST AMERICAN TITLE COMPANY, TRACY 19.6, a California
5 general partnership, ANDREW GIANULIAS, JULIE GIANULIAS, and GUS
6 GIANULIAS.

7
8 Dated: 3 Sept. 1996

J. M.
JUDGE OF THE UNITED
STATES BANKRUPTCY COURT

9
10
11
12 This is to certify
13 copy of the original
of the undersigned Bankruptcy Judge.

14 Dated: 9-23-96 Michael S. McManus
Bankruptcy Judge

15 By *Deborah M. ...*
16 Deputy Clerk
17
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28

96100070

LEGAL DESCRIPTION
SANITARY SEWER EASEMENT

A 20 FOOT WIDE SANITARY SEWER EASEMENT SITUATE IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO AS SHOWN ON THE MAP FILED MARCH 7 1911 IN VOLUME 5 AT PAGE 12 OF OFFICIAL MAPS AND PLATS OF SAN JOAQUIN COUNTY AND BEING ALSO A PORTION OF THE LANDS OF M.V. ASSOCIATES, INC. AS DESCRIBED IN THE GRANT DEED SERIES 88-082612 OF OFFICIAL RECORDS OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EASTERLY LINE OF LOT 39 OF SAID NAGLEE BURK TRACT BEING MARKED UPON THE GROUND BY AN 3/4" IRON PIPE AS SHOWN ON THE RECORD OF SURVEY MAP FILED AUGUST 28 1969 IN BOOK 19 OF SURVEYS AT PAGE 122 OF OFFICIAL RECORDS OF SAN JOAQUIN COUNTY FROM WHICH THE NORTHEAST CORNER OF LOT 36A OF SAID NAGLEE BURK TRACT BEING MARKED UPON THE GROUND BY A SPIKE WITH CHISELED CROSS AS SHOWN ON SAID RECORD OF SURVEY BEARS NORTH 00°28'17" WEST 4588.84 FEET; THENCE FROM SAID POINT OF COMMENCEMENT COINCIDENT WITH THE CENTERLINE OF NAGLEE ROAD AND BEING ALSO THE EASTERLY LINE LOT 39 OF SAID NAGLEE BURK TRACT NORTH 00°28'17" WEST 875.77 FEET; THENCE SOUTH 89°31'43" WEST 30.00 FEET TO THE NORTHEASTERLY CORNER OF PARCEL "B" AS SHOWN ON SAID RECORD OF SURVEY; THENCE COINCIDENT WITH THE NORTHERLY LINE OF SAID PARCEL "B" SOUTH 89°31'43" WEST 264.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL "B"; THENCE COINCIDENT WITH THE NORTHERLY LINE OF PARCEL "A" AS SHOWN ON SAID RECORD OF SURVEY SOUTH 89°31'43" WEST 685.09 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING COINCIDENT WITH SAID NORTHERLY LINE NORTH 89°31'43" EAST 30.85 FEET; THENCE SOUTH 49°07'16" WEST 141.82 FEET TO THE WESTERLY LINE OF LOT 39 OF SAID NAGLEE BURK TRACT SAID COURSE BEING PARALLEL AND DISTANT 85.00 FEET FROM THE CENTERLINE OF THE SOUTHERLY TRANSMISSION LINE TOWERS AS THEY NOW EXIST; THENCE COINCIDENT WITH SAID WESTERLY LINE NORTH 00°28'17" WEST 26.27 FEET; THENCE NORTH 49°07'16" EAST 101.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.425 SQUARE FEET OR 0.056 ACRES MORE OR LESS.

END OF DESCRIPTION

file is: c:\tracy\plats\legaldtc
parcel: m.v. associates - ssa
apn 212-040-28

EXHIBIT B

96100070

City of Tracy
County of San Joaquin

A.P. No. 212-040-28
M.Y. Associates, et al

Legal Description

That portion of Lot 39 of the Naglee Burk Tract in the City of Tracy, County of San Joaquin, State of California, as per map recorded in Volume 5, Page 18, of Book of Maps and Plans in the office of the County Recorder of said County, described as follows:

BEGINNING at the intersection of the westerly line of said Lot 39 and the northerly line of Naglee Road as described as Parcel 5 in the Final Order of Condemnation recorded September 26, 1969 in Book 3338, Page 327, of Official Records in said office of the County Recorder; thence along said westerly line N. $0^{\circ}02'45''$ W., 396.84 feet to the beginning of a curve concave to the southeast having a radius of 661.00 feet; thence leaving said line from a tangent line bearing N. $58^{\circ}01'49''$ E., northeasterly 184.30 feet along said curve through a central angle of $15^{\circ}58'30''$; thence N. $74^{\circ}00'19''$ E., 405.89 feet to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence northeasterly 17.25 feet along said curve through a central angle of $1^{\circ}50'00''$ to the beginning of a curve concave to the northwest having a radius of 35.00 feet; thence northerly 62.02 feet along said curve through a central angle of $101^{\circ}31'52''$; thence N. $29^{\circ}21'33''$ W., 50.62 feet; thence N. $60^{\circ}38'27''$ E., 134.50 feet; thence S. $29^{\circ}21'33''$ E., 50.00 feet to the beginning of a curve concave to the north having a radius of 35.00 feet; thence easterly 62.23 feet along said curve through a central angle of $101^{\circ}52'46''$ to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence easterly 180.50 feet along said curve through a central angle of $39^{\circ}11'12''$ to the southerly line of Parcel B as per map recorded in Book 19, Page 122 of Surveys in the office of said County Recorder; thence along said line N. $89^{\circ}57'15''$ E., 141.84 feet to the beginning of a curve concave to the northwest having a radius of 666.00 feet; thence leaving said line from a tangent line bearing S. $23^{\circ}31'57''$ W., southwesterly 306.71 feet along said curve through a central angle of $26^{\circ}23'12''$ to Point A; thence on a non-tangent line S. $11^{\circ}06'39''$ W., 43.87 feet; thence S. $27^{\circ}41'51''$ E., 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of $3^{\circ}40'30''$ to said northerly line of Naglee Road the beginning of a curve concave to the northwest having a radius of 570.00 feet; thence along said line from a tangent line bearing S. $35^{\circ}32'38''$ W., southwesterly 345.32 feet along said curve through a central angle of $34^{\circ}42'42''$; thence S. $70^{\circ}15'20''$ W., 405.62 feet to the beginning of a curve concave to the north having a radius of 570.00 feet; thence westerly 200.21 feet along said curve through a central angle of $20^{\circ}07'30''$; thence N. $89^{\circ}37'10''$ W., 72.10 feet to the point of beginning.

Containing an area of 430,263 square feet (9.88 acres) more or less.

96100070

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights of access, appurtenant to grantor's remaining property, in and to said freeway over and across the following courses:

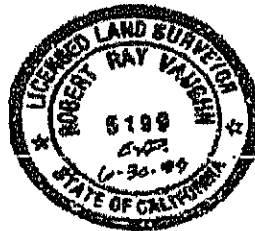
Beginning at the above-described Point A; thence S. $11^{\circ}06'39''$ W., 43.87 feet; thence S. $27^{\circ}41'51''$ E., 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of $3^{\circ}40'30''$ to said northerly line of Naglee Road, the point of termination.

The bearings and distances used are on the California Coordinate System of 1983, Zone 3. Multiply distances used by 1.0000675 to obtain ground level distances.

This real property description has been prepared by me, or under my direction, in conformance with the Professions' Land Surveyors Act.

Robert Ray Vaughn
Robert Ray Vaughn LS 5199

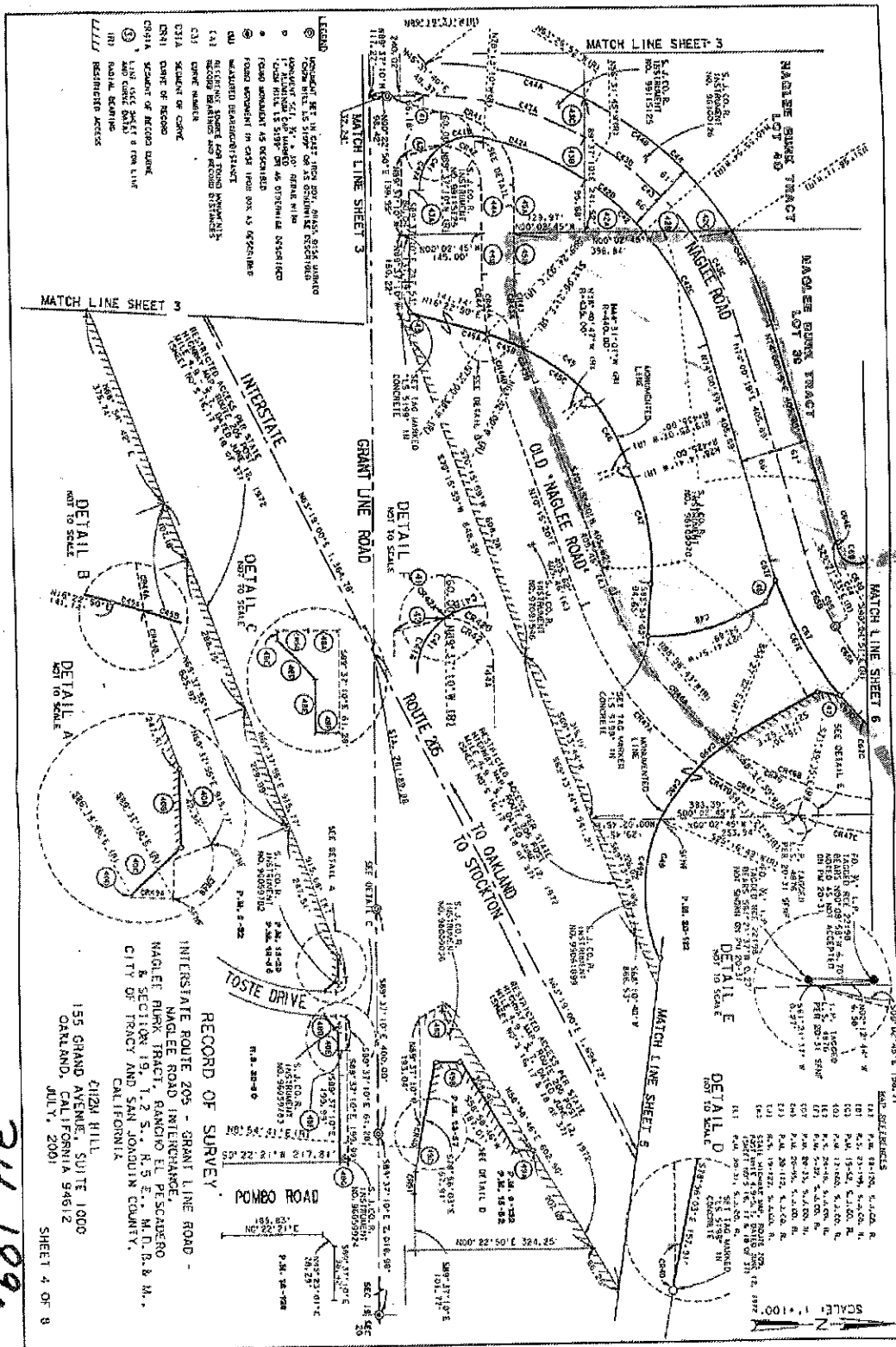
12-4-95
Date



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EXHIBIT D

1 of 1)



The plot of APN 212-040-28's legal description as shown in the Final Order of Condemnation was interpreted by City staff. This has not been surveyed and is believed to be an accurate visualization of the Legal description of APN 212-040-28 but no warranty is express or implied.

EXHIBIT D

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RECORDING REQUESTED BY:**CITY OF TRACY**

When Recorded Mail To:
 City of Tracy
 Office of the City Clerk
 333 Civic Center Plaza
 Tracy, CA 95376
 ATTN: Carole Fleischmann

Doc #: 2012-126277
 09/28/2012 08:49:08 AM
 Page: 1 of 5 Fee: \$0
 Kenneth W Blakemore
 San Joaquin County Recorder
 Paid By: SHOWN ON DOCUMENT



Space above this line for Recorder's Use

QUITCLAIM DEED

APN 212-290-44

District	County	Route	Post Mile	Number
10	SJ	205	5.3	16585-1

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
 CITY OF TRACY, a municipal corporation,

does hereby remise, release, and quitclaim to the STATE OF CALIFORNIA, all of its rights, title, and
 interest in the following described real property in the City of Tracy, County of San Joaquin, State of
 California, as described in Exhibit "A" and "B", attached hereto and made a part hereof.

SEE

ATTACHED

LEGAL DESCRIPTION

for

"OLD NAGLEE ROAD"

APN 212-290-44

Number
16585-1

IN WITNESS WHEREOF, said corporation has caused its corporate name to be hereunto subscribed and its corporate seal to be affixed hereto, this 20th day of SEPTEMBER 2012.

CITY OF TRACY

Brent Ives
By: Brent Ives
Title: City Mayor

Date: 9/20/12

Attest:

Sandra Edwards
By: Sandra Edwards
Title: City Clerk

Date: 9-20-12

[CORPORATE SEAL]

State of California
County of San Joaquin

} ss

ACKNOWLEDGMENT

(Here insert name and title of the officer)

On 9/20/12 before me, Sharon K. Davis, Notary Public, personally
appeared Brent H. Ives

_____, 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 (Seal)

THIS IS TO CERTIFY, That the State of California, acting by and through the Department of Transportation
(pursuant to Government Code Section 27281), hereby accepts for public purposes the real property described in
the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand

This 27th day of September, 2012.

MALCOM DOUGHERTY
Acting Director of Transportation

By Sharon A. Parsons
Attorney in Fact

SHARON A. PARSONS
RIGHT OF WAY ACQUISITIONS CHIEF
E-2

LEGAL DESCRIPTION
"OLD NAGLEE ROAD"
212-290-44

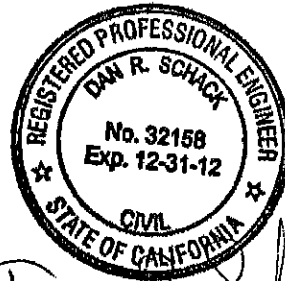
THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOTS 39 AND 40 OF NAGLEE BURK TRACT ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN VOLUME 5 OF MAPS AND PLATS, PAGE 18, SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF PARCEL A, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD JULY 13, 2005 IN BOOK 23 OF PARCEL MAPS, AT PAGE 125, SAN JOAQUIN COUNTY RECORDS; THENCE NORTH 16 DEGREES 22 MINUTES 50 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID PARCEL A AND PARCEL C OF SAID MAP, 141.14 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERLY LINE OF PARCEL C, ALONG A CURVE TO THE NORTHWEST, HAVING A RADIUS OF 440.00 FEET, AN ARC LENGTH OF 4.67 FEET, A CENTRAL ANGLE OF 00 DEGREES 36 MINUTES 32 SECONDS AND A CHORD BEARING NORTH 16 DEGREES 41 MINUTES 07 SECONDS EAST, 4.67 FEET TO A POINT ON THE SOUTH LINE OF "OLD NAGLEE ROAD" AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY MAP, FILED FOR RECORD ON AUGUST 30, 2001 IN BOOK 34 OF SURVEYS, AT PAGE 189, SAN JOAQUIN COUNTY RECORDS, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED STRIP OF LAND; THENCE CONTINUING ALONG THE EASTERLY LINE OF PARCEL C AS SHOWN ON SAID PARCEL MAP (BOOK 23, PAGE 125) ALONG A CURVE TO THE NORTHWEST, HAVING A RADIUS OF 440.00 FEET, AN ARC LENGTH OF 71.50 FEET, A CENTRAL ANGLE OF 09 DEGREES 18 MINUTES 38 SECONDS AND A CHORD BEARING 21 DEGREES 38 MINUTES 40 SECONDS EAST, 71.42 FEET TO A POINT ON THE NORTH LINE OF "OLD NAGLEE ROAD" AS SHOWN ON SAID RECORD OF SURVEY (BOOK 34, PAGE 189); THENCE ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" ALONG A CURVE TO THE NORTHEAST, HAVING A RADIUS OF 570.00 FEET, AN ARC LENGTH OF 66.04 FEET, A CENTRAL ANGLE OF 06 DEGREES 38 MINUTES 19 SECONDS AND A CHORD BEARING NORTH 73 DEGREES 34 MINUTES 31 SECONDS EAST, 66.00 FEET TO A POINT; THENCE CONTINUING ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" NORTH 70 DEGREES 15 MINUTES 20 SECONDS EAST, ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD," 405.62 FEET TO A POINT; THENCE CONTINUING ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" ALONG A CURVE TO THE NORTHEAST, HAVING A RADIUS OF 570.00 FEET, AN

EXHIBIT "A"
Page 2 of 2

ARC LENGTH OF 78.68 FEET, A CENTRAL ANGLE OF 07 DEGREES 54 MINUTES 31 SECONDS, AND A CHORD BEARING NORTH 66 DEGREES 18 MINUTES 04 SECONDS EAST, 78.62 FEET TO A POINT; THENCE SOUTHERLY ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 395.00 FEET, AN ARC LENGTH OF 75.23 FEET, A CENTRAL ANGLE OF 10 DEGREES 54 MINUTES 46 SECONDS AND A CHORD BEARING SOUTH 11 DEGREES 33 MINUTES 08 SECONDS WEST, 75.12 FEET TO A POINT ON THE SOUTH LINE OF SAID "OLD NAGLEE ROAD"; THENCE ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD," ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 630.00 FEET, AN ARC LENGTH OF 39.43 FEET, A CENTRAL ANGLE OF 03 DEGREES 35 MINUTES 10 SECONDS AND A CHORD BEARING SOUTH 68 DEGREES 27 MINUTES 45 SECONDS WEST, 39.43 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD" SOUTH 70 DEGREES 15 MINUTES 20 SECONDS WEST, 405.62 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD", ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 630.00 FEET, AN ARC LENGTH OF 113.73 FEET, A CENTRAL ANGLE OF 10 DEGREES 20 MINUTES 37 SECONDS AND A CHORD BEARING SOUTH 75 DEGREES 25 MINUTES 39 SECONDS WEST, 113.58 FEET TO THE POINT OF BEGINNING.



Dan R. Schack
03/14/11



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**CITY OF TRACY
PURCHASE AND SALE OF REAL PROPERTY AGREEMENT**

This Purchase and Sale Agreement ("Agreement") is entered into between the CITY OF TRACY, a municipal corporation, (hereinafter "CITY") acting as the Governing Board of the Successor Agency to the Community Development Agency of the City of Tracy, and Manteca Hospitality, Inc. (hereinafter "BUYER") for the purchase of certain real property owned by CITY.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Purchase.** CITY agrees to sell to BUYER and BUYER agrees to purchase from CITY upon the terms and for the consideration set forth in this Agreement, all that certain real property situated in the City of Tracy, County of San Joaquin, State of California, consisting of approximately 20,081 square feet of land, commonly known as 3055 N. Corral Hollow Road, with Assessor's parcel number 212-260-09, which is legally described in Exhibit A attached hereto and made a part hereof (hereinafter "PROPERTY").
2. **Purchase Price.** BUYER will pay CITY the sum of FIFTEEN THOUSAND SIXTY AND 75/100 DOLLARS (\$15,060.75) as consideration for the purchase of the fee property identified in Exhibit A.
3. **Conveyance.** Conveyance by CITY shall be all of its right, title and interest in the PROPERTY.
4. **Escrow.**
 - a. **Escrow Instructions.** BUYER hereby authorizes CITY to prepare escrow instructions in accordance with this Agreement on behalf of both parties.
 - b. **Deposit of Purchase Price.** Prior to the close of escrow, BUYER will deposit into escrow, or cause to be deposited into escrow, all funds if due and/or documents, required from BUYER to enable escrow to close. CITY agrees to deposit with the Escrow Agent a Grant Deed conveying the PROPERTY to BUYER, together with such other instruments as are necessary.
 - c. **Title.** Title to the PROPERTY shall be vested to: Manteca Hospitality, Inc.
 - d. **Escrow Fees, Charges, and Costs.** BUYER shall pay all recording fees, title insurance, documentary stamp taxes, or other real estate transaction costs, taxes or fees by whatever name known, including escrow fees or brokers commission, if any, and personal property sales taxes where applicable. CITY shall have no liability or responsibility for any costs, taxes, fees, or expenses.
5. **Right of Possession and Use.** BUYER's right of possession shall begin at close of Escrow. The consideration shown in Section 2, includes, but is not limited to, full payment for the possession and use from that date, including interest and damages if any.

6. **Property Taxes.** BUYER further acknowledges full responsibility, and CITY shall have no liability or responsibility, for the payment of all property taxes and assessments accruing after the close of escrow.
7. **AS-IS Condition of the Property/Buyer's Examination of the Property.** CITY makes no warranty as to the condition of the property and BUYER agrees that it is purchasing the PROPERTY "as is" and in reliance on BUYER's own investigation, which it has had the opportunity to conduct to its satisfaction prior to the date of execution of this Agreement. BUYER will fund repairs required by lenders, if required.
8. **Binding on Successors and Assigns.** The terms, conditions, covenants and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.
9. **Payment of Deed of Trust.** If applicable, CITY agrees to subordinate CITY'S deed of trust to any purchase money deed of trust incurred by BUYER in this transaction.
10. **Approval of City.** This Agreement is subject to the approval of CITY. This Agreement shall have no force or effect unless and until the City Council approves it and the City's Authorized Representative executes the Agreement.
11. **Specific Performance.** In the event of a breach of this Agreement, the non-breaching party shall be entitled to pursue any and all remedies available to it, without limitation, claims for damages attributable to the breach, and specific performance of this Agreement.
12. **Miscellaneous.**
 - a. **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 other party as follows:
 - i. Mailing address of BUYER:
Manteca Hospitality, Inc.
28214 Leaf Drive
Tracy, CA 95304
 - ii. Mailing address of CITY:
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
 - iii. With a copy to:
City Attorney
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

- iv. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days after the deposit in United States Mail of registered or certified mail, sent to the address designated above.
- b. Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- c. 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.
- d. Governing Law. This Agreement shall be governed under the laws of the State of California.
- e. Exhibits. All exhibits referred to in this Agreement, and any exhibits which may from time to time be referred to in any duly executed amendment to this Agreement, are by such reference incorporated herein and are a part of this Agreement. The exhibits to this Agreement are as follows:

Exhibit A – Legal Description of PROPERTY

- f. Counterparts Signature. This Agreement may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one agreement.
- g. Entire Agreement. This Agreement comprises the entire integrated understanding between the parties concerning this purchase and sale. This Agreement superseded all prior negotiations, representations or agreements.

SIGNATURES ARE ON THE FOLLOWING PAGE

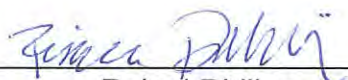
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written herein below.

BUYER:
MANTECA HOSPITALITY, INC.

CITY OF TRACY,
A MUNICIPAL CORPORATION

By: 
Rupinder Dhillon
Title: Chief Executive Officer
Date: 6/27/19

By: _____
Robert Rickman
Title: Mayor
Date: _____

By: 
Rajpal Dhillon
Title: Chief Financial Officer
Date: 6/27/19

Attest: _____
City Clerk

Approved as to Form:

By: _____
City Attorney

Date: _____

City of Tracy Purchase and Sale Agreement

Rev. Jan 2018

EXHIBIT A

Legal Description of Property

A parcel of land located in the County of San Joaquin, State of California; said parcel being all that real property described in the Director's Deed to the United States of America recorded October 13, 1970 as Document No. 41449 in Book 3445 at page 260 of the Official Records of said county and more particularly described as follows:

A portion of Lot 3 in Block 18 of "TRACY GARDEN FARMS," as shown on the official map or plat thereof, filed for record on October 2, 1913 in Volume 8 of Maps and Plats, at Page 1, of the San Joaquin County Records, containing an area of 0.55 acre (23, 9258 square feet) more or less.

Except therefrom the following described strip of land:

Commencing at the most southerly corner of that parcel of land described in the Director's Deed to the United States of America recorded October 13, 1970 in Book 3445, page 260, of Official Records in the office of the County Recorder of said County; POINT OF BEGINNING; thence leaving said line. N. 0° 21' 46" E., 13.61 feet; thence N. 62° 14' 33" E., 307.43 feet; thence S. 89° 31' 39" E., 25.37 feet to said southeasterly line; thence along said line S. 62° 14' 33" W., 336.19 feet to the point of beginning

Containing 20,081 square feet (0.46 acre), more or less.

Assessor's Parcel Number: 212-260-09

EXHIBIT A

Legal Description of Property

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Containing 20,081 square feet (0.46 acre), more or less.

Assessor's Parcel Number: 212-260-09

RESOLUTION 2019-

APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY (CITY), ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (AGENCY), AND MANTECA HOSPITALITY, INC., AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY AND THE CHAIRMAN ON BEHALF OF THE SUCCESSOR AGENCY TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, The City Council of the City of Tracy is acting as the Governing Board of the Successor Agency to the Community Development Agency of the City of Tracy, and State legislation implementing the dissolution of Redevelopment in California requires the disposal of real property owned by the former Community Development Agency, and the disposal process is to be carried out pursuant to a Long Range Property Management Plan (LRPMP) approved and submitted by the Successor Agency Oversight Board, and

WHEREAS, On December 8, 2015, the California Department of Finance issued a Finding of Completion for the LRPMP, and on December 30, 2015, the City of Tracy received approval of the LRPMP from the California Department of Finance, providing for the sale of the subject property, and

WHEREAS, The Tracy City Council approved the LRPMP on July 16, 2016, providing for the execution of all related documents, and

WHEREAS, The subject property has no useful value to the City and is a maintenance liability, and

WHEREAS, Sale of the subject property will enable commercial development of the property and thereby support economic development goals of the City, and

WHEREAS, The City of Tracy Planning Commission determined that the sale of this property is in conformance with the City's General Plan, and

WHEREAS, Manteca Hospitality, Inc. has offered to purchase the 20,081 square foot parcel of vacant, real property adjacent to its property, to incorporate the subject property into future development, and

WHEREAS, The City negotiated a sale price, based on appraisal information and negotiations, of \$0.75 per square foot, or \$15,060.75;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby:

- (1) Finds that it is in the best interest of the City of Tracy, acting as the Successor Agency to the Community Development Agency of the City of Tracy, to sell the subject real property in accordance with the LRPMP and authorizes the Mayor on behalf of the City and the Chairman on behalf of the Successor Agency to execute the Agreement and related documents; and
- (2) Approves the purchase and sale agreement with Manteca Hospitality, Inc. to sell the subject real property for \$15,060.75.

The foregoing Resolution 2019-_____ was adopted by the City Council on the 5th day of November, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

MAYOR

CITY CLERK

AGENDA ITEM 1.G

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1273, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3560 OF THE TRACY MUNICIPAL CODE RELATING TO LANDSCAPING REQUIREMENTS FOR PARKING AREAS

EXECUTIVE SUMMARY

Ordinance 1273 was introduced at the regular Council meeting held on October 15, 2019. Ordinance 1273 is before Council for adoption.

DISCUSSION

Article 26 of Title 10 of the Tracy Municipal Code (TMC) establishes landscaping requirements for off-street parking areas, including the quantity, size, and placement of trees. Trees provide multiple benefits, including aesthetics, shading, carbon sequestration, habitats, and reduction of heat island effect. City staff has been gaining increasing interest from property owners desiring to install photovoltaic array (also known as solar panel) carports over their parking areas. Ordinance 1273 was introduced at the regular Council meeting held on October 15, 2019. The Ordinance will amend Section 10.08.3560 of the Tracy Municipal Code relating to Landscaping Requirements for Parking Areas. The proposed amendment would exempt parking areas covered by solar panel carports from the canopy tree shading requirement and clarify that, at planting, landscaping shall adhere to the Citywide Design Goals and Standards and applicable specific plan and that the required rate of one tree per five parking spaces is a minimum requirement.

Ordinance 1273 is before City Council for adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

This agenda item will not require any expenditure of funds. The applicant paid the fees established by the City Council for processing a zoning ordinance amendment.

RECOMMENDATION

That City Council adopt Ordinance 1273.

Prepared by: Jessica Nunes, Deputy City Clerk

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

Approved by: Jenny Haruyama, City Manager

ORDINANCE 1273

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3560 OF THE TRACY MUNICIPAL CODE RELATING TO LANDSCAPING REQUIREMENTS FOR PARKING AREAS

WHEREAS, Tracy Municipal Code section 10.08.3560 outlines the landscaping requirements for parking areas in the City, and

WHEREAS, The proposed amendments will exempt from the City's parking area tree shading requirements those portions of parking areas where photovoltaic array carports are located directly overhead, and

WHEREAS, The proposed amendments will also clarify that, at planting, landscaping shall adhere to the Citywide Design Goals and Standards and applicable specific plan and clarify that the required rate of one tree per five parking spaces is a minimum requirement, and

WHEREAS, The proposed amendments are not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)), and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on September 11, 2019 and recommended that City Council amend the Tracy Municipal Code Section 10.08.3560, subsections (c) and (d) regarding landscaping requirements for parking areas, and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on October 15, 2019;

NOW THEREFORE, The City Council of the City of Tracy hereby ordains as follows:

SECTION 1. Subsections (c) and (d) of Section 10.08.3560, Landscaping Requirements for Parking Areas, of Article 26, Off-Street Parking Requirements, of Chapter 10.08, Zoning Regulations, of Title 10, Planning and Zoning, of the Tracy Municipal Code is amended to read as follows:

“(c) Landscaping shall consist of plant materials and shall include a combination of trees, shrubs, and ground cover. At planting, landscaping shall be of the size established in the Citywide Design Goals and Standards and applicable specific plan.

(d) Trees shall be of a type approved by the Director of Development Services and shall be provided as follows:

(1) Trees planted at a minimum rate of one tree per each five (5) required auto parking spaces.

(2) Canopy trees shall be evenly distributed throughout the parking area so that a minimum of forty (40%) percent of the parking area is shaded at tree maturity. Canopy trees shall be the

type that normally achieves a minimum canopy diameter of twenty-five (25') feet.

(3) Where photovoltaic array carports are located in the parking area, the portions of the parking area that are directly beneath the footprint of the photovoltaic array carports are exempt from the requirements of subsection (d)(2) of this section."

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 1273 was introduced at a regular meeting of the Tracy City Council on the 15th day of October 2019, and finally adopted on the 5th day of November, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.H

REQUEST

ACCEPT THE CONSTRUCTION OF THE MCDONALD PARK SPLASH PAD RECIRCULATION SYSTEM PROJECT, CIP 78162, COMPLETED BY CAZADORO CONSTRUCTION OF SAN FRANCISCO, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AUTHORIZE AN APPROPRIATION OF \$6,500 FROM THE GENERAL PROJECTS FUND (F301); AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

EXECUTIVE SUMMARY

The contractor has completed construction of the McDonald Park Splash Pad Recirculation System Project, CIP 78162. Project costs are within the available budget. Staff recommends Council accept the Project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

On September 4, 2018, City Council awarded a construction contract to Cazadoro Construction of San Francisco, California, for the McDonald Park Splash Pad Recirculation System Project, CIP 78162, for \$379,700.

The scope of the Project included a filtration system retrofit to an existing splash pad, including prefabricated masonry equipment building, underground tank, trenching, utilities, landscaping, mechanical, plumbing, electrical, and concrete.

The Project improvement plans and specifications were prepared in-house by the Engineering Division.

During construction of the Project, the contractor discovered that the underground recirculation tank as specified for the Project was not capable of supporting significant weight. Additional improvements were needed to protect the tank from potential failure due to excessive weight and solve the aesthetic issue caused by protection of the tank. Staff received City Council approval for additional funding on June 4, 2019 to make these changes. Staff executed three change orders for \$79,646 to accommodate these unforeseen conditions.

Project costs are as follows:

A.	Construction Contract Amount	\$	379,700
B.	Approved Change orders	\$	79,646
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	\$	68,153
	Total Project Costs	\$	527,499
	Total Budget Available	\$	521,000

The Project has been completed within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

FISCAL IMPACT

The McDonald Park Splash Pad Recirculation System Project, CIP 78162, is an approved Capital Improvement Project with total funding in the amount of \$521,000. With the total project cost of \$527,499, an appropriation of \$6,500 from the General Projects Fund (F301) is needed to close out the Project.

RECOMMENDATION

That City Council accept, by resolution, the construction of the McDonald Park Splash Pad Recirculation System Project, CIP 78162, completed by Cazadoro Construction of San Francisco, California; authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; authorize the City Engineer to release the bonds and retention payment; authorize an appropriation of \$6,500 from the General Projects Fund (F301); and authorize the Finance Department to close the Project.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

ACCEPTING THE CONSTRUCTION OF THE MCDONALD PARK SPLASH PAD RECIRCULATION SYSTEM PROJECT, CIP 78162, COMPLETED BY CAZADORO CONSTRUCTION OF SAN FRANCISCO, CALIFORNIA; AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER; AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AUTHORIZING AN APPROPRIATION OF \$6,500 FROM THE GENERAL PROJECTS FUND (F301); AND AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, On September 4, 2018, City Council awarded a construction contract to Cazadoro Construction of San Francisco, California, for the McDonald Park Splash Pad Recirculation System Project, CIP 78162, for \$379,700, and

WHEREAS, The scope of the Project included the retrofit of a filtration system to an existing splash pad, including prefabricated masonry equipment building, underground tank, trenching, utilities, landscaping, mechanical, plumbing, electrical, and concrete, and

WHEREAS, Three (3) change orders in the amount of \$79,646 were issued, and

WHEREAS, The status of budget costs is as follows:

A.	Construction Contract Amount	\$	379,700
B.	Approved Change orders	\$	79,646
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	\$	<u>68,153</u>
	Total Project Costs	\$	527,499
	Total Budget Available	\$	521,000

WHEREAS, The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards, and

WHEREAS, The McDonald Park Splash Pad Recirculation System Project, CIP 78162, is an approved Capital Improvement Project with total funding in the amount of \$521,000. With the total Project cost of \$527,499, an appropriation of \$6,500 from the General Projects Fund (F301) is needed to close out the Project;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the McDonald Park Splash Pad Recirculation System Project, CIP 78162, completed by Cazadoro Construction of San Francisco, California; authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; authorizes the City Engineer to release the bonds and retention payment; authorizes an appropriation of \$6,500 from the General Projects Fund (F301); and authorizes the Finance Department to close the Project.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.I

REQUEST

ACCEPT THE CONSTRUCTION OF ROOF IMPROVEMENTS TO THE POLICE ANNEX AND FIRE ADMINISTRATION BUILDINGS, CIPs 71102 & 71105, COMPLETED BY BARTH ROOFING COMPANY OF TRACY, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

EXECUTIVE SUMMARY

The contractor has completed construction of the roofing improvements to the Police Annex and Fire Administration Buildings, CIPs 71102 and 71105. Project costs are within the available budget. Staff recommends Council accept the Project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

On November 7, 2018, City Council awarded a construction contract to Barth Roofing Company of Tracy, California, in the total amount of \$218,000 for construction of the roofing improvements to the Police Annex and Fire Administration Buildings, CIPs 71102 and 71105.

The scope of work included installation of thermoplastic membrane roofing system on top of the existing system, along with, the installation of prefabricated flashings, corners, and stacks. Work also included the removal and disposal of existing roof debris, new parapet roof scuppers, installation of pressure treated wood blocking under existing conduits and pipelines, and re-connection of all A/C condensation lines.

The Project improvement plans and specifications were prepared in-house by the Engineering Division staff.

During construction of the Project, the contractor performed a thickness test on the existing roof membrane of the Police Annex Building. The layering of existing roof membranes thickness exceeded the structural load capability of the roof design. To comply with the loading requirements, staff received Council approval on June 4, 2019 to remove all existing layers from the roof and re-roof the building. Staff then negotiated a change order in the amount of \$142,930 to perform the extra work.

Project costs are as follows:

	71102	71105
Construction Contract Amount	\$ 143,000	\$ 75,000
Approved Change orders	\$ 142,930	
Design, construction management, inspection, Testing & miscellaneous project management	\$ 27,522	\$ 25,635
Total Project Costs	\$ 313,452	\$ 100,635
 Total Budget Available	 \$ 364,500	 \$ 239,500
 Budget Remaining	 \$ 51,048	 \$ 138,865

The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work (including rain delays), per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

FISCAL IMPACT

Construction of the roofing improvements to the Police Annex (CIP 71102) and Fire Administration Building (CIP 71105) are approved Capital Improvement Projects with a total project cost of \$414,087. The total project budget is \$604,000 funded from General Projects Fund (F301); the remaining funds in the amount of \$189,913 will be released back into fund balance.

RECOMMENDATION

That City Council accept, by resolution, the construction of the roofing improvements to the Police Annex and Fire Administration Buildings, CIPs 71102 and 71105, completed by Barth Roofing of Tracy, California; authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; authorize the City Engineer to release the bonds and retention payment; and authorize the Finance Department to close the Project.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

ACCEPTING THE CONSTRUCTION OF ROOF IMPROVEMENTS TO THE POLICE ANNEX AND FIRE ADMINISTRATION BUILDINGS, CIPs 71102 & 71105, COMPLETED BY BARTH ROOFING COMPANY OF TRACY, CALIFORNIA; AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, On November 7, 2018, City Council awarded a construction contract to Barth Roofing Company of Tracy, California, in the total amount of \$218,000 for construction of the roofing improvements to the Police Annex and Fire Administration Buildings, CIPs 71102 and 71105, and

WHEREAS, The scope of work included installation of thermoplastic membrane roofing system on top of the existing system, installation of prefabricated flashings, corners, and stack. Work also included the removal and disposal of existing roof debris, pull tests to verify plywood underlayment condition, new parapet roof scuppers, installation of pressure treated wood blocking under existing conduits and pipelines, and re-connection of all A/C condensation lines, and

WHEREAS, One (1) change order in the amount of \$142,930 was issued, and

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

	71102	71105
Construction Contract Amount	\$ 143,000	\$ 75,000
Approved Change orders	\$ 142,930	
Design, construction management, inspection, Testing & miscellaneous project management	\$ 27,522	\$ 25,635
Total Project Costs	\$ 313,452	\$ 100,635
 Total Budget Available	 \$ 364,500	 \$ 239,500
 Budget Remaining	 \$ 51,048	 \$ 138,865

WHEREAS, The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work (including rain delays), and per plans, specifications, and City of Tracy standards, and

WHEREAS, The remaining funds in the amount of \$189,913 will be released back into General Projects (F301) fund balance;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the roofing improvements to the Police Annex and Fire Administration Buildings, CIPs 71102 and 71105, completed by Barth Roofing of Tracy, California; authorizes the City Clerk to record the Notice of Completion with the San Joaquin

County Recorder; authorizes the City Engineer to release the bonds and retention payment; and authorizes the Finance Department to close the Project.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.J

REQUEST

REJECT ALL BIDS RECEIVED FOR CONSTRUCTION OF THE CHERRY BLOSSOM COURT LANDSCAPING PROJECT, CIP 73172, AND AUTHORIZE STAFF TO RE-ADVERTISE THE PROJECT

EXECUTIVE SUMMARY

Staff recommends the rejection of all bids for the construction of the Cherry Blossom Court Landscaping Project due to the fact that bids were much higher than estimated. The Project is defined in the plans and specifications to include the construction of a sidewalk and associated landscaping in the existing corridor between Middlefield Drive and Cherry Blossom Court.

DISCUSSION

City staff surveyed the City for potential pedestrian connectivity projects and Cherry Blossom Court and Middlefield Drive was an ideal candidate. City staff then proposed to create CIP 73172, which would provide said connectivity and associated landscaping along the end of the cul-de-sac bulb of Cherry Blossom Court and the eastern edge of the Middlefield Drive right-of-way. The CIP project was approved on December 19, 2017.

Engineering staff prepared the project plans and specifications for the Project. The Project was advertised for competitive bids on July 26, 2019 and on August 2, 2019. On August 28, 2019, bids were publically opened and two (2) bids were received.

Engineering staff determined that the apparent lowest responsive bid is \$85,564. However, there is only \$60,000 approved from Fund 245 for the Project. This bid is also greater than the Engineer's Estimate. In addition, design costs for the Project currently total \$4,151. As a result, if this contract was awarded to the lowest responsible bidder, then the Project would require an additional \$29,714 to complete.

Engineering staff believes that rejecting the bids, re-evaluating the design, and then rebidding the Project may generate more competitive pricing. Thus, staff recommends that Council exercise its discretion, reject all bids, and re-advertise the Project pursuant to Public Contract Code section 20166. Furthermore, staff will evaluate if there are other funds to allocate to this Project. If further funds are required after the aforementioned rebidding occurs, then staff will request such allocations from Council in the subsequent bid award, which may occur between March and May of next year. With anticipated award of contract in June, construction can begin in late June and end in September.

STRATEGIC PLAN

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

FISCAL IMPACT

Currently, there is \$60,000 approved from Fund 245 for the Cherry Blossom Court Landscaping Project.

RECOMMENDATION

That City Council, by resolution, reject all bids received for construction of the Cherry Blossom Court Landscaping Project, CIP 73172, and authorize staff to re-advertise the Project.

Prepared by: Al Gali, Associate Civil Engineer
Majeed Mohamed, Assistant Engineer

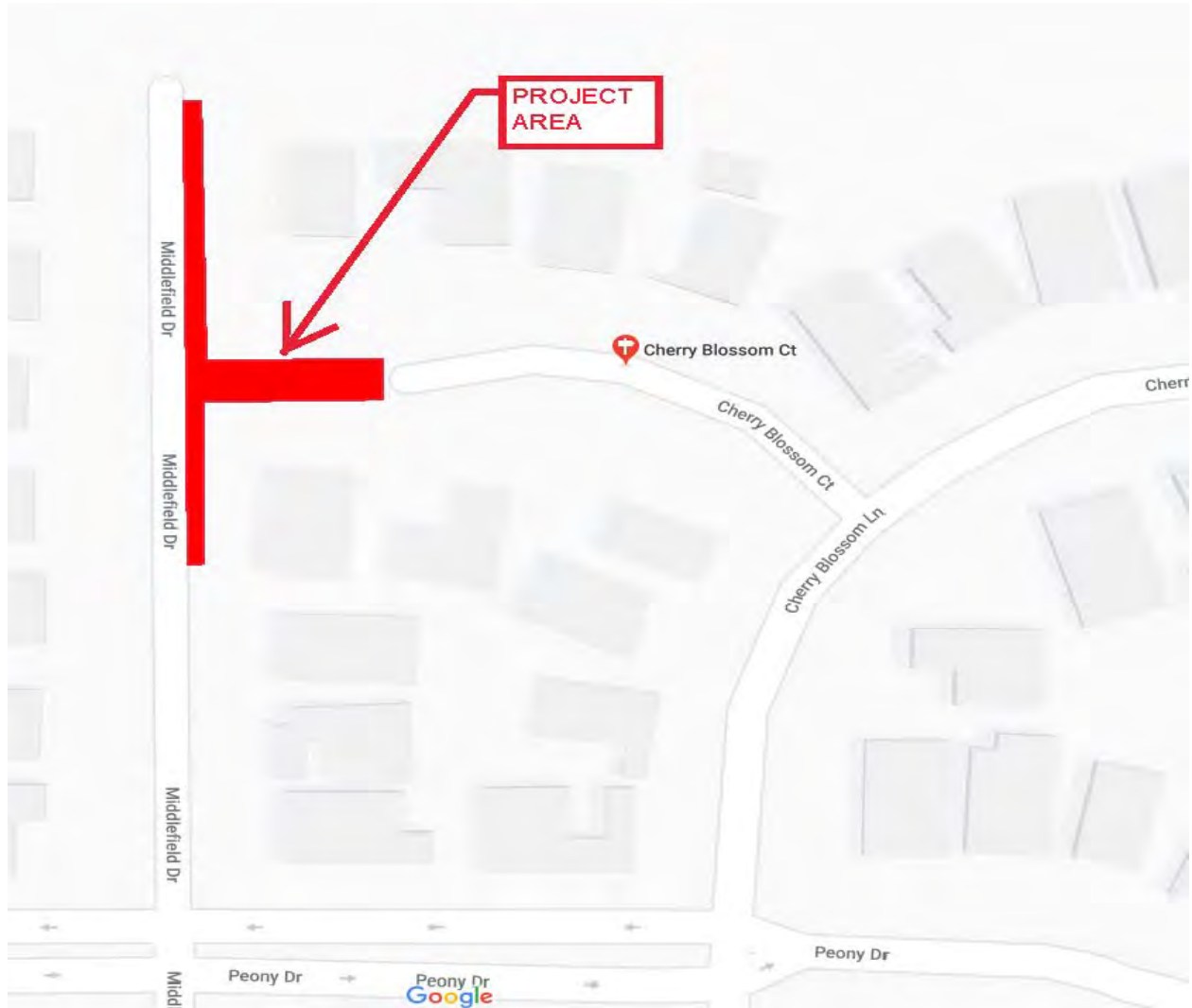
Reviewed by: Robert Armijo, PE, City Engineer/Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Location Map

ATTACHMENT A – LOCATION MAP



RESOLUTION 2019-_____

REJECTING ALL BIDS FOR THE CONSTRUCTION OF THE CHERRY BLOSSOM COURT
LANDSCAPING PROJECT, CIP 73172, AND AUTHORIZING CITY STAFF TO RE-SCOPE
AND RE-BID PROJECT

WHEREAS, City staff surveyed the City for potential pedestrian connectivity projects and Cherry Blossom Court and Middlefield Drive was an ideal candidate, and

WHEREAS, On December 19, 2017, City staff proposed to create CIP 73172, which would provide said connectivity and associated landscaping along the end of the cul-de-sac bulb of Cherry Blossom Court and the eastern edge of the Middlefield Drive right-of-way, and

WHEREAS, Engineering staff prepared the project plans and specifications for the Project, and

WHEREAS, The Project was advertised for competitive bids on July 26, 2019 and August 2, 2019, and

WHEREAS, On August 28, 2019 bids were publically opened and two (2) bids were received, and

WHEREAS, The apparent lowest responsive bid of the Project is \$85,564, and

WHEREAS, The City's Fund 245 has \$60,000 of funding for the Cherry Blossom Court Landscaping Project, and

WHEREAS, The construction phasing of the Project has a deficit of \$29,714, and

WHEREAS, The City's engineering staff believes that re-bidding the Project may produce more competitive pricing and staff will investigate if there is additional funds to allocate to the Project if that is necessary for awarding a re-bid Project, and

WHEREAS, Section 20166 of the Public Contract Code authorizes Council to exercise its discretion to reject bids and re-advertise the Project;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby rejects all bids for the construction of the Cherry Blossom Court Landscaping Project, CIP 73172, and authorizes City Staff to re-scope and re-bid the Project.

* * * * *

The foregoing Resolution 2019-_____ was adopted by the Tracy City Council on the 5th day of November 2019 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSNT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.K

REQUEST

ACCEPT THE CONSTRUCTION OF 2016-2017 OVERLAY PROJECT, CIP 73142-B, FEDERAL PROJECT NUMBER STPL-5192(043), COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA; AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZE THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT, AND AUTHORIZE THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

EXECUTIVE SUMMARY

The contractor has completed construction of the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043). Project costs are within the available budget. Staff recommends Council accept the Project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

On December 18, 2018, City Council awarded a construction contract to Knife River Construction, of Stockton, California, for the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043), in the total amount of \$827,572 for construction of the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043).

The project is part of the City's annual street improvement program and consisted of rubberized asphalt concrete overlay on Central Avenue (128 ft. north of Deerwood Lane to Tracy Boulevard) and Chester Drive (Lowell Avenue to Duncan Drive), including pavement repair, signing, striping, traffic signal loop replacement, and wedge grinding.

The Project improvement plans and specifications were prepared in-house by the Engineering Division.

During construction of the Project, the contractor discovered that existing pavement on Chester Drive was deteriorated and had no base course under the asphalt. To protect the street from future failures, the contractor was directed to remove all existing pavement and increase the asphalt concrete overlay to 3 inches. This resulted in additional cost and a contract change order, within the Council approved contingency amount per Resolution No. 2018-248, in the amount of \$49,187 to cover the extra work.

The project construction contract unit prices are based on estimated quantities. Actual payment is based on field-measured quantities installed by the Contractor. According to City inspection records, actual field measured quantities were less than the contract quantities in the amount of \$9,678. The actual construction contract payment was reduced by this amount and is listed under the project cost.

Project costs are as follows:

A.	Construction Contract Amount	\$ 817,943
B.	Approved Change orders	\$ 49,187
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	<u>\$ 21,869</u>
	Total Project Costs	\$ 888,999
	Total Budget Available	\$ 957,330
	Budget Remaining	\$ 68,331

The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life Strategy and meets the goal of enhancing the City's amenities.

FISCAL IMPACT

The Overlay Project CIP 73142B is an approved Capital Improvement Project with total funding in the amount of \$957,330. With \$650,000 of Federal Surface Transportation Program Local Grant (STPL) funds, \$108,424 from Measure K (F242) and \$198,906 from Gas Tax (F245). The total project cost was \$888,999 with a remaining balance of \$68,331 that will be released back into Gas Tax Fund Balance (F245).

RECOMMENDATION

That City Council accept, by resolution, the construction of the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043), completed by Knife River Construction of Stockton, California; authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; authorize the City Engineer to release the bonds and retention payment; and authorize the Finance Department to close the Project.

Prepared by: Paul Verma, PE, Senior Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2019-_____

ACCEPTING THE CONSTRUCTION OF 2016-2017 OVERLAY PROJECT, CIP 73142-B, FEDERAL PROJECT NUMBER STPL-5192(043), COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA; AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION; AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT; AND AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, On December 18, 2018, City Council awarded a construction contract to Knife River Construction of Stockton, California, for the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043), in the total amount of \$827,572 for construction of the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043), and

WHEREAS, The Project is part of the City's annual street improvement program and consisted of rubberized asphalt concrete overlay on Central Avenue (128 ft. north of Deerwood Lane to Tracy Boulevard) and Chester Drive (Lowell Avenue to Duncan Drive), including pavement repair, signing, striping, traffic signal loop replacement, and wedge grinding, and

WHEREAS, One (1) change order in the amount of \$49,187 was issued, and

WHEREAS, The status of budget costs is as follows:

A.	Construction Contract Amount	\$ 817,943
B.	Approved Change orders	\$ 49,187
C.	Design, construction management, inspection, Testing & miscellaneous project management Expenses	<u>\$ 21,869</u>
	Total Project Costs	\$ 888,999
	Total Budget Available	\$ 957,330
	Budget Remaining	\$ 68,331

WHEREAS, The Project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work, including rain delays, per plans, specifications, and City of Tracy standards, and

WHEREAS, The Overlay Project CIP 73142B is an approved Capital Improvement Project with total funding in the amount of \$957,330, with \$650,000 of Federal Surface Transportation Program Local Grant (STPL) funds, \$108,424 from Measure K (F242) and \$198,906 from Gas Tax (F245). The total project cost was \$888,999 with a remaining balance of \$68,331 that will be released back into Gas Tax Fund Balance (F245);

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the Overlay Project CIP 73142-B Federal Project Number STPL-5192(043), completed by Knife River Construction of Stockton, California; authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder; authorizes

the City Engineer to release the bonds and retention payment; and authorizes the Finance Department to close the Project.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.L

REQUEST

APPROVE CHANGE ORDER NO. 3 IN THE AMOUNT OF \$1,881,610 TO MOUNTAIN CASCADE, INC., TO EXTEND THE RECYCLED WATER PIPELINE BY APPROXIMATELY 4,120 LF ON LAMMERS ROAD AS PART OF THE TRACY RECYCLED WATER TRANSMISSION MAINS, PHASE 2, CIP 74091, STATE PROJECT AGREEMENT NUMBER 4600011424 AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE CHANGE ORDER

EXECUTIVE SUMMARY

Construction of the recycled water transmission mains and wastewater treatment plant pump station is currently in progress as part of the City's Recycled Water Project (Project), CIP 74091, which is mainly funded by a Proposition 84 grant. The Project construction was divided into two phases. The City awarded the construction contract for Phase 1 to Mountain Cascade Inc. on October 16, 2018, in the amount of \$10,245,299. Phase 2 construction contract was also awarded to Mountain Cascade Inc. on March 5, 2019, in the amount of \$5,948,531. The completion construction of both phases of this Project will result in the recycled water main pipeline terminating on Lammers Road south of Kimball High School.

Construction of Phase 1 and Phase 2 of the Project is near the final stages of completion and there is approximately \$2.3 million available in the budget, which includes unused construction contingency in the amount \$1.3 million. It will be timely and cost effective to use the remaining funds to extend the recycled water main pipeline beyond the current terminal point on Lammers Road. Staff and City's consultant providing construction management for this Project negotiated a change order with the Contractor in the amount of \$1,881,610 to extend the pipeline to the intersection of Lammers Road and Schulte Road. Staff seeks Council authorization to proceed with this change order.

DISCUSSION

The California Department of Water Resources awarded a Proposition 84 Grant to the City in the amount of \$18 million for a Recycled Water Project (Project) to construct backbone infrastructure for the distribution of recycled water from the City's existing Wastewater Treatment Plant. The Project requires \$6 million from the City as matching funds with total construction cost of \$24 million. The recycled water is intended to be used to irrigate sports fields, parks, median islands, and new and existing landscaping within the City's right of ways once additional recycled water distribution infrastructure is completed in accordance with the City's Master Plans.

On October 16, 2018, City Council awarded a construction contract for Phase 1 of the recycled water project to Mountain Cascade Inc. in the amount of \$10,245,299 to install recycled water pump station at WWTP and recycled transmission lines up to Lammers and Grant Line Road. Phase 2 construction contract involving recycled water pipeline installation from Lammers and Grant Line Road to southerly boundaries of Kimball High School on Lammers Road was awarded by City Council on March 5, 2019 in the amount

of \$ 5,948,531. Construction of both phases is near completion. The status of the budget is as follows:

Construction Contract Amount	\$ 16,194,060
Change Orders (currently under negotiation)	\$ 308,948
Design, Construction Management, Inspection, Testing & Miscellaneous Project Management	\$ 5,139,948
Current Project Costs	\$ 21,642,956
Project Budget	\$ 24,000,000
 Budget Remaining	 \$ 2,357,044
 Change Order Request	 \$ 1,881,610
Budget Balance	\$ 475,434

The budget remaining is recommended for use under this change order in expanding the scope of construction of this Project. The budget balance available will be used for other miscellaneous tasks needed for the Recycled Water Project.

In order to use the remaining budget cost effectively, staff requested a cost proposal from the contractor to extend the pipeline from the existing terminus point on Lammers Road near Kimball High School to the intersection of Lammers Road and Schulte Road. After reviewing the proposal from Mountain Cascade Inc., staff, along with the consultants have negotiated a competitive cost of \$1,881,610 to complete the additional work. Since the change order amount is more than the City Manager's approval authority, approval from City Council is required.

STRATEGIC PLAN

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

FISCAL IMPACT

The total project budget for the Tracy Recycled Water Mains and Wastewater Treatment Plant Pump Station, CIP 74091 is \$24,000,000. There are sufficient funds available within the project for the additional change order amount of \$1,881,610 and no additional appropriations are needed.

RECOMMENDATION

That the City Council, by resolution, approve Change Order No.3 in the amount of \$1,881,610 to Mountain Cascade Inc. to extend the recycled water transmission pipeline by approximately 4,120 lf on Lammers Road as part of Tracy Recycled Water

November 5, 2019

Agenda Item 1.L

Page 3

Transmission Mains, Phase 2, CIP 74091, and authorize the City Manager to execute the Change Order.

Prepared by: Ripon Bhatia, Senior Civil Engineer

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Change Order No. 3

City of Tracy - Utilities Department - Construction Management
CHANGE ORDER NO. 3

Mountain Cascade Inc.
555 Exchange Ct.
Livermore, CA 94551

DATE:
Project Name:
CIP NO.

10/31/2019
Tracy Recycled Water Transmission
Mains & WWTP Pump Station, 74091
Phase 2

You are hereby instructed that the above contract is modified as herein specifically set forth,
but that in all other respects, the contract remains unaltered.

NOTE: This change order is not effective until approved by the city.

Requested By: Ripon Bhatia

Description of Work:

- A ADDITION of all work associated with the installation of approximately 4120 LF of 24-Inch Recycled Water Pipeline as shown on West Yost Drawings C140 to C145, with a plot date of March 19, 2018. These are 100% Submittal drawings for a future pipeline work package for the City of Tracy. The pipeline installation is on Lammers Road from Station 337+94 to Station 379+14. The work shall be installed on a lump sum basis and shall meet all installation requirements of the current contract. Contractor shall obtain the encroachment permit from the San Joaquin County. \$1,881,610.00

This change order represents full compensation for ALL issues known on this project through October 31, 2019.

		Total	\$1,881,610.00
TOTAL COST:	Decrease \$		or Increase \$ \$1,881,610.00

By reason of this order, the time of completion will be adjusted as follows from 130 calendar days to 191 calendar days.
The adjusted completion date will be December 31, 2019.

Recommended By:

Reviewed By:

Approved By:

Jacobs Construction Manager Date

UT Director

Date

City Manager

Date

We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, we will provide all equipment, furnish all labor and materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment the prices shown above.

Accepted By Contractor:

Date: 10/30/19

Title: for Roger Williamson

___ City Clerk (Orig.)

___ Project Engineer

___ Contractor

RESOLUTION 2019-_____

APPROVING CHANGE ORDER NO. 3 IN THE AMOUNT OF \$1,881,610 TO MOUNTAIN CASCADE, INC., TO EXTEND THE RECYCLED WATER PIPELINE BY APPROXIMATELY 4,120 LF ON LAMMERS ROAD AS PART OF THE TRACY RECYCLED WATER TRANSMISSION MAINS, PHASE 2, CIP 74091, STATE PROJECT AGREEMENT NUMBER 4600011424, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CHANGE ORDER

WHEREAS, The California Department of Water Resources awarded a Proposition 84 Grant to the City in the amount of \$18 million for a Recycled Water Project (Project) to construct backbone infrastructure for the distribution of recycled water from the City's existing Wastewater Treatment Plant, and

WHEREAS, On October 16, 2018, City Council awarded a construction contract for Phase 1 of the recycled water project to Mountain Cascade Inc. in the amount of \$10,245,299 to install recycled water pump station at WWTP and recycled transmission lines up to Lammers and Grant Line Road, and

WHEREAS, The Phase 2 construction contract was awarded by City Council on March 5, 2019, in the amount of \$ 5,948,531 for the installation of recycled water pipeline from Lammers and Grant Line Road to southerly boundaries of Kimball High School on Lammers Road, and

WHEREAS, The amount of existing change order requests being negotiated with the contractor to date for both Phase 1 and Phase 2 are near \$308,948, and

WHEREAS, The status of the budget is as follows:

Construction Contract Amount	\$ 16,194,060
Change Orders	\$ 308,948
Design, Construction Management, Inspection, Testing & Miscellaneous Project Management	\$ 5,139,948
Current Project Costs	\$ 21,642,956
Project Budget	\$ 24,000,000
 Budget Remaining	 \$ 2,357,044
 Change Order Request	 \$ 1,881,610
Budget Balance	\$ 475,434

WHEREAS, The budget remaining can be used to expand the scope of construction of this Project, and

WHEREAS, After reviewing the proposal from Mountain Cascade Inc., staff, along with the consultants have negotiated a competitive cost of \$1,881,610 to complete the additional work, and

WHEREAS, The total Project budget for the Tracy Recycled Water Mains and Wastewater Treatment Plant Pump Station, CIP 74091 is \$24,000,000. There are sufficient funds available within the project for the additional change order amount of \$1,881,610 and no additional appropriations are needed;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves Change Order No. 3 in the amount of \$1,881,610 to Mountain Cascade Inc. to extend the recycled water transmission pipeline by approximately 4,120 lf on Lammers Road as part of Tracy Recycled Water Transmission Mains, Phase 2, CIP 74091, and authorizes the City Manager to execute the Change Order.

* * * * *

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 5th day of November, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.A

REQUEST

**PUBLIC HEARING TO CONSIDER ADOPTION OF THE WATER AND
WASTEWATER DEVELOPMENT IMPACT FEES FOR NEW DEVELOPMENT IN THE
FUTURE PHASES OF THE NORTHEAST INDUSTRIAL AREA**

EXECUTIVE SUMMARY

This agenda item relates to the additional water and wastewater development impact fees for new development in the Northeast Industrial Area (NEI) Future Phases. The fees are being implemented to fund the remaining water distribution and wastewater conveyance facilities required to serve the buildout of NEI.

In 2012, the City adopted Master Plans that applied to properties in the NEI area that were not designated as part of the NEI Phase 1 or Phase 2 Finance and Implementation Areas. The Master Plan Fees fund the main wastewater conveyance line and treatment. They also fund the main water distribution lines as well as water supply and treatment. The fees being adopted at this time overlay the Master Plan fees and ensure all properties pay their fair share of the localized facilities. Developers who are required to build these lines will receive a fee credit and potentially a reimbursement.

DISCUSSION

Background

The City Council adopted the Northeast Industrial Area – Phase 1 Finance and Implementation Plan in December 1999 by Resolution No. 99-462 and the Northeast Industrial Area – Phase 2 Finance Implementation Plan in January 2006 by Resolution No. 2006-038. Both plans have been updated several times since, with the last update occurring in 2008. The remaining 323 net acres of the NEI area that were not included in the NEI – Phase 1 and Phase 2 Finance Implementation Plans (FIP) is identified as the NEI Future Phases. This area is subject to the Master Plan Fees, which fund the main wastewater conveyance line as well as wastewater treatment. They also fund the main water distribution lines as well as water supply and treatment.

The NEI water distribution facilities were analyzed in the technical memorandum “Hydraulic Evaluation of Northeast Industrial Area (NEI Specific Plan)” by West Yost dated September 2018. The wastewater conveyance facilities were analyzed in the “Wastewater System Analysis for the Northeast Industrial Area” by CH2M dated November 2018. NEI Phases 1 and 2 constructed a significant portion of the localized infrastructure leaving the following proposed water distribution and wastewater conveyance facilities as the responsibility of NEI Future Phases:

- Upsize an 8-inch water line to a 12-inch water line between Skylar and Chrisman Road

- New 18-inch gravity sewer line along Pescadero Avenue from Ridgeline Warehouse to MacArthur Drive
- New 18-inch gravity sewer line along MacArthur Drive from Pescadero Avenue to MacArthur Drive

Harris & Associates has prepared the Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Technical Memorandum, which calculates the Water and Wastewater Conveyance Development Impact Fees and makes the required findings under the requirements of the Mitigation Fee Act.

The new Water and Wastewater Conveyance Fees as well as the fee for program management for the NEI Future Areas are summarized in the following table.

Fee Category	Fee per Acre
Water Conveyance	\$284.95
Wastewater Conveyance	\$8,362.40
Program Administration (5%)	\$432.37
Total Fee	\$9,079.72

A copy of the NEI Future Phases Water and Wastewater Development Impact Fee Technical Memorandum is attached as Attachment A.

Development Impact Fees

In preparing the development impact fees, the City has been consistent with the procedural and substantive requirements of the Mitigation Fee Act (also known as AB1600) as set forth in the technical report. The findings and conclusions for the fees are summarized in the NEI Future Phases Water and Wastewater Development Impact Fee Technical Memorandum.

These fees will be updated on an annual basis on July 1st of each year by the Director of Development Services using the Engineering News Record Construction Cost Index. The fees will also be subject to periodic review and update based on a review of project costs and industry trends, subject to City Council approval.

FISCAL IMPACT

Development Impact Fees are paid by the developers to fund infrastructure improvements required to serve their developments. Administration and updates to these fees are part of the program management funded through the soft costs included in all of the infrastructure cost estimates.

STRATEGIC PLAN

This agenda item supports objective 1.c of the Economic Development Strategic Plan in ensuring quality infrastructure to meet future development needs.

RECOMMENDATION

That the City Council, by resolution, adopt the Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Findings and the Development Impact Fees set forth therein.

Prepared By: Alison Bouley, Consultant, Harris & Associates

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 – Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Technical Memorandum



Technical Memorandum

To: Robert Armijo, City Engineer, City of Tracy

From: Alison Bouley, Harris and Associates

Subject: City of Tracy's Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Technical Memorandum

Date: September 4, 2019

Introduction

The Northeast Industrial Area (NEI) is comprised of approximately 61 properties totaling 870 acres and is located in the northeast part of Tracy. Generally speaking, the area is bounded by Interstate 205 to the north, by the Southern Pacific Railroad tracks to the south, by the City limit to the east and the Industrial Specific Plan area to the west. Properties within the NEI area are owned by various individuals and range in size from half acre lots currently occupied by single family residential homes to large lots occupied by agricultural and industrial enterprises. The area is zoned for Light Industrial use.

Purpose of Memorandum

Development of the infrastructure required to support the parcels in the NEI area is the responsibility of all landowners and has historically been outlined in detailed finance and implementation plans. In December of 1999 the Northeast Industrial Area – Phase 1 Finance and Implementation Plan was adopted that outlined the improvements necessary to serve this area and the associated development impact fees. The improvements were identified in supporting technical studies that analyzed the improvements necessary to serve the entire area. The plan has been updated several times since, with the last update being in April of 2008.

The Northeast industrial Area – Phase 2 Finance and Implementation Plan was adopted in January 2006 and outlined the specific improvements and fees that were to be completed by the Phase 2 properties to serve their infrastructure needs. The plan was last updated in January of 2008.

There are approximately 323 net acres of land that were not included in the Phase 1 and 2 Finance and Implementation Plans. These properties were identified as future phases or as anticipated to not develop in the future. It was anticipated that a FIP would be completed at the time that these properties were ready to develop.

In 2012, the City completed Citywide Master Plans to plan for the infrastructure required to serve future development and Master Plan Fees to fund the infrastructure were adopted. The Master Plan Fees established the water, sewer, storm drainage, traffic, public facilities, public safety and park fees that all new development was to pay. As part of these master plans, all land that was not otherwise covered under an adopted Finance and Implementation Plan was subject to the Master Plan fees. It was anticipated that specific plan area fees would be developed for each specific plan to determine cost sharing of more localized improvements that were not part of the Master Plan Fees. These localized improvements include sewer collection lines and water distribution lines.

NEI future phases, since they did not have an established Finance and Implementation Plan in 2012, were included in the Master Plans and are subject to Master Plan Fees. In addition to the Master Plan Fees, the developers are required to fund their fair share of the localized water and wastewater infrastructure.

This memo provides the basis for the water and wastewater fees for local facilities that are above and beyond the Master Plan Fees. The developer will receive a credit against these fees for construction of any of the identified improvements, up to the construction cost plus 35% markups as identified in this memo. A summary fee schedule is provided in Table 1 and is discussed on a fee by fee basis in the following sections.

Table 1: Summary Fee Schedule

Fee Category	Fee per Acre
Water Conveyance	\$284.95
Wastewater Conveyance	\$8,362.40
Program Administration (5%)	\$432.37
Total Fee	\$9,079.72

The fees and associated costs will be updated each year utilizing the Engineering News Record (ENR) Construction Cost Index.

Water

The Northeast Industrial Area (NEI) water improvements were identified as recommended infrastructure in the City of Tracy Water System Master Plan adopted by Resolution 2013-008 on January 15, 2013. Since the adoption of the City of Tracy Water System Master Plan, the City has made improvements to the potable water system in the NEI area and a number of developments have been completed. West Yost conducted an evaluation of the remaining infrastructure required to serve the NEI area at buildout and summarized the remaining infrastructure in their September 2018 *Hydraulic Evaluation of Northeast Industrial Area (NEI) Specific Plan* that is included in Appendix A. NEI development phases 1 and 2 constructed a significant portion of the localized infrastructure prior to the Master Plan development and the 12 inch water line east of Paradise road connecting Grant Line to Pescadero is part of the Master Plan. As such, NEI future phases is only responsible for the upsizing from 8 inches to 12 inches of 320 linear feet of pipe.

Table 2 identifies the remaining infrastructure and estimated cost and allocates the cost on a net acreage basis to NEI Future Phase. Since all land in NEI is zoned light industrial, utilizing net acreage is an equitable way to spread the costs. These improvements are shown highlighted on Figure 1. If the developer builds any of these facilities, the developer will be entitled to either a fee credit or a fee reimbursement up to the estimated construction cost plus the 35% markup as shown in this technical memorandum.



Table 2: Water Distribution Facilities in Addition to City of Tracy Master Plans

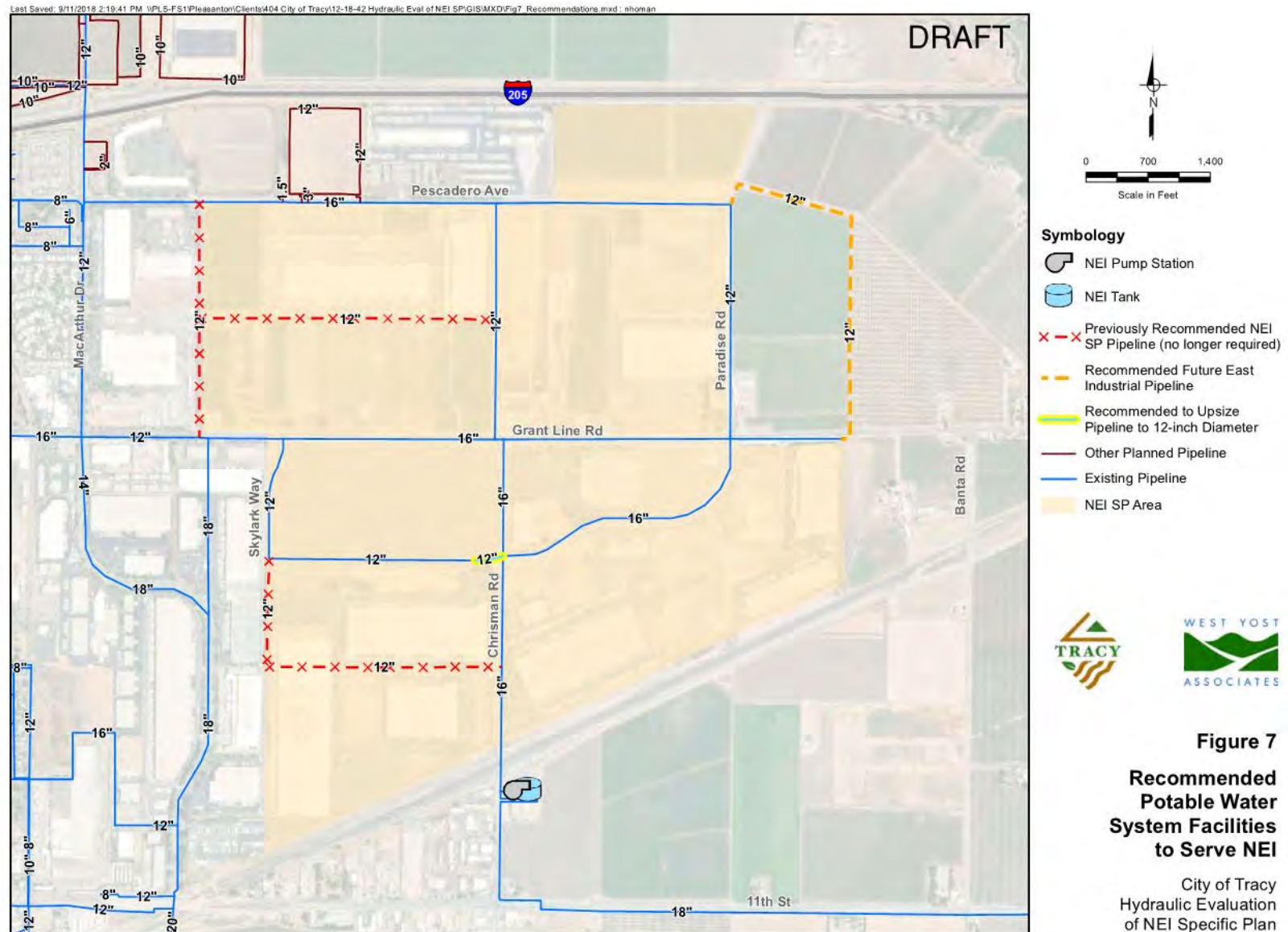
Size	Location	Length (LF)	Construction Unit Cost ¹	Soft Costs (35%)	Total Cost
12"	Upsize a 8" line between Skylark and Chrisman Road to a 12" Line	320	212.96	74.54	\$ 92,000.85
Total:					\$ 92,000.85
NEI Future Phases Acres:					322.87
Water Conveyance Fee Per Acre					\$ 284.95

Notes:

¹ Unit Costs have been updated by ENR to June 2019.



Figure 1: Required Water Distribution Capital Improvement Projects





Findings Related to Water

Requirement #1: Identify the purpose of the fee.

New development creates the need for additional water distribution infrastructure in order to provide water to all parcels in the NEI Area. The purpose of the water impact fee is to ensure that each development shares equally in the cost of the localized water distribution lines that are needed to serve the NEI Specific Plan Area. These facilities are summarized in Table 2.

Requirement #2: Identify the use to which the fee will be put.

The water portion of the impact fee will be used to upsize a small portion of water line per the *Hydraulic Evaluation of Northeast Industrial Area (NEI) Specific Plan* prepared by West Yost. The water facility is summarized in Table 2 and shown in Figure 1.

Requirement #3: Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

New development within the NEI area increases water usage within the NEI Specific Plan Area. In order to provide water to new development, new distribution lines are required. The cost of the required facility is divided by the net acreage, since all properties in NEI are zoned light industrial and have the same water demand. This method ensures that each development project is funding only their fair share of the required improvements.

Requirement #4: Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Each new development will add incremental usage of water in the NEI Area. In order to ensure access to water and to maintain adequate water pressure through the buildout of the NEI area, the distribution pipeline summarized in Table 2 must be constructed. Each new development will pay for their fair share of the required system based on the parcel's net acreage, since all of the parcels are zoned light industrial and have the same water demand.

Requirement #5: Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The cost of the needed water distribution facility is spread to each land use within the NEI area based on net acreage since each parcel is zoned light industrial and has the same water demand. This calculation is shown in Table 2. Prior developments were required to fund their fair share of the water distribution lines already constructed.



Wastewater

The Wastewater Master Plan completed in 2012 and adopted by Resolution 2013-008 identified the development impact fees for the major trunk lines, pump stations and treatment plant expansion but did not include wastewater collection facilities. The Northeast Industrial Area (NEI) wastewater collection system was identified in the April 2008 update of the Northeast industrial Area – Phase I Finance and Implementation Plan. NEI development phases 1 and 2 constructed their fair share of the localized infrastructure prior to the Master Plan development. In November 2018 CH2M prepared the *Wastewater System Analysis for the Northeast Industrial Area* which identified the wastewater conveyance system required to serve the NEI Future Phase property. The report is included in Appendix B.

Table 3 identifies the remaining infrastructure to be constructed and allocates the total cost on a net acreage basis. Since all land in NEI is zoned light industrial, utilizing net acreage is an equitable way to spread the costs. If the developer builds any of these facilities, the developer will be entitled to either a fee credit or a fee reimbursement up to the estimated construction cost plus the 35% markup as shown in this technical memorandum. The facilities are shown in Figure 2.

Table 3: Wastewater Conveyance Facilities in Addition to City of Tracy Master Plans

Size	Location	Length (LF)	Construction Unit Cost ¹	Soft Costs (35%)	Total Cost
18"	Ridgeline Warehouse to MacArthur	4,700	330.57	115.70	\$ 2,097,483.32
18"	Pescadero to MacArthur WWPS	1,350	330.57	115.70	\$ 602,468.61
Total:					\$ 2,699,951.93
NEI Future Phase Acres:					322.87
Wastewater Conveyance Fee/Ac					\$ 8,362.40

Notes:

¹ Unit costs have been updated by ENR to June 2019.

Technical Memorandum



Technical Memorandum



Technical Memorandum

Findings Related to Wastewater

Requirement #1: Identify the purpose of the fee.

New development creates the need for additional wastewater conveyance infrastructure in order to provide adequate capacity for all parcels in the NEI Area. The purpose of the wastewater impact fee is to ensure that each development equally shares in the cost of the localized wastewater conveyance lines that were identified in the November 2018 *Wastewater System Analysis for the Northeast Industrial Area prepared by CH2M*. These facilities are summarized in Table 3.

Requirement #2: Identify the use to which the fee will be put.

The wastewater portion of the impact fee will be used to construct new wastewater conveyance facilities per the November 2018 *Wastewater System Analysis for the Northeast Industrial Area prepared by CH2M*. These facilities are summarized in Table 3 and shown in Figure 3.

Requirement #3: Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

New development within the NEI area will generate increased wastewater discharge. In order to provide new development with adequate sanitary sewer services, new conveyance lines are required. The cost of the facilities is divided to each land use based on net acreage, since all properties in the NEI Future Phase area are zoned light industrial and are assumed to have equal wastewater discharge. This method ensures that each development is funding their fair share of the required improvements.

Requirement #4: Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Each new development will produce additional wastewater flows in the NEI area and require an incremental increase in capacity. In order to ensure there is enough capacity to support development through the buildout of the NEI area, the conveyance pipelines summarized in Table 3 must be constructed. Each new development will pay for their fair share of the required system based on the parcel's net acreage, since all of the parcels are zoned light industrial and are assumed to have the same wastewater discharge.

Requirement #5: Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The cost of the needed wastewater conveyance facilities is spread to each land use within the NEI Future Phase area based on net acreage since each parcel is zoned light industrial and has the same wastewater discharge. This calculation is shown in Table 3. Prior phases of NEI funded their fair share of the facilities.



Technical Memorandum

Program Administration

The Program Administration Fee provides the funding necessary to administer the impact fee program. This fee is calculated as a five percent mark-up on the other fees. The fee will be collected into the City's program administration fund. The fee is 5% of the fee as shown in Table 4.

Table 4: Program Administration

Fee Category	Fee per Acre
Water Conveyance	\$284.95
Wastewater Conveyance	\$8,362.40
Program Administration (5%)	\$432.37
Total Fee	\$9,079.72

Findings Related to Program Administration

Requirement #1: Identify the purpose of the fee.

The purpose of the Program Administration Fee is to provide the funding necessary to administer the NEI Future Phases Water and Wastewater Fee. This includes consultant and City staff time related to services such as providing fee quotes, updating the fee program, tracking revenue and expenditures, and preparing annual reports.

Requirement #2: Identify the use to which the fee will be put.

The Program Administration Fee will be used to fund the management and administration of the NEI Future Phases Water and Wastewater Fee. This includes City staff and consultant time for activities related to fee collection, tracking, and reporting.

Requirement #3: Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

New development results in the need for additional water and wastewater facilities. These facilities will be funded through the NEI Future Phases Water and Wastewater Fee. Fee programs require City and Consultant staff time to manage and administer. These activities will be funded through the Program Administration Fee. The Program Administration Fee is a five percent mark-up of the NEI Future Phases Water and Wastewater Fee. This calculation is shown in Table 4.

Requirement #4: Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Each new development in the NEI area increases the need for water and wastewater facilities. These facilities will be funded by the NEI Future Phases Water and Wastewater Fee. To ensure these fees for new development are administered according to state law, regular updates, tracking and reporting are required. In addition, City staff must provide fee quotes to new development. To create the funding for these resulting activities, the Public Administration Fee calculated based on a five percent mark-up of the NEI Future Phases Water and Wastewater Fee as summarized in Table 4.



Technical Memorandum

Requirement #5: Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The Program Administration Fee provides the funding to administer NEI Future Phases Water and Wastewater Fee. The City has adopted a policy of collecting a five percent mark-up on the other fees in order to administer their fee programs. This fee is calculated based on a five percent mark-up of the NEI Future Phases Water and Wastewater Fee as summarized in Table 4.



Technical Memorandum

Reporting Requirements

The Government Code requires the City to report every year and every fifth year certain financial information regarding the fees. The City must make available within 180 days after the last day of each fiscal year the following information from the prior fiscal year:

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance in the account or fund
4. The amount of the fee collected and the interest earned
5. An identification of each public improvement for which fees were expended and the amount of expenditures
6. An identification of an approximate date by which time construction on the improvement will commence if it is determined that sufficient funds exist to complete the project
7. A description of each interfund transfer or loan made from the account and when it will be repaid
8. Identification of any refunds made once it is determined that sufficient monies have been collected to fund all fee related projects

The City must make this information available for public review and must also present it at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public.

For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the City must make the following findings with respect to any remaining funds in the fee account, regardless of whether those funds are committed or uncommitted:

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing any incomplete improvements
4. Designate the approximate dates on which funding in item (3) above is expected to be deposited into the fee account

As with the annual disclosure, the five year report must be made public within 180 days after the end of the City's fiscal year and must be reviewed at the next regularly scheduled public meeting. The City must make these findings; otherwise, the law requires that the City refund the money on a prorated basis to the then current record owners of the development project.



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Annual Updates

The fees and associated costs will be updated on July 1st of each year utilizing the Engineering News Record (ENR) Construction Cost Index for San Francisco. The fees will also be subject to periodic review and update based on a review of project costs and industry trends, subject to City Council approval.



Technical Memorandum

Appendix A

Hydraulic Evaluation of Northeast Industrial Area (NEI Specific Plan)

West Yost

TECHNICAL MEMORANDUM1

DATE: September 11, 2018 Project No: 404-12-18-42
SENT VIA: EMAIL

TO: Al Gali, City of Tracy

CC: Robert Armijo, City of Tracy
Nanda Gottiparthi, SNG & Associates, Inc.

FROM: Nathaniel Homan, EIT #155070
Amy Kwong, PE, RCE #73213

REVIEWED BY: Elizabeth Drayer, PE, RCE #46872

SUBJECT: Hydraulic Evaluation of Northeast Industrial Area (NEI) Specific Plan

This Technical Memorandum (TM) summarizes the findings and conclusions of West Yost Associates' (West Yost) technical evaluation of the ability of the City of Tracy's (City) water distribution system to meet the required minimum pressures and flows for the proposed buildout of the Northeast Industrial Area (NEI) Specific Plan located in the northeast corner of the existing City limits. Projected demands and required infrastructure for the remaining NEI Specific Plan undeveloped parcels were included in the 2012 Water System Master Plan (2012 WSMP) buildout system hydraulic evaluations, but the City has made improvements to the potable water system in this area since 2012. As some of the building sizes and layouts have now been determined, some of the previously recommended pipeline alignments from the 2012 WSMP may no longer be feasible. Therefore, the City has requested West Yost to re-evaluate the NEI Specific Plan area under current existing and buildout system conditions to determine if the un-constructed future pipelines recommended from the 2012 WSMP are still required to provide adequate flows and pressures. Figure 1 illustrates the location of the remaining undeveloped parcels in the NEI Specific Plan (Project). Attachment 1 provides the locations of the recommended buildout potable water system pipelines from the 2012 WSMP.

This TM is submitted in accordance with West Yost's March 2018 Scope of Services. The following sections summarize our findings and conclusions:

- Project Description
- Estimated Water Demand for the Project
- Storage Capacity Evaluation
- Evaluation Findings and Conclusions

Because it is not part of this scope, this evaluation does not include review of water supply availability, booster pumping capacity, or water treatment plant capacity for the Project.

PROJECT DESCRIPTION

The NEI Specific Plan area consists of approximately 870 acres in the northeast corner of the City and is bounded by East Pescadero Avenue and I-205 to the north, Paradise Road and Banta Road to the east, the Southern Pacific Railroad to the south, and MacArthur Drive to the west. The Project area is designated for Industrial use. While many of the parcels in the Project area have been developed, as of March 2018, 38 parcels (approximately 463 acres) in the Project area remain undeveloped.

In the 2012 WSMP, the Project area was planned to be served by a combination of existing and future large diameter (12-inch and greater) pipelines. Since the completion of the 2012 WSMP, the City has constructed improvements to the potable water system within the Project area, including:

- Installation of a new 16-inch diameter pipeline segment in Paradise Road, just south of the intersection of Paradise Road and Grant Line Road, to connect the 12-inch diameter pipeline north of the intersection to the 16-inch diameter pipeline south of the intersection;
- Installation of a new 12-inch diameter pipeline in Skylark Way just south of Grant Line Road; and
- Installation of a new 12-inch diameter pipeline in Paradise Road west of Chrisman Road.

The City has requested that West Yost re-evaluate the Project area to determine if the remaining future buildout pipelines recommended from the 2012 WSMP are required to provide adequate flows and pressures to the Project area. Figure 2 shows the existing, recently constructed, and planned future pipelines within and in the vicinity of the Project area.

This hydraulic evaluation does not include the on-site pipelines for any future developments in the Project area, and only determines if the City's potable water system is adequate to serve the proposed Project. It should be noted that any on-site private domestic, irrigation, and fire service connections should have at least two connection points to the City's potable water system for reliability.

ESTIMATED WATER DEMAND FOR THE PROJECT

The Project area contains both developed parcels with existing water demands and undeveloped parcels, which will increase water demands on the City's potable water system once developed. Demands for existing parcels were included in the 2012 WSMP and are based on metered water use from 2007. Projected water demands for undeveloped parcels in the Project area were also included in the 2012 WSMP for the evaluation of the City's buildout potable water distribution system. Future demands in the 2012 WSMP were calculated by multiplying 468 undeveloped acres within the Project area by the adopted Industrial water use factor of 1.5 af/ac/yr. Because the undeveloped area within the Project area has decreased by only five (5) acres since the 2012 WSMP was completed, West Yost used the buildout demands as calculated in the 2012 WSMP for this

evaluation. Table 1 summarizes the Project's undeveloped area, water use factor, and projected annual potable water use.

Table 1. Estimated Annual Water Demand for the Project			
Land Use Designation	Undeveloped Area, acres ^(a)	Unit Potable Water Use Factor, af/ac/yr ^(b)	Annual Potable Water Use, af/yr
Industrial	468	1.5	702
UAFW ^(c)			57
Total	468	1.5	759
(a) Undeveloped acres from Appendix D of 2012 Citywide Water System Master Plan. West Yost confirmed that this total is similar to the remaining acreage from the undeveloped parcels provided in March 2018. (b) Based on 2012 Citywide Water System Master Plan, Table 4-14. Based on existing buildings, it was assumed that irrigation demand would be very limited; this is consistent with the assumptions in the 2012 Citywide Water System Master Plan. (c) Unaccounted-for water (UAFW) is assumed to equal to 7.5 percent of total water use.			

Table 2 tabulates the projected average day, maximum day, and peak hour water demands for the Project. As shown in Table 2, the projected average day demand for the Project is approximately 470 gallons per minute (gpm). Maximum day demand and peak hour demand were calculated using the City's adopted peaking factors (from the 2012 WSMP) of 2.0 and 3.4 times the average day demand, respectively, resulting in a maximum day demand of about 940 gpm and a peak hour demand of about 1,598 gpm.

Table 2. Estimated Average Day, Maximum Day, and Peak Hour Water Demands for the Project^(a)					
Average Day Demand		Maximum Day Demand ^(b)		Peak Hour Demand ^(c)	
gpm	mgd	gpm	Mgd	Gpm	mgd
470	0.68	940	1.35	1,598	2.30
(a) Based on estimated annual water demands presented in Table 1. (b) Maximum day demand is 2.0 times the average day demand, per the 2012 Citywide Water System Master Plan. (c) Peak hour demand is 3.4 times the average day demand, per the 2012 Citywide Water System Master Plan.					

STORAGE CAPACITY EVALUATION

The storage requirement for the City's potable water system consists of three storage components as listed below:

- **Operational Storage:** 30 percent of a maximum day demand;
- **Emergency Storage:** Two times an average day demand; and
- **Fire Flow Storage:** The required fire flow rate multiplied by the associated fire flow duration period, as required by the City's Fire Department.

The required fire flow component for this Project would be shared with other existing and proposed developments served by Pressure Zones 1 and 2. Based on the criteria listed above, the required operational and emergency storage components for the Project are 0.41 MG and 1.36 MG, respectively. Based on the City's available storage capacity and emergency storage credit¹ in Pressure Zones 1 and 2, there is currently sufficient storage capacity to adequately serve the entire Project. However, the City's current storage capacity surplus in Pressure Zones 1 and 2 is only 0.2 MG². Consistent with previous recommendations for development projects located in Pressure Zone 1, the design and construction of the new Catellus Tank and Booster Pump Station located in Pressure Zone 1 are recommended. The City is currently in the process of updating the 2012 WSMP, and an updated storage capacity evaluation will be developed to confirm potable water system improvement recommendations.

It is anticipated that potable water demands will decrease once the City's recycled water system is developed and operational. The conversion of the City's potable irrigation water demands to recycled water demands will increase the amount of storage capacity available to meet additional potable water demands.

EVALUATION FINDINGS AND CONCLUSIONS

Planning and modeling criteria used to evaluate the Project are based on the system performance and operational criteria developed in the 2012 WSMP and are provided in Attachment 2 for reference. The City's existing hydraulic model was modified to include the proposed water demands from the Project, and the future pipelines previously recommended in the 2012 WSMP were removed from the hydraulic model to determine if system performance and operational criteria could be met without those recommended pipelines. The hydraulic model was then used to simulate peak hour demand and maximum day demand plus fire flow conditions to determine the impacts to the City's potable water system from the proposed Project. Results from this hydraulic evaluation are discussed below.

Findings from Peak Hour Demand Evaluation

Based on West Yost's analysis, the existing pipelines serving the Project are adequate to meet the required minimum pressure and maximum pipeline velocity during peak hour demand for the City's existing and buildout system conditions, without the pipelines previously recommended in the 2012 WSMP.

¹ Refer to Section 7.4.2.2 *Water Storage Capacity* of the 2012 WSMP for additional details.

² Assumes that the storage capacity deficit in City-side Zone 3 is supplied by the emergency storage surplus available in Pressure Zones 1 and 2 (*Hydraulic Evaluation of IPC Buildings 9, 10, and 14 Memorandum, prepared by West Yost and dated May 3, 2018*).

Existing System

Figure 3 shows that system pressures during a peak hour demand for the City's existing system are above the required minimum pressure of 40 pounds per square inch (psi) and all pipelines within the Project area have maximum pipeline velocities less than 8 feet per second (fps). During an existing system peak hour demand condition, the pressures within the Project area are estimated to range from approximately 64 psi to 68 psi.

Buildout System

Figure 4 shows that system pressures during a peak hour demand for the City's buildout system are above the required minimum pressure of 40 psi and all pipelines within the Project area have maximum pipeline velocities less than 8 fps. During a buildout system peak hour demand condition, the pressures within the Project area are estimated to range from approximately 56 psi to 60 psi.

Findings from Maximum Day Demand plus Fire Flow Evaluation

The existing pipelines serving the Project were evaluated during maximum day plus fire flow demand for existing and buildout system conditions to determine if they could provide the minimum required fire flow of 4,500 gpm at all evaluated locations within the Project area while maintaining residual pressures greater than 30 psi (primary criterion) and pipeline velocities less than 12 fps (secondary criterion).

Existing System

As shown on Figure 5, the majority of locations within the Project area meet or exceed the fire flow requirements under the evaluated condition for the City's existing system. However, three evaluated locations within the Project area do not meet the 4,500 gpm minimum fire flow requirement in the existing water system. However, these locations can meet the 4,500 gpm requirement while maintaining a residual of 30 psi if the pipeline velocity criterion is disregarded. Detailed results for the locations of the deficient fire flows are described below.

- The evaluated location on Paradise Road between Chrisman Road and Skylark Way has deficient available fire flow due to a 320-foot-long, 8-inch diameter pipeline segment located to the west of the intersection of Chrisman Road and Paradise Road. Due to the maximum pipeline velocity criterion, this length of 8-inch diameter pipeline limits the available flow to the deficient fire flow location. Because the velocity criterion is a secondary performance criterion and the length of pipeline which would experience velocities in excess of 12 fps is relatively short, upsizing this length of pipeline is not considered a critical improvement. However, the City may want to consider upsizing this length of pipe to a 12-inch diameter pipeline in the future to avoid high pipeline velocities during fire flow conditions at this location.

- The locations on the dead-end pipeline in Grant Line Road to the east of the intersection of Grant Line Road and Paradise Road also have deficient available fire flows due to the maximum pipeline velocity criterion, which limits the available flow through a single 12-inch diameter pipeline. The 2012 WSMP included a future 12-inch diameter pipeline loop to the east of the Project area from Pescadero Avenue to Grant Line Road as part of the Eastside Industrial Future Service Area (see orange dashed line on Figure 5). Once constructed, this 12-inch diameter loop will eliminate the fire flow deficiencies at these two evaluated locations by allowing supply from multiple directions. Because the fire flow deficiencies are minor (less than 400 gpm below the requirement), construction of this improvement does not need to take place before the development of the Eastside Industrial Future Service Area.

Buildout System

As shown on Figure 6, all but one of the evaluated locations within the Project area meet or exceed the fire flow requirements under the evaluated condition for the City's buildout system. The evaluated location on Paradise Road between Chrisman Road and Skylark Way remains deficient at buildout due to the maximum pipeline velocity criterion on the 320-foot-long, 8-inch diameter pipeline located to the west of the intersection of Chrisman Road and Paradise Road. Because the pipeline velocity criterion is a secondary performance criterion and the length of pipeline which would experience velocities in excess of 12 fps is relatively short, upsizing this length of pipeline is not considered a critical improvement. Consistent with the results from the existing system, the City may want to consider upsizing this length of pipe to a 12-inch diameter pipeline in the future to avoid high pipeline velocities during fire flow conditions at this location.

Summary of Analysis

Based on the results from the hydraulic evaluation discussed above, the existing pipelines in the Project area meet all recommended system performance criteria during a peak hour demand condition and meet the primary system performance criterion (pressure) during a maximum day plus fire flow condition at all evaluated locations.

As shown on Figure 7, in place of constructing the future NEI Specific Plan pipelines recommended from the 2012 WSMP, the following improvements are recommended to meet the secondary pipeline velocity criterion during a maximum day plus fire flow condition, but are not critical due to the minor deficiencies that were identified:

- Construct the 12-inch diameter pipeline loop to the east of the Project area from Pescadero Avenue to Grant Line Road.
- Upsize the 320-foot long, 8-inch diameter pipeline located to the west of the intersection of Chrisman Road and Paradise Road to a 12-inch diameter pipeline.

West Yost continues to recommend the pipeline and storage improvement recommendations for Pressure Zone 1 that were identified in the 2012 WSMP and also in the more recent hydraulic evaluations for Marriott TownePlace Suites³ and the Larch Clover Interim Annexation Project⁴ (which are also located in Pressure Zone 1) to address previously identified deficiencies in Pressure Zone 1. The following water system improvements are recommended to serve Pressure Zone 1:

- Design and construction of a new Catellus Tank and Booster Pump Station, as identified in the 2012 WSMP and shown in Attachment 1, to support additional water demands from new developments (including this proposed Project) located in Pressure Zone 1.⁵
- Existing water system pipeline improvements as identified in the 2012 WSMP (Improvement #1 on Figure 7-10 of the 2012 WSMP).

It should be noted that the system pressures and hydraulic capacity of Pressure Zone 1 have been improved with the installation of PRS #6. The installation of PRS #6 improved supply to the Kimball High School area and addressed existing pressure deficiencies in that area, which were previously identified in the 2012 WSMP. However, the recommendations listed above are still needed to address high pipeline velocities in the Tracy Boulevard pipelines and the need for additional storage in Pressure Zone 1.

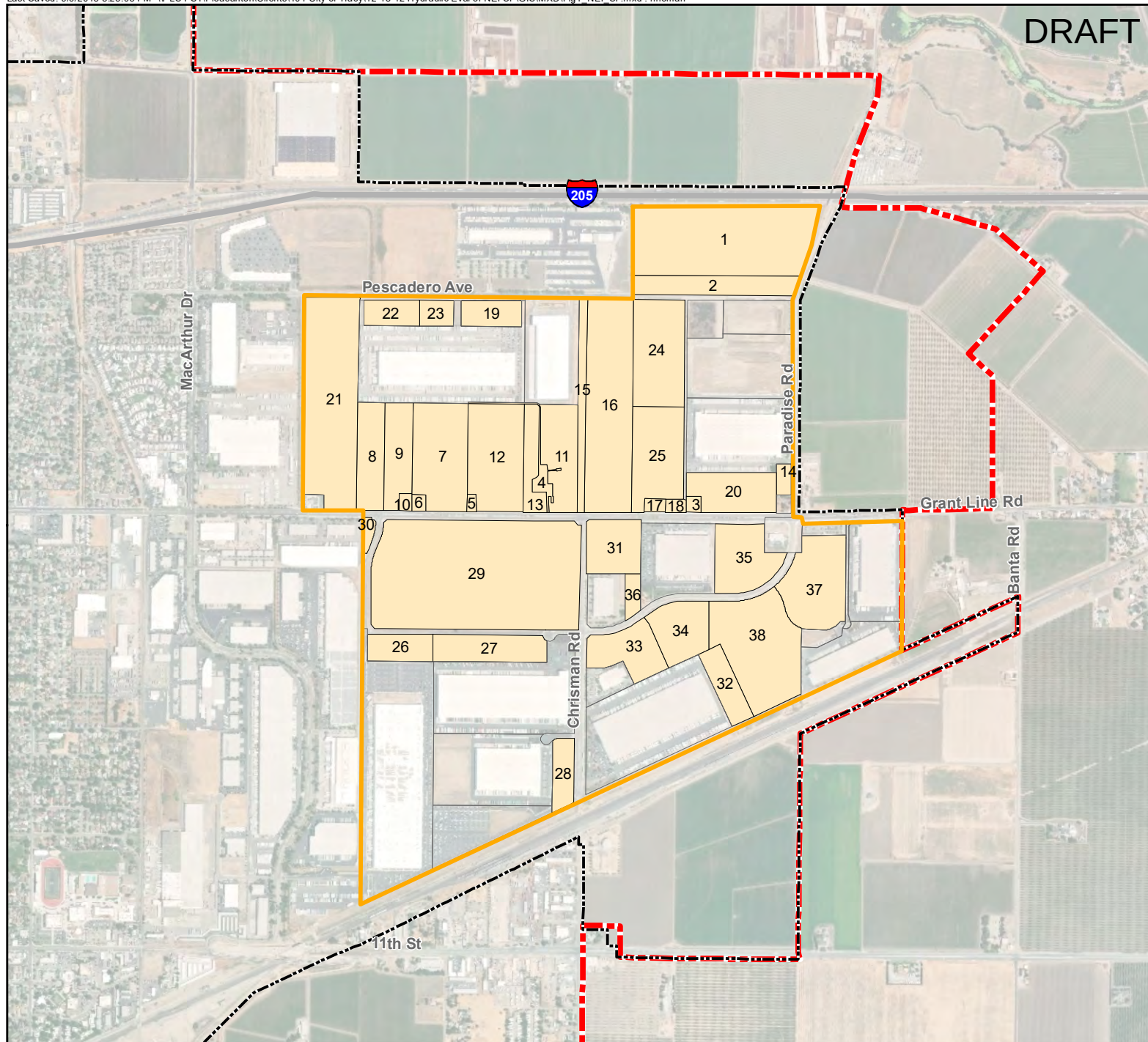
As discussed above, the on-site pipelines for any future developments in the Project area were not provided for this hydraulic evaluation. Any on-site private domestic, irrigation, and fire service connections should have at least two connection points to the City's potable water system for reliability.

The hydraulic evaluation performed for the Project is based on the various assumptions stated above. If any of these items are changed or modified in any way, other than as described in this TM, additional hydraulic evaluation will be required.

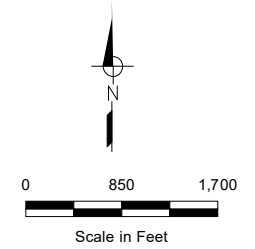
³ Hydraulic Evaluation of Marriott TownePlace Suites Development, West Yost Associates, October 18, 2016.

⁴ Hydraulic Evaluation of Larch Clover Interim Annexation Project, West Yost Associates, November 11, 2016.

⁵ Although this improvement is not immediately required because existing system pressures in Pressure Zone 1 have improved with the installation of PRS#6, it is still recommended as a future improvement to improve future storage and hydraulic capacity in the west side of Pressure Zone 1. The timing of this improvement will most likely be triggered by a larger development located in Pressure Zone 1.



DRAFT



Symbology

- Undeveloped Parcel
- Developed Parcel
- NEI SP Boundary
- City Limit
- Sphere of Influence

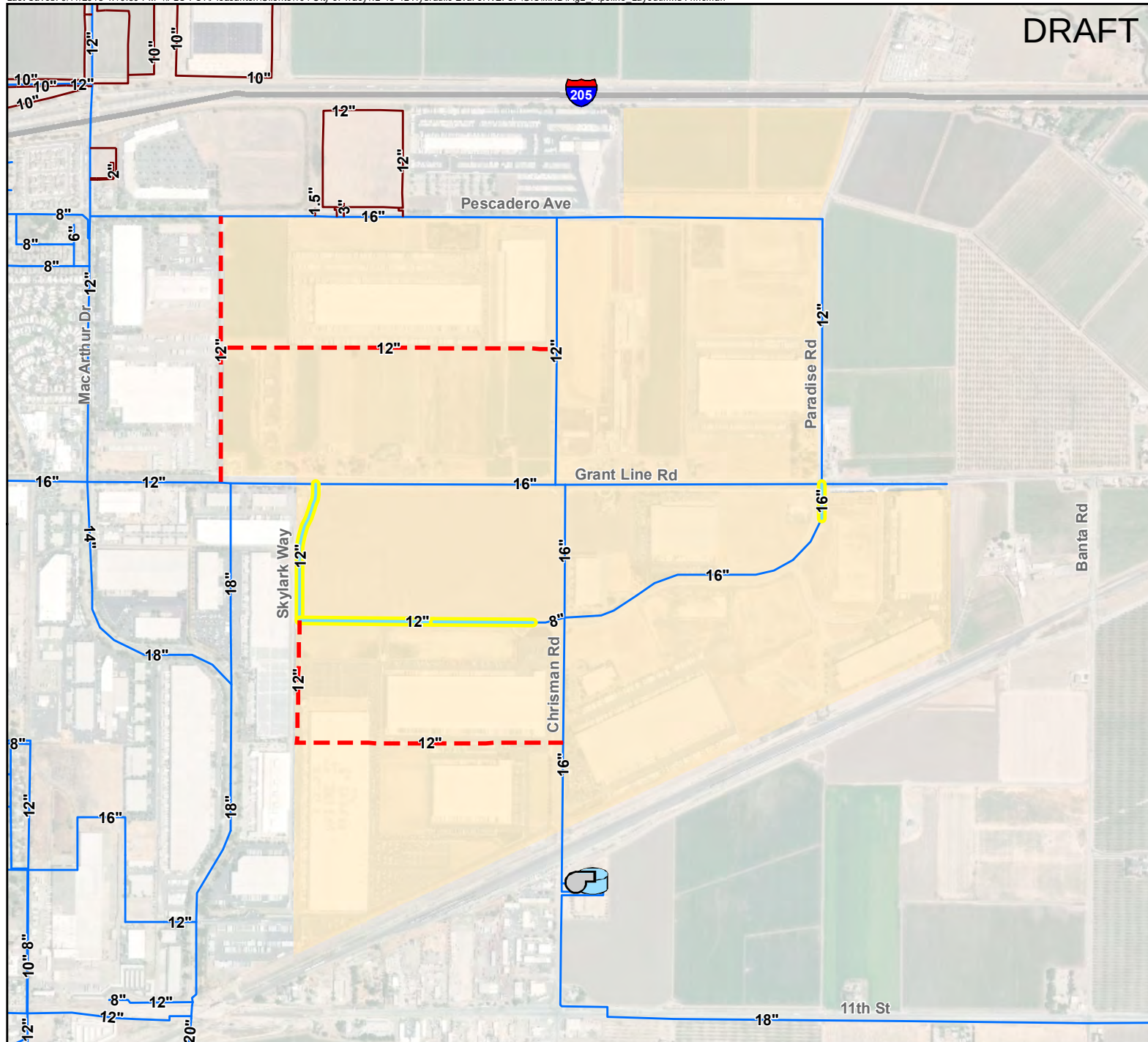
Notes:

1. Locations of undeveloped parcels provided by Harris and Associates on March 9, 2018.

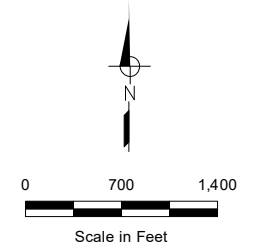


Figure 1
Northeast Industrial Area Specific Plan

City of Tracy
Hydraulic Evaluation
of NEI Specific Plan



DRAFT



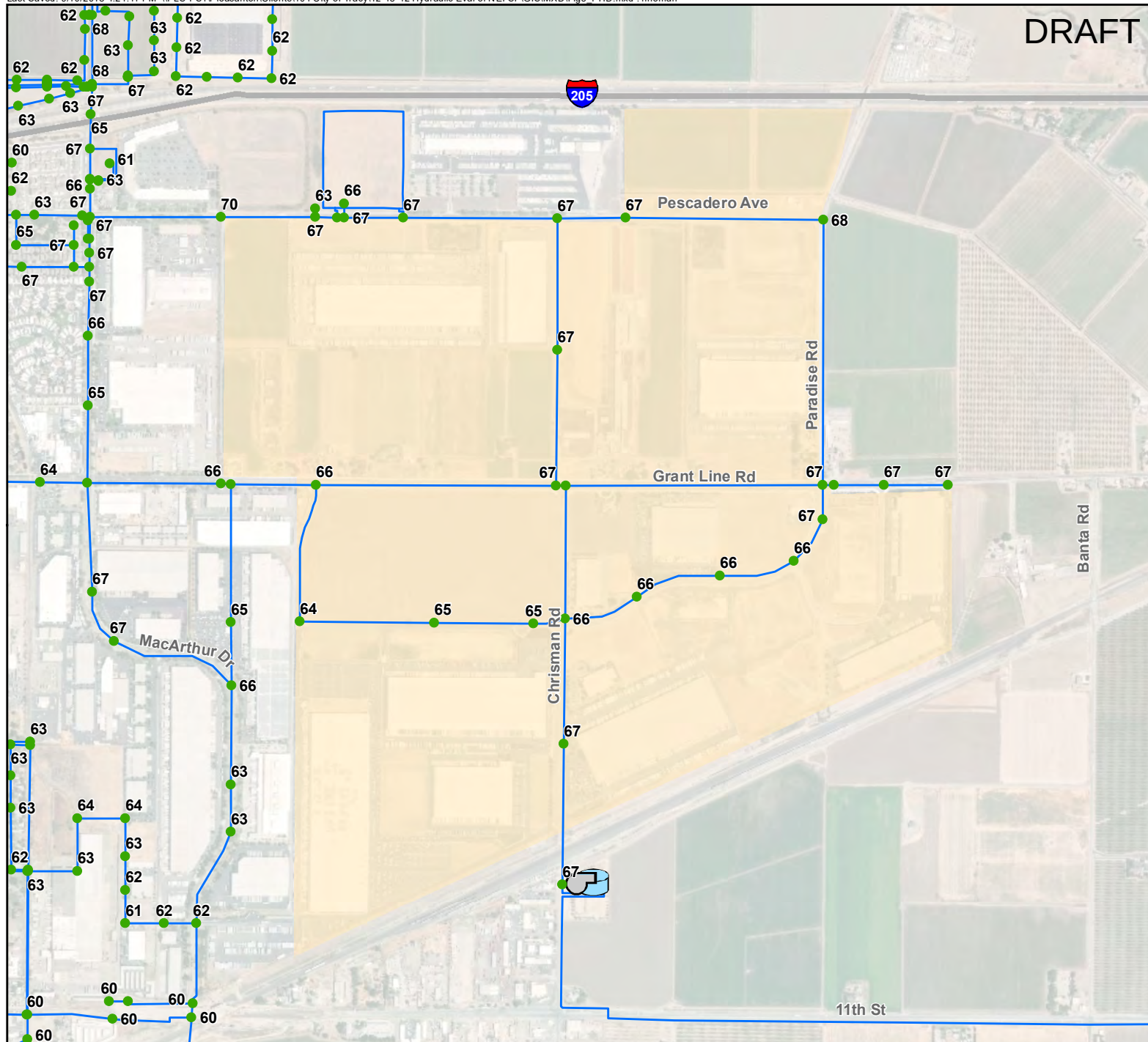
Symbology

-  NEI Pump Station
-  NEI Tank
-  Future NEI SP Pipeline (recommended in 2012 WSMP)
-  Other Planned Pipeline
-  Recently Constructed Pipeline
-  Existing Pipeline
-  NEI SP Area

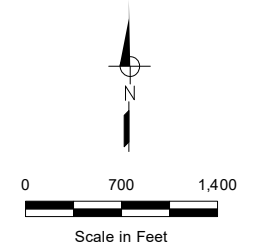


Figure 2
Existing and Planned
Potable Water
System Facilities
to Serve NEI

City of Tracy
 Hydraulic Evaluation
 of NEI Specific Plan



DRAFT



Symbology

Peak Hour Pressure

- Less than 40 psi
- Greater than or equal to 40 psi

Pipeline Velocity

- Less than 8 fps
- Greater than or equal to 8 fps

NEI Pump Station

NEI Tank

NEI SP Area



Figure 3

Existing System Peak Hour Results

City of Tracy
Hydraulic Evaluation
of NEI Specific Plan

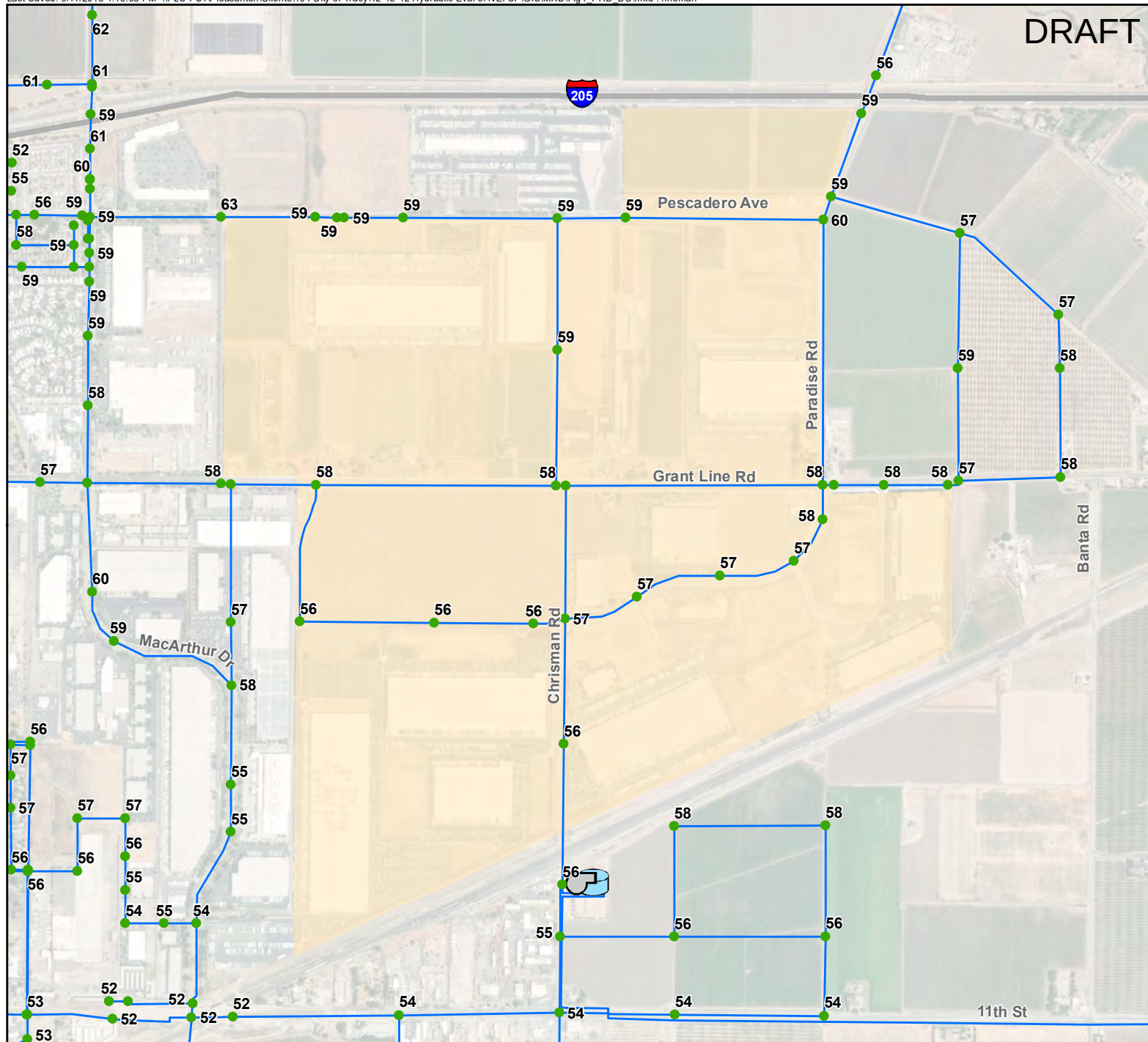
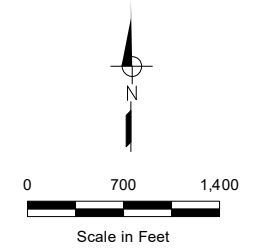
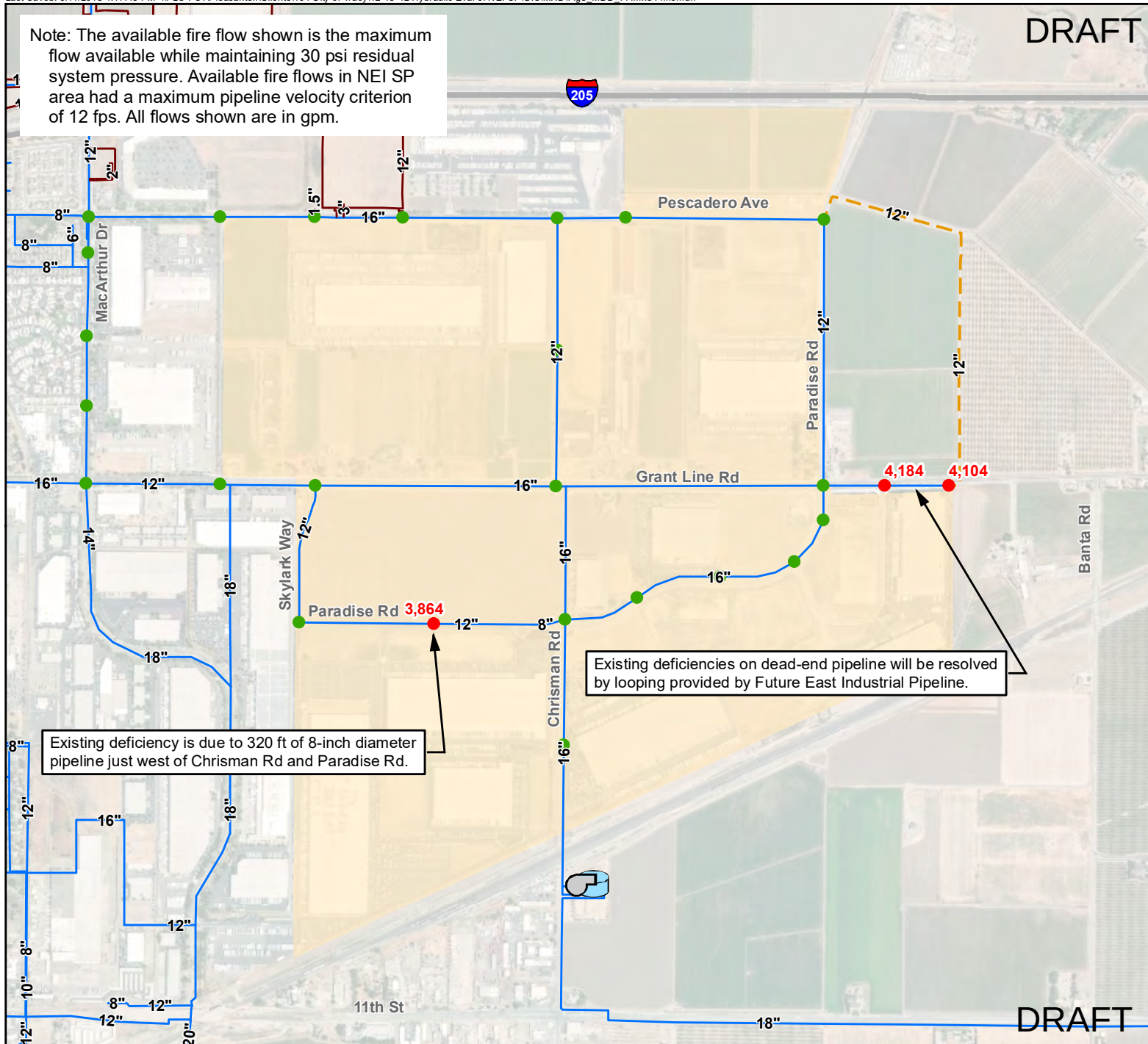


Figure 4
Buildout System
Peak Hour Results

City of Tracy
Hydraulic Evaluation
of NEI Specific Plan



Symbology

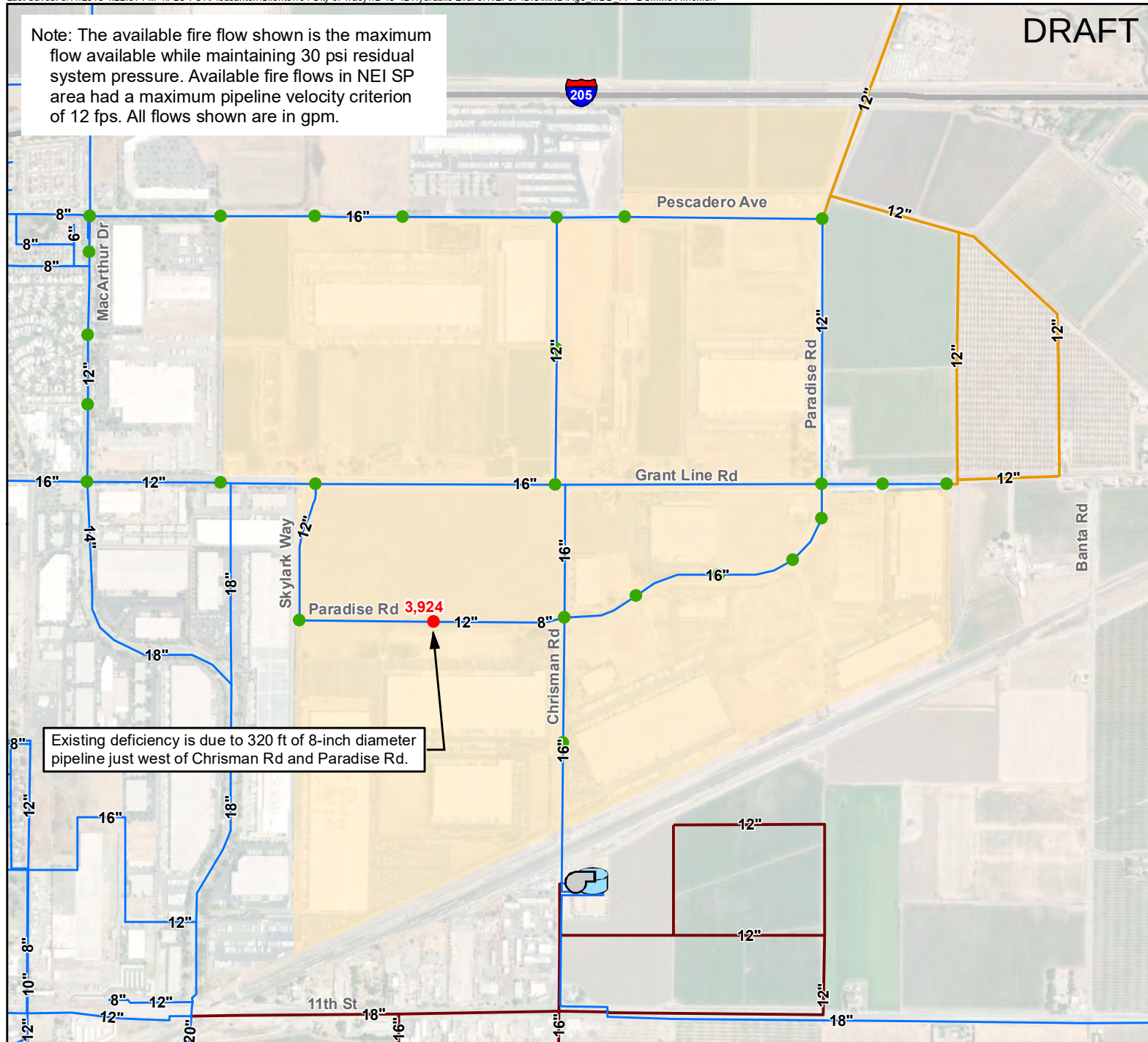
Available Fire Flow

- Less than 4,500 gpm
- Greater than or equal to 4,500 gpm
- NEI Pump Station
- NEI Tank
- Future East Industrial Pipeline
- Other Planned Pipeline
- Existing Pipeline
- NEI SP Area



Figure 5
Existing System
Available Fire Flow

City of Tracy
Hydraulic Evaluation
of NEI Specific Plan



Symbology

Available Fire Flow

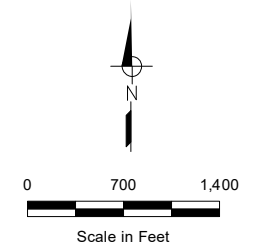
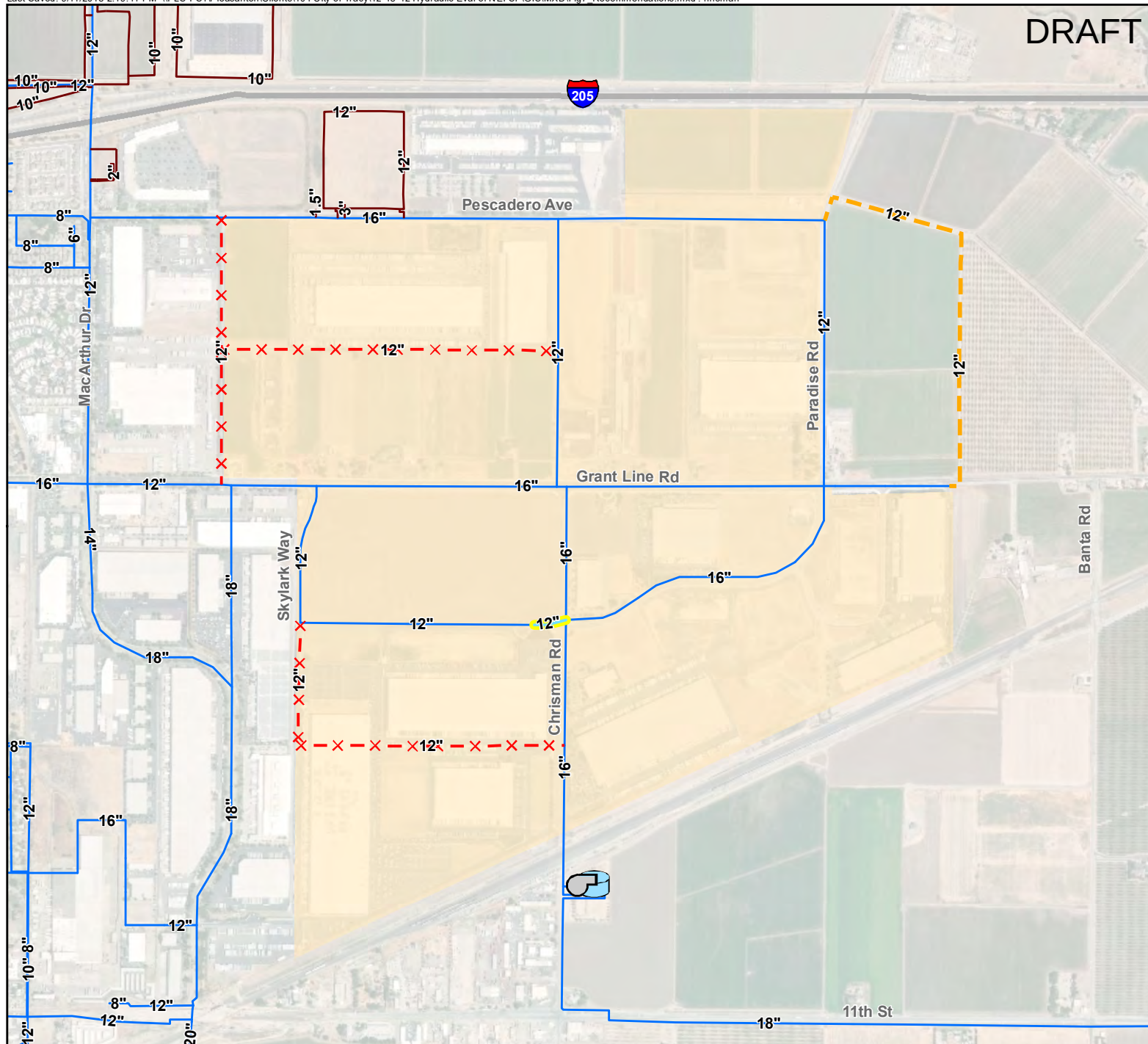
- Less than 4,500 gpm
- Greater than or equal to 4,500 gpm
- NEI Pump Station
- NEI Tank
- Future East Industrial Pipeline
- Other Buildout Pipeline
- Existing Pipeline
- NEI SP Area

Note: Includes future buildout pipelines as recommended in the 2012 WSMP.



Figure 6
Buildout System
Available Fire Flow

City of Tracy
Hydraulic Evaluation
of NEI Specific Plan



Symbology

- NEI Pump Station
- NEI Tank
- Previously Recommended NEI SP Pipeline (no longer required)
- Recommended Future East Industrial Pipeline
- Recommended to Upsize Pipeline to 12-inch Diameter
- Other Planned Pipeline
- Existing Pipeline
- NEI SP Area



Figure 7
Recommended Potable Water System Facilities to Serve NEI

City of Tracy
 Hydraulic Evaluation
 of NEI Specific Plan

ATTACHMENT 1

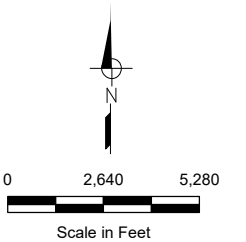
Recommended Buildout Potable Water System Improvements
(2012 Citywide Water System Master Plan)

O:\Clients\404 City of Tracy\02-09-76 Water Master Plan Phase 1\GIS\Figures\Cost Allocation\Fig 1 FutureCIP.mxd 8/21/2012

FIGURE 1

City of Tracy
Water System Master Plan

RECOMMENDED
BUILDOUT POTABLE
WATER SYSTEM CIP



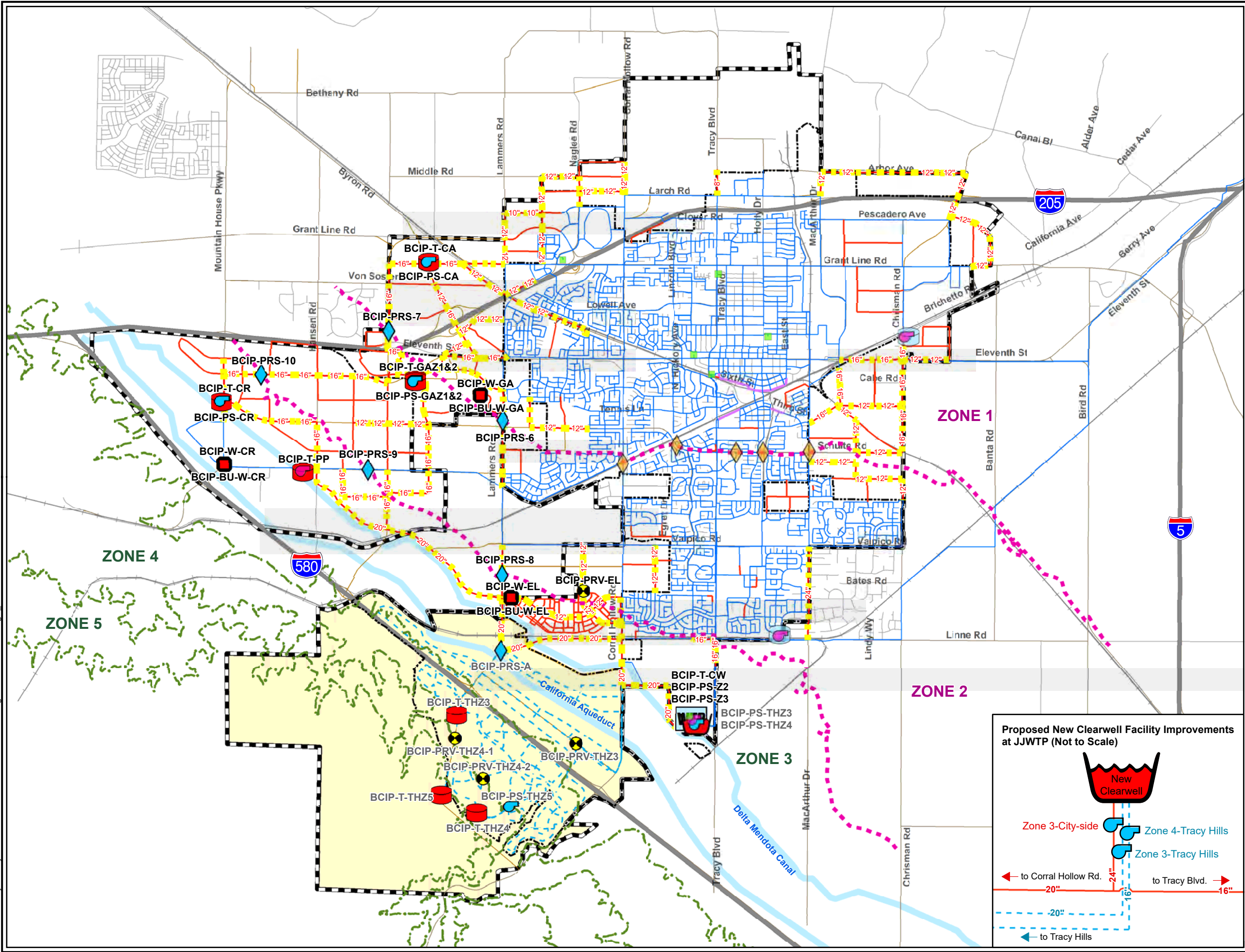
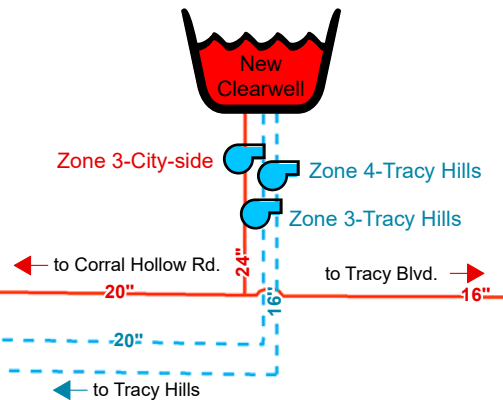
NOTES

1. The City's existing hydraulic model is not an all pipes model. Therefore, not all existing pipes are shown.
2. Bore and jack pipeline projects are not shown, but is required for canal, railroad, or major highway crossings.
3. Individual PRVs on water service connections with static pressures exceeding 80 psi will be the responsibility of individual developer(s) to install.

LEGEND

- Proposed Pipeline Included in Fee Analysis
- Proposed Pipeline
- Proposed Existing Pipeline Upsize
- Existing Pipeline
- Proposed Tracy Hills Pipeline
- Proposed Backup Power Generator
- Proposed Emergency PRV Connection
- Proposed Pressure Regulating Station
- Proposed ASR Groundwater Well
- Proposed Booster Pump Station
- Proposed Storage Tank
- Proposed Clearwell
- Existing Pressure Regulating Station
- Existing Groundwater Well
- Existing Booster Pump Station
- Existing Storage Tank
- Tracy Hills
- SOI
- City Limits
- Proposed Street
- Existing Street

Proposed New Clearwell Facility Improvements
at JJWTP (Not to Scale)



ATTACHMENT 2

Planning and Modeling Criteria
(2012 Citywide Water System Master Plan)

Planning and modeling criteria used to evaluate the proposed Project are based on the system performance and operational criteria developed in the 2012 Citywide Water System Master Plan. The criteria used to evaluate the existing water system and the proposed pipelines for the Project are listed as follows:

- Residual pressure at the flowing hydrant (during an assumed maximum day demand plus fire flow condition) and throughout the water system must be equal to or greater than 30 pounds per square inch (psi) during the simulated fire condition.
- Minimum allowable service pressure is 40 psi during all other non-fire demand conditions.
- Maximum allowable service pressure is 80 psi. A pressure reducing valve (PRV) will be required on all water services with a static pressure greater than 80 psi and should conform with the requirements from the Uniform Plumbing Code.
- Maximum allowable distribution pipeline velocity is 12 feet per second (fps) during the simulated fire flow demand condition.
- Maximum allowable transmission and distribution pipeline velocity is 6 fps and 8 fps, respectively, during a non-fire demand condition.
- Maximum allowable head loss rate is 10 feet per 1,000 feet (ft/kft) during the simulated fire demand condition.
- Maximum head losses in distribution system pipelines should be limited to 7 ft/kft during a non-fire demand condition.
- Any new, required pipelines, will be modeled with a roughness coefficient (C-factor) of 130.
- Available fire flow demand must meet a minimum flow of 4,500 gpm (Industrial land use, assuming fully sprinklered buildings) during a maximum day demand condition.
- The 2012 Master Plan hydraulic model of the City's water distribution system was used as the basis for evaluation.¹ However, the hydraulic model was updated to include the following major existing system improvements:
 - Improvements that have been recently constructed on South Lammers Road (20-inch diameter pipeline and pressure regulating station (PRS #6)); and
 - Proposed improvements on South MacArthur Drive (24-inch diameter pipeline).

¹ This hydraulic model was updated to include projected water demands from new developments such as Valpico and MacDonald Apartments, Sierra Hills (Aspire I) Apartments, Tiburon Village, Middlefield Drive Apartments and Self-Storage Facility, I-205 Parcels M1 and M2 and Infill Parcels 7 and 13, Grant Line Road Apartments, South Lammers Road Development, Aspire II Development, Pescadero IPT Development, first three buildings at Cordes Ranch, Ellis Specific Plan Phase 1A and Phase 1A Extension, Marriott TownePlace Suites, Larch Clover Interim Annexation, Ellis Specific Plan Phase 2 - The Gardens, IPC Buildings 3, 4, and 12, IPC Building 25, IPC Buildings 22, 23, and Thermo Fisher, Tracy Village Specific Plan, Avenues Specific Plan, and IPC Buildings 9, 10, and 14. City staff also requested West Yost to incorporate the following developments, which were evaluated by Black Water Consulting Engineers, Inc. into the City's hydraulic model: Barcelona Infill, Berg Road Properties, Harvest Apartments, 321 E. Grant Line Apartments, and Project Hawk/IPC.



Technical Memorandum

Appendix B

Wastewater System Analysis for the Northeast Industrial Area

CH2M



City of Tracy

Wastewater System Analysis for Northeast Industrial Area



Prepared for

City of Tracy

July 2018

Updated November 2018



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Sacramento, CA 95833
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2.0 Existing and Future Wastewater Flows	9
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Figure 1 – City of Tracy NEI Area Vicinity Map

Figure 2 – NEI Undeveloped Parcels (Map provided by Harris Associates)

Figure 3 – Existing NEI Wastewater Collection System

Figure 4 – Existing Hydraulic Capacities and Future Peak Flows

Figure 5 -- Proposed NEI Wastewater System Upgrade

Appendix A

NEI Collection System Hydraulic Model

Appendix B

Cost Estimate for future Gravity Sewer (Program Cost)

Executive Summary

The purpose of this technical analysis is to determine whether the existing wastewater collection system has sufficient capacity to receive and transmit wastewater flows from the undeveloped (currently vacant) parcels within the North East Industrial (NEI) area.

Based on the information provided by City, there are approximately 38 parcels that are currently vacant within the exiting NEI boundary. The total area is approximately 463 acres.

A hydraulic model was developed to determine future peak wastewater flows from NEI area and compare it to the hydraulic capacity of the existing collection system.

Based on the analysis presented in Appendix A and a review of the hydraulic capacity of the existing wastewater collection system, there is sufficient capacity in the existing collection to convey wastewater flows from remaining vacant parcels of NEI area except the following sections:

1. Gravity sewer line from the intersection of Pescadero Ave and MacArthur Drive to MacArthur Wastewater Pump Station.
2. Gravity sewer line along Pescadero Ave from Ridge Line Warehouse to the Intersection of Pescadero Ave and MacArthur Drive.

Based on the existing and future peak wet weather flows, there is a need to construct the following Improvements:

1. New 18-inch sewer line parallel to the existing sewer line along Pescadero Ave from Ridge Line Warehouse to the Intersection of Pescadero Ave and MacArthur Drive. The length of this new sewer line is approximately 4,700 feet.
2. New 18-inch sewer line parallel to the existing sewer line along MacArthur Drive from the Intersection of Pescadero Ave and MacArthur Drive to MacArthur Wastewater Pump Station located north of I-205 Freeway. The length of this sewer line is approximately 1,350 feet.

Estimated Cost: The estimated Cost of the proposed sewer line improvement is \$2.7M as shown in Section 4 of this report.

Acronyms and Abbreviations

ADWF	average dry weather flow
CC	Construction Cost
DU	dwelling unit
ECU	equivalent customer unit
ft ²	square foot
gal	gallon(s)
gal/ac-day	gallon(s) per acre per day
gpcd	gallon(s) per capita per day
gpd	gallon(s) per day
HD	high density
lbs	pounds
lbs/cap-day	pounds per capita per day
LD	low density
MD	medium density
mgd	million gallon(s) per day
mg/L	milligrams per liter
NEI	Northeast Industrial
NPDES	National Pollutant Discharge Elimination System
PDWF	peak dry weather flow
PF	Peaking Factor
PWWF	peak wet weather flow
SSO	sanitary sewer overflow
SWRCB	State Water Resources Control Board
TDS	total dissolved solids
TSS	total suspended solids
Water Board	Regional Water Quality Control Board
WRF	water recycling facility
WWTP	Wastewater Treatment Plant
VLD	very low density

1.0 Introduction

The existing Northeast Industrial Area (NEI) is located at the Northeast portion of the City of Tracy as shown in Figure 1. Majority of the development within this area consists of light industrial projects. NEI area has been developed in several phases.

City of Tracy completed a wastewater analysis in 2004 and established wastewater connection fees in 2005. The above fee was intended to fund the construction of NEI wastewater collection system.

The purpose of this technical analysis is to determine whether the existing wastewater collection system has sufficient capacity to receive and transmit wastewater flows from the undeveloped (currently vacant) parcels within NEI area.

Based on the information provided by the City of Tracy, there are approximately 38 parcels that are vacant within the exiting North East Industrial area. The total area is approximately 463 acres.

There is a need to reanalyze the existing and proposed wastewater systems to determine whether any changes are needed to the proposed wastewater collection system based on recent development within NEI area.

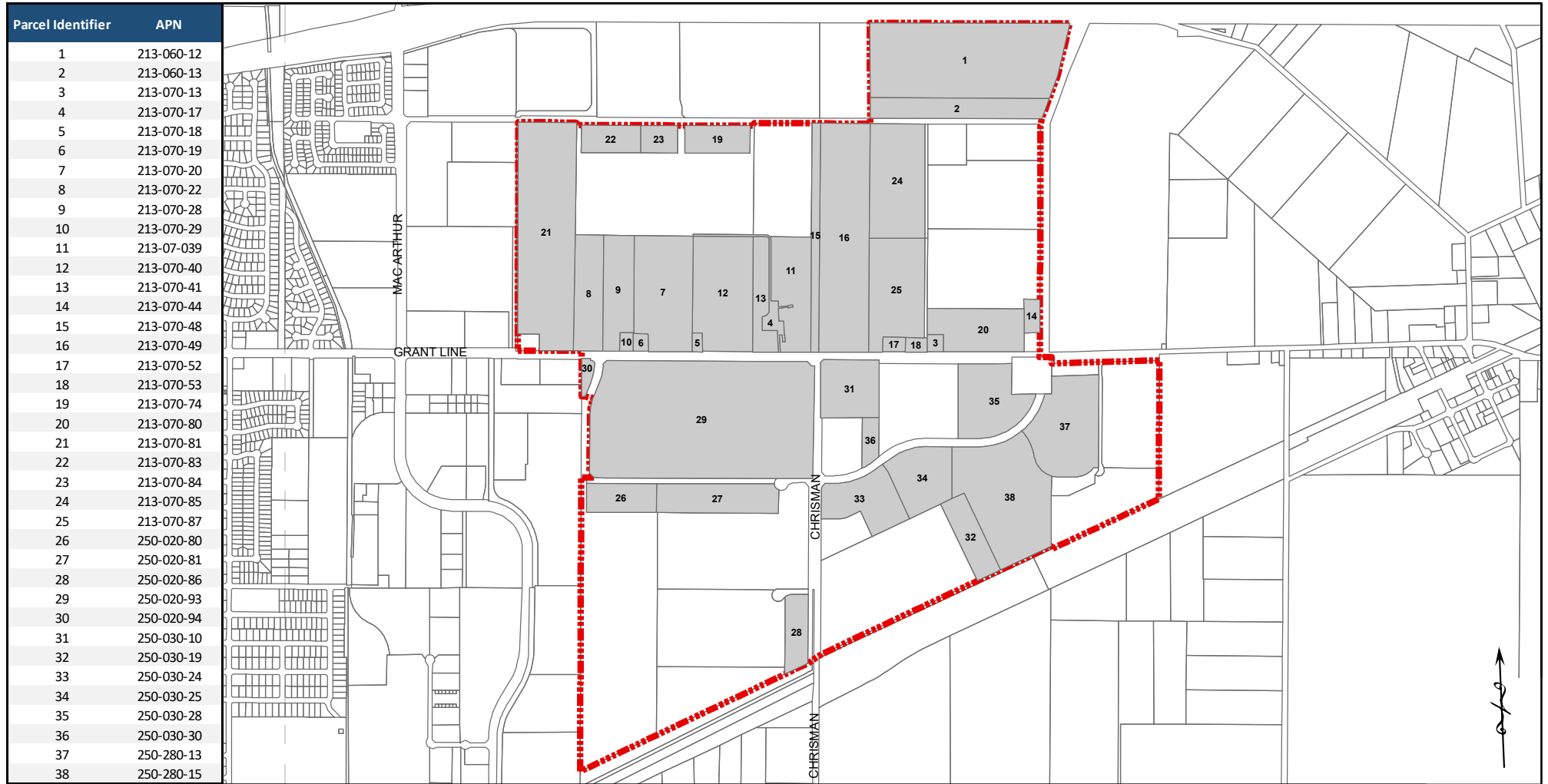
In summary, this technical analysis determines whether the existing system can handle wastewater flows from future undeveloped parcels within NEI area. If the analysis indicates there is insufficient capacity in the existing system, then improvements to the existing system will be recommended.

Figure 2 shows NEI undeveloped parcels as of January 2018 (exhibit provided by Harris and Associates). Table 1 shows the parcel number and area of each undeveloped parcel located within NEI area. Area information shown in Table 1 will be used to develop wastewater flows from each undeveloped parcel. (Source: Data provided by Harris and Associates, 2018).



**Figure 1. Northeast Industrial Area
Vicinity Map**

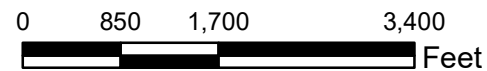
NEI "UNDEVELOPED" PARCELS CITY OF TRACY (AS OF 1-10-18)



LEGEND:

-  NEI Undeveloped Parcels
-  NEI Boundaries
-  Tracy Parcels

GRAPHIC SCALE:



NOTES:

REFERENCE IS HEREBY MADE TO THE MAPS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF SAN JOAQUIN FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN, WHICH MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS.



Harris & Associates

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DATE: MARCH 2018

Figure 2. NEI Undeveloped Parcels

Table 1: NEI Parcel Number and Area Data

Parcel Identifier	APN	Area (Acres)
1	213-06-12	42.42
2	213-06-13	9.78
3	213-07-13	0.84
4	213-07-17	2.27
5	213-07-18	0.53
6	213-07-19	0.72
7	213-07-20	18.88
8	213-07-22	9.74
9	213-07-28	9.07
10	213-07-29	0.66
11	213-07-39	11.41
12	213-07-40	18.90
13	213-07-41	6.32
14	213-07-44	1.62
15	213-07-48	5.34
16	213-07-49	33.86
17	213-07-52	1.01
18	213-07-53	1.00
19	213-07-74	5.35
20	213-07-80	11.30
21	213-07-81	35.89
22	213-07-83	4.73
23	213-07-84	2.94
24	213-07-85	18.59
25	213-07-87	16.72
26	250-02-80	5.80
27	250-02-81	10.08
28	250-02-86	5.00
29	250-02-93	75.14
30	250-02-94	0.98
31	250-03-10	9.28
32	250-03-19	6.35
33	250-03-24	10.48
34	250-03-25	10.51
35	250-03-28	12.59
36	250-03-30	2.17
37	250-28-13	17.62
38	250-28-15	27.19
	Total Acreage	463.08

2.0 Existing and Future Wastewater Flows

The existing and future wastewater flows were projected based on the most current land use planning data available and wastewater generation factors. The following wastewater generation factors are taken from the Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013 approved by the City Council in 2013.

Table 2. Wastewater Generation Factors

Flow Parameter	Wastewater Master Plan Values
Industrial Flow	1,056 gal/acre/day
Retail and Commercial Flow	1,140 gal/acre/day
Office Flow	1,140 gal/acre/day

Source: Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.

The above wastewater generation factors are used to develop average dry weather flows (ADWF) from the undeveloped parcels within NEI area.

Previously completed 2012 Wastewater Master Plan recommended the following peak wet weather flow (PWWF) factors.

PWWF is the most important criteria used for hydraulic considerations (for example, collection systems, pumping stations, and treatment processes dependent upon hydraulic loading). The objective of this portion of the study is to estimate maximum quantity of wastewater generated at buildout. The PWWF used in this planning effort is based Peak Dry Weather Flow (PDWF) plus groundwater infiltration, plus rainfall induced inflow/infiltration.

PDWF rates were computed using the following criteria:

Industrial PDWF: ADWF Peaking Factor (PF) = 3.0

Office PDWF: ADWF PF = 3.0

Retail PDWF: ADWF PF = 2.5

Commercial PDWF: ADWF PF = 3.0

Residential PDWF: ADWF PF = 2.5 (Population/1000)^{-0.11275}

Appendix A shows the hydraulic model of the NEI Area. It shows average and peak wet weather flows from both existing and undeveloped properties within NEI area. This hydraulic model also shows the discharge location of peak wet weather flows from various parcels.

Figure 3 shows the existing wastewater collection system as of 2018.

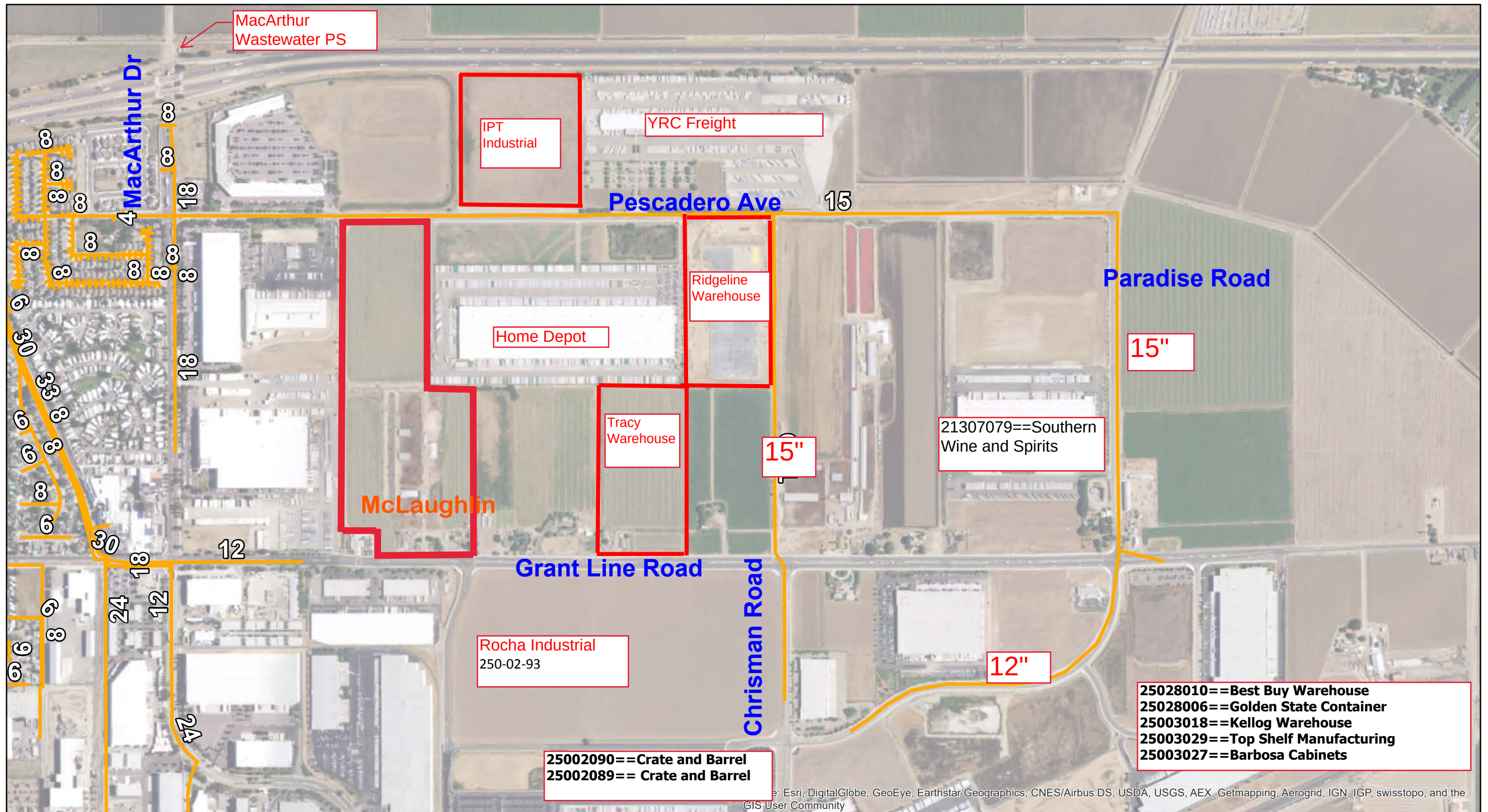


Figure 3
Existing NEI Wastewater
Collection System

3.0 Future Wastewater Collection System

Hydraulic capacity of the existing collection system and future peak wet weather flows are shown in Figure 4. Based on the analysis presented in Appendix A and a review of the hydraulic capacity of the existing wastewater collection system, there is sufficient capacity in the existing collection to convey wastewater flows from NEI area except the following:

1. Gravity sewer line from the intersection of Pescadero Ave and MacArthur Drive to MacArthur Wastewater Pump Station.
2. Gravity sewer line along Pescadero Ave from Ridge Line Warehouse to the Intersection of Pescadero Ave and MacArthur Drive.

Based on the existing and future peak wet weather flows, there is a need to construct the following Improvements:

1. New 18-inch sewer line parallel to the existing sewer line along Pescadero Ave from Ridge Line Warehouse to the Intersection of Pescadero Ave and MacArthur Drive. The length of this new sewer line is approximately 4,700 feet.
2. New 18-inch sewer line parallel to the existing sewer line along MacArthur Drive from the Intersection of Pescadero Ave and MacArthur Drive to MacArthur Wastewater Pump Station located north of I-205 Freeway. The length of this sewer line is approximately 1,350 feet.

Figure 5 shows the location of the proposed NEI Program sewer lines. Similar to previous NEI infrastructure methodology, only trunk sewer lines are considered as part of the NEI Infrastructure Program. Any additional lines needed to connect to the program sewer or trunk lines from individual parcels are considered part of each project's off-site improvement. Each parcel is responsible for connecting to the designated program sewer line shown on Figure 4.

It should be noted that the scope of this analysis is limited to NEI area only and does not include other areas outside the NEI boundary.

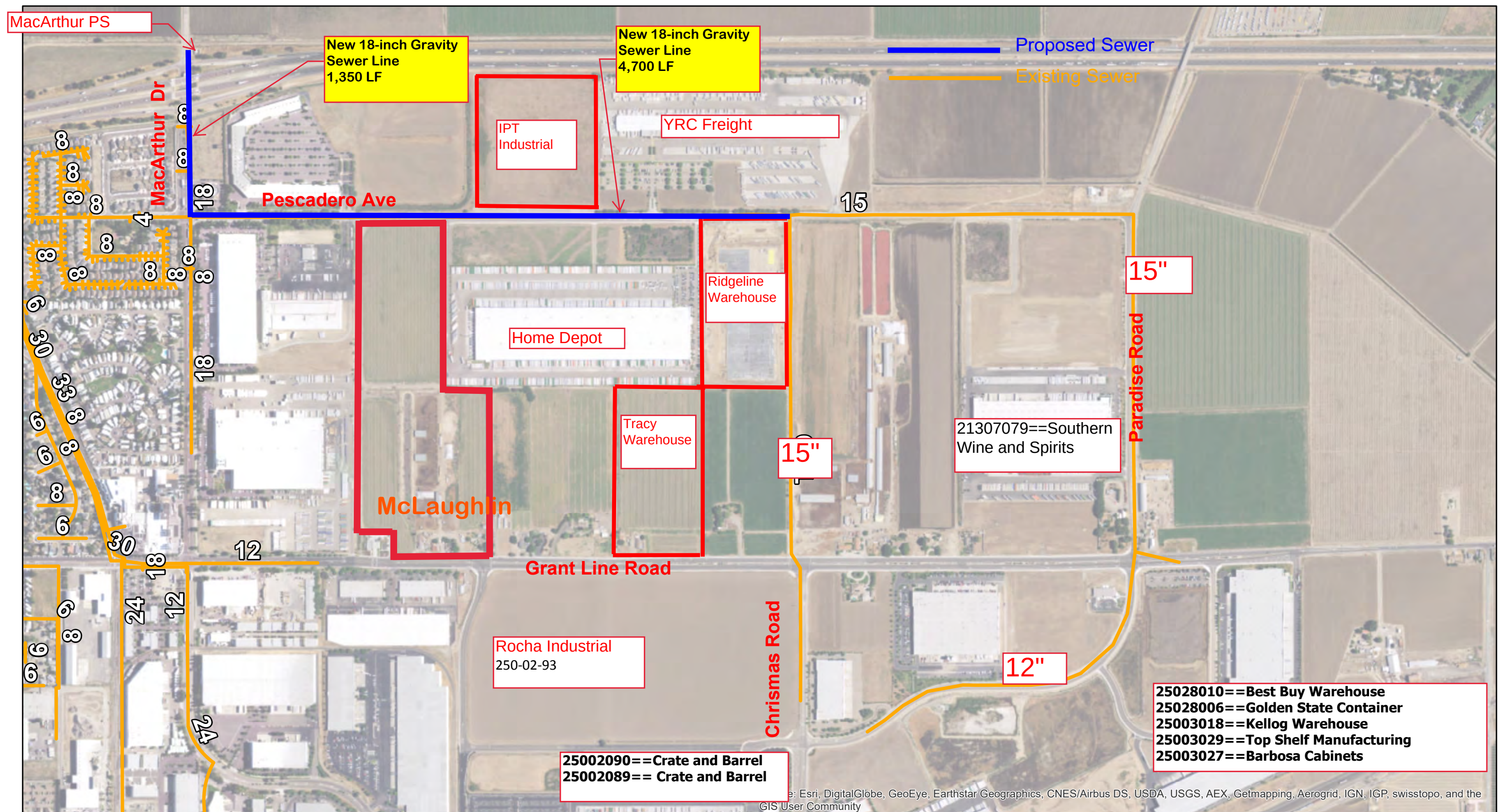


Figure 5
Proposed NEI Sewer Lines

Notes:
1. Area of interest subject to change.

4.0 Cost Estimate

Based on the proposed program sewer lines shown on Exhibit 5, the estimated construction cost (based on 2018 cost) is \$2.7M as shown on Appendix B.

5.0 Reference Documents Used in Analysis

The documents used in the analysis include the following:

1. City of Tracy Wastewater Master Plan, CH2MHILL, 2012
2. Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.
3. City of Tracy Wastewater System Analysis for Rocha Industrial Project, CH2MHILL, May 2017
4. City of Tracy Wastewater System Analysis for McLaughlin Industrial Project, CH2MHILL, August 2017
5. Exhibit and Table provided by Harris and Associates, 2018

APPENDIX A

Hydraulic Model of NEI Wastewater Collection System

NEI Existing and UNDEVELOPED Wastewater Flows

Appendix A. NEI Existing and UNDEVELOPED Wastewater Flows							
Flow Data							
Industrial Avg flow (gpd per gross acre)				1056	Source: Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.		
Commercial Avg flow (gpd per gross acre)				1140	Source: Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.		
No of EDUs for Industrial (per gross acre)				4	Source: Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.		
No of EDUs for Commercial (per gross acre)				4.32	Source: Tracy Wastewater Conveyance and Treatment Development Impact Fee Study, City of Tracy, January 2013.		
ADWF to PDWF Peaking factor				3	from 2012 Wastewater master plan		
Infiltration				6%	from 2012 WW	6% of ADWF	
Inflow				400	from 2012 WW	400 gallons/acre/day	
APN	Harris Map Parcel No.(see bottom)	Parcel/Project Name	Exist or future	Gross Area (acres)	ADWF (gpd)	PDWF (gpd)	Wastewater Discharge Location
Intersection of GrantLine Road and Paradise Road (near Animal Shelter)							
25028010=Best Buy Warehouse			Exist	17.80	18,797	56,390	=
25028006=Golden State Container			Exist	14.14	14,932	44,796	
25003018=Kellog Warehouse			Exist	37.96	40,086	120,257	
25003029=Top Shelf Manufacturing			Exist	6.56	6,927	20,782	
25003027=Barbosa Cabinets			Exist	17.73	18,723	56,169	
250-03-19	32	Building 17	Future	6.35	6,706	20,117	
250-03-24	33		Future	10.48	11,067	33,201	

NEI Existing and UNDEVELOPED Wastewater Flows

APN	Harris Map Parcel No.(see bottom)	Parcel/Project Name	Exist or future	Gross Area (acres)	ADWF (gpd)	PDWF (gpd)	Wastewater Discharge Location
250-03-25	34	Building 17	Future	10.51	11,099	33,296	
250-03-28	35		Future	12.59	13,295	39,885	
250-03-30	36	Existing Retention Basin	Future	2.17	2,292	6,875	
250-28-13	37	Building 18	Future	17.62	18,607	55,820	
250-28-15	38	Building 17	Future	27.19	28,713	86,138	
				Infiltration		11,474	
				Inflow		72,440	
					PWWF	657,639	to Intersection of Grantline and Paradise
To Southside of Intersection of Grantline and Chrisman Road							
25002090==Crate and Barrel			Exist	36.18	38,206	114,618	
25002089==Crate and Barrel			Exist	28.40	29,990	89,971	
25002093==Rocha Industrial			Exist	75.14	79,348	238,044	
250-02-80	26	Existing Retention Basin	Future	5.80	6,125	18,374	
250-02-81	27	Existing Retention Basin	Future	10.08	10,644	31,933	
250-02-86	28	Existing Retention Basin	Future	5.00	5,280	15,840	
250-03-10	31		Future	9.28	9,800	29,399	
				Infiltration		10,763.60	
				Inflow		67,952	
					PWWF	616,895	To Intersection of Grantline and Chrisman Road

NEI Existing and UNDEVELOPED Wastewater Flows

APN	Harris Map Parcel No.(see bottom)	Parcel/Project Name	Exist or future	Gross Area (acres)	ADWF (gpd)	PDWF (gpd)	Wastewater Discharge Location
Along Grantline (from Parcel 30 to Chrisman Road)							
21307040 = Tracy Warehouse			Exist	18.90	19,958	59,875	
213-07-17	4		Future	2.27	2,397	7,191	
213-07-18	5		Future	0.53	560	1,679	
213-07-19	6		Future	0.72	760	2,281	
213-07-20	7		Future	18.88	19,937	59,812	
213-07-28	9		Future	9.07	9,578	28,734	
213-07-29	10		Future	0.66	697	2,091	
213-07-39	11		Future	11.41	12,049	36,147	
213-07-41	13		Future	6.32	6,674	20,022	
				Infiltration		4,357	
				Inflow		27,504	
					PWWF	249,692	
To Northside of Intersection of Grantline and Chrisman Road							
add 0.62 and 0.25						866,588	
Along Grantline (from Chrisman Road to Paradise Road)							
213-07-13	3		Future	0.84	887	2,661	
213-07-52	17		Future	1.01	1,067	3,200	
213-07-53	18		Future	1.00	1,056	3,168	
213-07-80	20		Future	11.30	11,933	35,798	
213-07-87	25		Future	16.72	17,656	52,969	
				Infiltration		1,955.92	
				Inflow		12,348	
					PWWF	112,100	(from Christmas to Paradise)

NEI Existing and UNDEVELOPED Wastewater Flows

APN	Harris Map Parcel No.(see bottom)	Parcel/Project Name	Exist or future	Gross Area (acres)	ADWF (gpd)	PDWF (gpd)	Wastewater Discharge Location
To Northside of Intersection of Grantline and Paradise Road							
21307079 = Southern Wine and Spirits				25.15	26,558	79,675	
213-07-44	14		Exist	1.62	1,711	5,132	
				Infiltration		1,696	
				Inflow		10,708	
					from Intersection of Grantline and Paradise	657,639	
					(from Christmas to Paradise)	112,100	
					PWWF	866,951	to Paradise Road 15" Sewer
Along West Pescadero Road (in front of RidgeLine)							
213-06-12	1		Future	42.42	44,796	134,387	
213-06-13	2		Future	9.78	10,328	30,983	
213-07-48	15		Future	5.34	5,639	16,917	
213-07-49	16		Future	33.86	35,756	107,268	
213-07-85	24		Future	18.59	19,631	58,893	
21307078			Future	22.08	23,316	69,949	
21307077			Future	8.19	8,649	25,946	
21307076			Future	4.8	5,069	15,206	
				Infiltration		9,191	
				Inflow		58,024	
					Northside of Intersection of Grantline and Paradise Road	866,951	
					PWWF	2,260,667	

NEI Existing and UNDEVELOPED Wastewater Flows

APN	Harris Map Parcel No.(see bottom)	Parcel/Project Name	Exist or future	Gross Area (acres)	ADWF (gpd)	PDWF (gpd)	Wastewater Discharge Location
Along West Pescadero Road (in front of Outlet Mall/MacLaughlin)							
21307006==Ridgeline Warehouse			Exist	19.46	20,550	61,649	
21306026--YRC Freight			Exist	39.06	41,247	123,742	
21306026--IPT Industrial			Exist	22.8	24,077	72,230	
21307073==Home Depot Dist Center			Exist	44	46,464	139,392	
213-07-74	19		Future	5.32	5,618	16,854	
213-07-83	22		Future	4.73	4,995	14,985	
213-07-84	23		Future	2.94	3,105	9,314	
21307081 & 21307022==McLaughlin Project	21		Future	46.4	48,998	146,995	
Outlet mall--21306040			Exist	20.45	21,595	64,786	
Future outlet mall-- 21306043			Future	18.03	19,040	57,119	
				Infiltration		14,141	
				Inflow		89,276	
				Along West Pescadero Road (in front of RidgeLine)		2,260,667	
					PWWF	3,071,150	to 18" sewer Along MacArthur
Near I-205 Freeway							
Pombo square (215 SF homes)					56,760	170,280	
Green Oak Mobile home park (160 spots)					28,160	84,480	
MacLane Food 21307067,				33.17	28,160	84,480	
				Infiltration		1,690	
				Inflow		15,392	
				From Pescadero		3,071,150	
					PWWF	3,427,472	

APPENDIX B

Cost Estimate for NEI Future Wastewater Collection System

Appendix B

Parallel Gravity Sewer Line from Ridgeline Warehouse along Pescadero Ave to MacArthur PS

Description	Quantity	Unit	Unit Price (\$)	Amount (\$)
Mobilization (6 month construction duration)		L.S.		90,000
Proposed project work plans		L.S.		20,000
Final cleanup and demobilization		L.S.		30,000
Construction documentation and record drawings		L.S.		10,000
Surveying and construction staking		L.S.		15,000
15-inch gravity sewer line, 12-15 feet deep, below groundwater	6050	L.F.	200	1,210,000
Manholes	12	each	12000	144,000
Break into existing manhole	2	each	6000	12,000
saw cut pavement and curb	1200	sq. ft.	12	14,400
Repair curb and gutter	550	L.F.	40	22,000
Remove and replace irrigation systm		L.S.		10,000
Replace signal wiring loop		L.S.		12,000
Pavement replacement including fabric and deep lift A.C.	1500	tons	140	210,000
Shoring		L.S.		50,000
Dewatering		L.S.		50,000
Pavement striping		L.S.		10,000
Traffic control along MacArthur and Pescadero Ave		L.S.		50,000
Subtotal				1,959,400
Contingencies (15%)				293,910
Engineering and Construction Management (20%)				391,880
Program Management by City (5%)				97,970
			Total Estimate	2,743,160
			Use	\$2.7M

These cost estimates are order-of-magnitude estimates as defined by the American Association of Cost Engineers. They are approximate estimates made without detailed engineering data. Estimates of this type are usually accurate within +50 % and -30 %.

RESOLUTION 2019-_____

APPROVING NORTHEAST INDUSTRIAL AREA FUTURE PHASES WATER AND WASTEWATER
DEVELOPMENT IMPACT FEES

WHEREAS, The City adopted the Citywide Water Master Plan and the Citywide Wastewater Master Plan, as approved by City Council Resolution No. 2013-008, on January 15, 2013, and

WHEREAS, The City adopted the Citywide Water Master Plan Fee and the Citywide Wastewater Master Plan Fee on January 7, 2014 by City Council Resolution No. 2014-10, and

WHEREAS, The fee studies calculated a fee for the main water and sewer facilities but did not analyze funding for the localized improvements required to serve NEI future phases, and

WHEREAS, The City's consultant completed a "Hydraulic Evaluation of Northeast Industrial Area (NEI Specific Plan)," dated September 2018, which analyzed localized NEI water distribution facilities and proposed a upsize of an 8-inch water line to a 12-inch water lines, and

WHEREAS, The City's consultant completed a "Wastewater System Analysis for the Northeast Industrial Area," dated November 2018, which analyzed the localized NEI wastewater conveyance facilities and proposed new 18-inch gravity sewer lines, and

WHEREAS, A significant portion of the localized infrastructure was constructed by earlier phases of NEI leaving the proposed water distribution and wastewater conveyance facilities to the responsibility of NEI Future Phases, and

WHEREAS, The City's consultant completed a "City of Tracy's Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Technical Memorandum," ("Technical Memorandum") which meets Mitigation Fee Act Requirements and establishes new Water and Wastewater Development Impact Fees ("Water and Wastewater Fees"), and

WHEREAS, In accordance with Government Code Section 66016, at least 14 days prior to the public hearing at which the Council first considered the adoption of the Water and Wastewater Fees, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges, and

WHEREAS, In accordance with Government Code Section 66016, data supporting the imposition of the Water and Wastewater Impact Fees—including the estimated costs of providing the infrastructure to be financed by the proposed fee—in the form of the Technical Memorandum, dated September 4, 2019, were made available for public review and comment for 10 days prior to the public hearing at which the Council first considered the adoption of the Fees, and

WHEREAS, Ten days advance notice of the public hearing at which the Council first considered the adoption of the Fee was given by publication in accordance with Section 6062a of the California Government Code, and

WHEREAS, Government Code Section 66017 provides that Development Impact Fees are not effective until 60 days following adoption of these fees by the City, and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby finds and determines as follows:

- 1) In adopting the Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Findings and Northeast Industrial Area Future Phases Water and Wastewater Fees (Water and Wastewater Fees), set forth in this resolution, the City Council is exercising its powers under Article XI, Section 7 of the California Constitution.
- 2) The purpose of the Water and Wastewater Fees are to finance the water distribution and wastewater conveyance infrastructure facilities for the NEI Future Phases ("Facilities"), as identified in the Technical Memorandum, dated September 4, 2019, prepared by Harris & Associates and attached hereto as Exhibit A.
- 3) The Water and Wastewater Fees collected pursuant to this resolution shall be used to finance the Facilities required to serve the buildout of NEI Future Phases.
- 4) There is a reasonable relationship between the use of the Water and Wastewater Fees revenues and the type of development projects on which such fee is imposed in that all new development located within the NEI Future Phases will generate, or contribute to, the need for the Facilities by increasing water usage and wastewater discharge and the Water and Wastewater Fees revenues will be used to finance new development's share of the cost of the Facilities.
- 5) There is a reasonable relationship between the need for the Facilities and the type of development projects on which the Water and Wastewater Fees is imposed in that new development in NEI Future Phases will increase water usage and wastewater discharge in the NEI area, contributing to the need for the Facilities.
- 6) There is a reasonable relationship between the amount of the Water and Wastewater Fees set forth in this resolution and the cost of the facilities to be funded, or that portion of such facilities attributable to the development on which such Fee is imposed, in that the Water and Wastewater Fees are based on the water use rates and the wastewater generation rates that each land use generates and the total cost of the Facilities attributable to the new development.
- 7) The Fee imposed by this Resolution is consistent with the City's General Plan.

BE IT FURTHER RESOLVED, that the City Council of the City of Tracy hereby:

1. Adopts the City of Tracy's Northeast Industrial Area Future Phases Water and Wastewater Development Impact Fee Technical Memorandum attached hereto, and
2. Adopts the updated Water and Wastewater Fees for the Northeast Industrial Area Future Phases.
3. Authorizes the Development Services Director to annually adjust the Water and Wastewater Fees each year on July 1 using the June Engineering News Record Construction Cost Index for San Francisco. The first update will occur on July 1, 2020 using the June 2019 index as the base year. This annual adjustment will offset the effects of inflation-related construction cost increases.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.B

REQUEST

INTRODUCE AN ORDINANCE ADOPTING, BY REFERENCE, THE 2019 CALIFORNIA BUILDING AND RELATED CODES, SPECIFYING WHICH APPENDICES APPLY TO THE CITY OF TRACY, RE-ADOPTING CERTAIN EXISTING SECTIONS OF TITLE 9 OF THE TRACY MUNICIPAL CODE, ADOPTING LOCAL STANDARDS RELATED TO EMERGENCY HOUSING, STRAW-CLAY CONSTRUCTION, CORROSIVE SOILS, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, OTHER EMERGENCY RESPONDER REQUIREMENTS AND FLOOD PLAIN REGULATIONS AND SET A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE

EXECUTIVE SUMMARY

The 2019 California Building and Fire Codes are mandated to be enforced throughout California six months after the publication date regardless of the local adoption process. The state-mandated effective date of local enforcement occurs on January 1, 2020. However, to enforce necessary local amendments, adopt certain appendices to the Building Codes, update and contemporize administrative provisions, antiquated codes and references, modifications to Title 9 of the Tracy Municipal Code (TMC) are requested at this time.

DISCUSSION

New versions of the various building and fire codes (California Codes) related to building design and construction are adopted by the State of California every three years. As new codes are adopted by the legislature, the City of Tracy amends our local ordinances as necessary. The codes under current consideration are the 2019 California Codes that replace the 2016 versions as set forth in Title 24 of the California Code of Regulations. These California Codes include the following:

- California Building Code (CBC),
- California Fire Code, (CFC),
- California Mechanical Code (CMC),
- California Plumbing Code (CPC),
- California Electrical Code (CEC),
- California Energy Code (CEnC),
- California Residential Code (CRC),
- California Existing Building Code (CEBC),
- California Green Standards Building Code (CGBSC),
- California Historical Building Code (CHBC).

Additionally, some of the California Codes are amended International Codes (copyrighted by the International Code Council or ICC), Uniform Codes (copyrighted by the International Association of Plumbing and Mechanical Officials or IAPMO) and the National Electric Code (copyrighted by the National Fire Protection Association or NFPA),

having been amended by various state agencies and ratified by the California State Building Standards Commission.

These codes provide minimum requirements and standards for the protection of life, limb, health, property, safety and welfare of the general public, owners and occupants of buildings. The California Health and Safety Code requires cities to enforce the most recent editions of the California Codes. As such, the 2019 California Codes are required by the State to be enforced beginning January 1, 2020.

However, local agencies, such as Tracy, are able to adopt appendices that are not uniformly required otherwise. In addition to the mandated 2019 California Codes mentioned above, City staff is recommending adoption of certain appendices. This approach was also taken in 2016, and with previous building code updates.

The following list of California Codes and corresponding appendices are recommended for adoption:

- 2019 California Building Code: Appendices C, F, H, I, K, O
- 2019 California Electrical Code: No appendices to be adopted
- 2019 California Mechanical Code: Appendices D and F
- 2019 California Plumbing Code: Appendices A, B, C, D, E, G, H, I, J and K
- 2019 California Energy Code: No appendices to be adopted
- 2019 California Residential Code: Appendices H, I, O, R, S, W and X
- 2019 California Historical Building Code: Appendix A
- 2019 California Existing Building Code: No appendices to be adopted
- 2019 California Green Building Standards Code: No appendices to be adopted
- 2019 California Fire Code: Appendices B, BB, C, CC, D, F, H, L and N

Local Amendments to the Building Codes

As stated above, although most of the 2019 California Codes have appendices, such are not applicable unless adopted locally. Some of the local amendments contained within the proposed ordinance are those that have been previously adopted by the City. Those specific items are excluded from this discussion but the new amendments are mentioned below. Not all appendices are proposed for local adoption.

The list below identifies all of the appendices recommended for approval and briefly clarifies the reason for recommendation; another list follows that also includes the appendices not recommended for approval and the rationale for the decision.

Recommended Appendices for Local Adoption

- 2019 CBC Appendix C; gives specific requirements and definitions related to agricultural buildings wherever such exist within the City limits
- 2019 CBC Appendix F; gives specific requirements enabling rodent-proofing
- 2019 CBC Appendix H; provides requirements for unique construction aspects of commercial signage
- 2019 CBC Appendix I; provides standards for the construction of residential patio

- covers when not designed and constructed per the CRC
- 2019 CBC Appendix K; provides state-mandated requirements for the Central Valley Flood Protection Plan within the 200-year flood plain for Group R-3 and R-3.1 occupancies designed and constructed under the CBC.
- 2019 CBC Appendix O; provides construction standards for emergency housing where a declaration of emergency has been issued
- 2019 CRC Appendix H; provides requirements for unique aspects of residential patio construction
- 2019 CRC Appendix I; gives specific standards related to private sewage disposal wherever such exists within the City limits
- 2019 CRC Appendix O; provides requirements for unique construction aspects of automatic vehicular gates and mirrors the requirements of the CFC
- 2019 CRC Appendix R; provides requirements for straw clay construction where such may be used
- 2019 CRC Appendix S; provides requirements for straw bale construction where such may be used
- 2019 CRC Appendix W; provides standards associated with State-mandated regulations for a 200-year flood event
- 2019 CRC Appendix X; provides construction standards for emergency housing where a declaration of emergency has been issued
- 2019 CMC Appendix D; provides fuel supply requirements specific to mobile home parks and recreational vehicle parks
- 2019 CMC Appendix F; provides additional sizing information for venting systems and outdoor combustion and ventilation opening design requirements
- 2019 CPC Appendix A; provides standardization to the sizing of water supply systems
- 2019 CPC Appendix B; provides explanatory direction for combination waste and vent systems
- 2019 CPC Appendix C; clarifies procedures for the design and approval of engineered plumbing systems, alternate materials and equipment not specifically covered in other parts of the CPC
- 2019 CPC Appendix D; provides standardization for sizing of storm water and drainage systems
- 2019 CPC Appendix E; provides criteria for the design and installation of manufactured and/or mobile home park plumbing and drainage systems
- 2019 CPC Appendix G; provides requirements for the sizing of venting systems for Category I appliances
- 2019 CPC Appendix H; where private sewage disposal is existing or approved, this appendix provides the necessary requirements
- 2019 CPC Appendix I; provides standardization for specific plumbing installations
- 2019 CPC Appendix J; provides design information for combination of indoor and outdoor combustion and ventilation opening design
- 2019 CPC Appendix K; provides standards where potable rainwater catchment systems are installed
- 2019 CHBC Appendix A; clarifies if modifications made to qualified historical buildings meet Federal and State requirements as the CHBC is intended to work in conjunction with both Federal and State standards
- 2019 CFC Appendix B; provides criteria for fire flow requirements

- 2019 CFC Appendix BB; provides criteria for fire flow requirements specific to private and public schools
- 2019 CFC Appendix C; provides criteria for hydrant location and appropriate number thereof
- 2019 CFC Appendix CC; provides criteria for hydrant location and appropriate number thereof specific to private and public schools
- 2019 CFC Appendix D; provides additional requirements as it relates to Fire Department emergency access to buildings
- 2019 CFC Appendix F; clarifies hazardous materials placarding requirements based on NFPA 704
- 2019 CFC Appendix H; creates a standard for a hazardous materials management plan and hazardous materials inventory sheets
- 2019 CFC Appendix L; provides requirements for fire fighter air replenishment systems
- 2019 CFC Appendix N provides standards for haunted houses where none currently exist.

The list below identifies all of the appendices and annexes not recommended for adoption, and also briefly clarifies the reason for exclusion from recommendation. Additionally, annexes that are included within certain codes contain non-mandatory information relative to the use of the code and are not part of the enforceable requirements of the code. Therefore, annexes contained in the codes are not necessary to adopt locally.

Appendices and Annexes Not Recommended for Local Adoption

- 2019 CBC Appendix A; the City's Human Resources Department already provides employee qualifications
- 2019 CBC Appendix B; TMC already has Building Board of Appeals provisions
- 2019 CBC Appendix D; this appendix allows for the creation of fire districts that will require more restrictive construction standards than the current building code allows; for example conventional wood frame construction would not be permitted within any designated fire district.
- 2019 CBC Appendix E; the appendix is reserved
- 2019 CBC Appendix G; TMC Title 9 contains requirements for flood-resistant construction which have been recently reviewed and approved by FEMA and DWR
- 2019 CBC Appendix J; on-site grading is performed in accordance with the City standards developed by the Engineering Division
- 2019 CBC Appendix L; requires accelerographs to be installed in buildings to record earthquake acceleration
- 2019 CBC Appendix M; provides tsunami-generated flood hazard regulatory criteria; the City is not in a coastal area and therefore does not require tsunami protection.
- 2019 CBC Appendix N; provides requirements for a replicable building program that mirrors the City's existing master-plan program.
- 2019 CRC Appendix A the appendix is reserved
- 2019 CRC Appendix B; the appendix is reserved
- 2019 CRC Appendix C; the appendix is reserved

- 2019 CRC Appendix D; the appendix is reserved
- 2019 CRC Appendix E; the appendix is reserved
- 2019 CRC Appendix F; Tracy is a low potential hazard area for radon, the lowest in the U.S., therefore radon-resistant construction is not needed
- 2019 CRC Appendix G; the appendix is reserved
- 2019 CRC Appendix J; references International Code sections that are not enforceable in California and the City will use the CEBC where necessary
- 2019 CRC Appendix K; sound transmission requirements already found in CBC
- 2019 CRC Appendix L; the City uses a fee schedule located in the 1997 Uniform Administrative code
- 2019 CRC Appendix M; the appendix is reserved
- 2019 CRC Appendix N; the appendix is reserved
- 2019 CRC Appendix P; the appendix is reserved
- 2019 CRC Appendix Q; the proposed construction standards for tiny houses provides too great of a deviation from the life safety standards of the code, such as lesser requirements for guardrail heights and clear head room height within the structures
- 2019 CRC Appendix T; provides solar-ready provisions that already exist in the CEnC
- 2019 CRC Appendix U; the appendix is reserved
- 2019 CRC Appendix V; repetitive requirements already found in the CBC
- 2019 CEBC Appendix A; provides guidelines for voluntary seismic strengthening for existing buildings of various types and since the guidelines are voluntary the appendix does not need to be adopted
- 2019 CEBC Appendix B; references sections in the International Building Code that are not enforceable in California
- 2019 CEBC Appendix C; provides guidelines for voluntary retrofitting of existing structures to meet high wind areas and are not necessary for adoption
- 2019 CMC Appendix A; this appendix is a form to calculate the HVAC loads for a residential system and is not necessary to adopt
- 2019 CMC Appendix B; the City does not place gas equipment in operation and therefore does not need these prescriptive procedures
- 2019 CMC Appendix C; the City does not install and test oil fuel-fired equipment and therefore does not need these prescriptive procedures
- 2019 CMC Appendix E; provides a comprehensive set of technical provisions that would mandate additional sustainable practices than what is already required through the CGBSC
- 2019 CMC Appendix G; provides an example calculation that is not necessary to adopt
- 2019 CGBSC Appendix A4; provides voluntary residential standards such as higher levels of landscape irrigation design, recycled content requirements, thermal insulation requirements and mandatory cool roof and permeable paving requirements; because they are voluntary it is not necessary to adopt
- 2019 CGBSC Appendix A5; provides voluntary commercial requirements such as higher levels of requirements for fuel-efficient vehicles, recycled building materials, cool roofing, outdoor lighting and interior pollutant controls; because they are voluntary it is not necessary to adopt
- 2019 CGBSC Appendix A-6.1; provides additional standards for facilities regulated

by the State

- 2019 CEC Annex A; identifies product safety standards which are informational and not necessary to adopt
- 2019 CEC Annex B; provides an alternate method for calculating ampacities and is not necessary to adopt
- 2019 CEC Annex C; provides conduit and tubing fill tables that are useful but not necessary to adopt
- 2019 CEC Annex D; provides load calculation examples that are helpful to understand load calculations but not necessary to adopt
- 2019 CEC Annex E; provides information related to types of construction that are not necessary to adopt
- 2019 CEC Annex F; provides information for critical operations power systems and is not necessary to adopt
- 2019 CEC Annex G; provides parameters for supervisory control and data acquisition systems (SCADA) but is not necessary to adopt
- 2019 CEC Annex H; the City already has administrative provisions for the CEC
- 2019 CEC Annex I; provides recommended torque tables as informational tables only and therefore, is not necessary to adopt
- 2019 CEC Annex J; provides accessibility requirements that are already found in the CBC
- 2019 CPC Appendix F; provides redundant requirements already found in Appendix L of the 2019 CFC
- 2019 CPC Appendix L; provides a comprehensive set of technical provisions that would mandate additional sustainable practices than what is already required through the CGBSC
- 2019 CPC Appendix M; provides a peak water demand calculator that is based on model code requirements and not specific to California
- 2019 CEnC Appendix 1-A; provides a list of the standards referenced in the CEnC and is not necessary to adopt
- 2019 CEnC Appendix 1-B; provides referenced Energy Commission documents incorporated in the Energy Code and therefore do not need to be adopted
- 2019 CFC Appendix A; provides a standard for an appeals board other than what the TMC has already provided
- 2019 CFC Appendix E; is informational only and is not intended for adoption
- 2019 CFC Appendix G; is informational only and is not intended for adoption
- 2019 CFC Appendix I; represents a redundancy of elements of inspection already being accomplished
- 2019 CFC Appendix J; provides a standard for a building information sign wherein the Fire Department incident preplanning operations provide the equivalent information.
- 2019 CFC Appendix K; requires existing ambulatory care facilities to be upgraded to meet current requirements

Additional Explanation for the Recommended Adoption of Various Appendices and Amendments

California AB 2913 established that permits for construction will remain active for 12 months after initial issuance. The language in the California Codes state that a permit

expires after 180 days of inactivity. Staff recommends amending the administrative provisions of the 2019 California Codes to have permits expire 12 months after the issuance date to comply with state law.

The City's General Plan requires that finished floor elevations of buildings constructed in the flood plain be set at a minimum of one foot above the base flood elevation. However, the current Tracy Municipal Code floodplain regulations do not harmonize with this requirement. Therefore, in order to avoid conflicting requirements, staff recommends that the floodplain regulations be modified to be the same as the General Plan requirements.

California is experiencing a current housing shortage throughout the state. Compounding this housing shortage is the ever-present threat from a natural disaster.

The City of Tracy could experience urban conflagration, severe flooding or a significant seismic event. As such, there is a possibility of the need for emergency housing. Staff recommends the adoption of CBC appendix O and CRC appendix X which provide construction standards for emergency housing that may be used upon the declaration of a shelter crisis. Having these standards available will provide standards for emergency shelters to be quickly and safely constructed. It is recommended to modify the section related to lofts in these shelters. Specifically, loft guardrails are allowed to be set at a lower height than the current CRC language specifies elsewhere in the code regarding guardrails. Therefore, in order to be consistent, guardrails will be required to have the same minimum height as required elsewhere in the code.

Staff is proposing the adoption of CRC appendix R straw-clay construction. This appendix will provide standards for construction with straw-clay materials for non-load bearing walls. This is a newer methodology that provides a green alternative to traditional construction materials. Having these standards available will provide an opportunity for builders to lessen the environmental impact of construction.

The CBC and CRC have always contained certain structures that are exempt from requiring a permit. One of these exemptions is fences not exceeding 7 feet. The intent of this exemption was to exclude wooden fences that have very little effect on the built environment. However, there are cases in which fences should not be exempt; such as when they act as a pool barrier or are constructed of masonry or concrete over 4 feet in height. Requiring a permit for the rebuilding of a fence surrounding a swimming pool will ensure that such a fence will meet the current code requirements to help to prevent accidental drownings. Additionally, Tracy is located in the second most seismically volatile area in the world. As such, enabling the construction of a massive and heavy masonry or concrete fence without a permit could unwittingly foster substandard construction that could collapse during a tremor and cause property damage and/or injury/death during a seismic event. Staff, therefore recommends that the administrative provisions of the code now clarify the exemptions for fence permits.

Another exemption from requiring a building permit that is vague and needs further clarification is the exemption of one-story detached structures of less than 120 square feet. While the area is limited, there is not a limit to the height of such a structure noted in the exception of the code. The residential code provides prescriptive construction

method for wood wall framing to a maximum story height of 11 feet 7 inches to meet wind and seismic demands. To construct structures with story height greater than 11 feet 7 inches would require engineered design. Therefore, staff is proposing that the City of Tracy limit the exception of one-story 120 square-foot accessory structures to 11 feet 7 inches in height as a code amendment to the administrative provisions of the code.

Staff is also proposing other editorial changes to the TMC within Title 9. These editorial changes consist of relocating and renaming sections in order to increase consistency and readability throughout Title 9.

Most of the changes noted within the 2019 California Codes from previous editions should have minimal impact upon construction, yet constitute a continued effort to achieve the highest levels of health and life safety in the built environment under specified minimum standards.

However, the most significant changes are the requirements found in the CEnC related to increased energy efficiencies including a requirement that all new residential building less than three stories have a photovoltaic system installed. These are intended to have a positive environmental impact and bring California closer to the zero net electricity goal.

A public hearing is not required to adopt the codes by reference, if the adoption is a condition of compliance with a state statute (Government Code section 50022.2). However, a public hearing is required for adoption of the various non-mandated appendices to the codes so staff is requesting that Council set a date for such public hearing on November 19, 2019 to occur concurrently with adoption (second reading) of the proposed ordinance.

Local Outreach

City staff recently met with a group of community stakeholders that included business owners, designers, residential and commercial developers, and contractors in order to receive feedback and discuss in greater detail the proposed code amendments. The stakeholders expressed understanding and voiced no concerns with the proposed local amendments to the 2019 California Codes for the City of Tracy.

Upon Council adoption of the aforementioned local amendments, staff will file these amendments with both the California Building Standards Commission and the Department of Housing and Community Development.

STRATEGIC PLAN

The adoption of the 2019 California Codes does not directly support any portion of the Strategic Plan and yet is not in conflict with any of the Strategic Plan's goals or objectives.

FISCAL IMPACT

The expenses related to the adoption of the 2019 California Building, Fire, and related codes are considered in the adoption of the department budgets. There are sufficient funds for this request.

RECOMMENDATION

Staff recommends that the City Council:

- 1) Introduce and waive the full reading of an Ordinance adopting the 2019 California Building, Fire, and related codes, specifying which appendices apply to the City of Tracy and re-adopting certain existing sections of Title 9 of the Tracy Municipal Code and adopting local standards related to emergency housing, straw clay construction, corrosive soils, exterior pallet storage, radio amplification systems other emergency responder requirements flood plain regulations and set a public hearing date of November 19, 2019 for adoption of the proposed Ordinance, and
- 2) Adopt, by resolution, the findings with respect to local climactic, geographic, or topographical conditions within the City of Tracy to allow certain modifications and changes to the California Building Code, California Fire Code, California Electrical Code, California Residential Code, California Mechanical Code, and the California Existing Building Code.

Prepared by: Chris Landreth, Supervising Building Inspector

Reviewed by: Kevin Jorgensen, Building Official
William Dean, Assistant Development Services Director
Mike Wilkinson, Interim Fire Marshal
Randall Bradley, Fire Chief
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Proposed Ordinance adopting the various 2019 California Codes and appendices thereto, including local amendments, and repealing, amending and adding to Title 9 of the Tracy Municipal Code

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADOPTING THE 2019 CALIFORNIA BUILDING CODE, 2019 CALIFORNIA ELECTRICAL CODE, 2019 CALIFORNIA PLUMBING CODE, 2019 CALIFORNIA RESIDENTIAL CODE, 2019 CALIFORNIA MECHANICAL CODE, 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE, 2019 CALIFORNIA HISTORICAL BUILDING CODE, 2019 CALIFORNIA EXISTING BUILDING CODE, AND 2019 CALIFORNIA ENERGY CODE, 2019 CALIFORNIA FIRE CODE, ADOPTING APPENDICES C, F, H, I, K AND O OF THE 2019 CALIFORNIA BUILDING CODE, APPENDICES A, B, C, D, E, G, H, I, J AND K OF THE 2019 CALIFORNIA PLUMBING CODE, APPENDICES D AND F OF THE 2019 CALIFORNIA MECHANICAL CODE, APPENDICES H, I, O, R, S, W AND X OF THE 2019 CALIFORNIA RESIDENTIAL CODE, ALL APPENDICES OF THE 2019 CALIFORNIA HISTORICAL BUILDING CODE, APPENDICES B, BB, C, CC, D, F, H, L AND N OF THE 2019 CALIFORNIA FIRE CODE, ADOPTING STANDARDS RELATED TO EMERGENCY HOUSING, STRAW-CLAY CONSTRUCTION, CORROSIVE SOILS, EXTERIOR PALLET STORAGE, RADIO AMPLIFICATION SYSTEMS, OTHER EMERGENCY RESPONSE STANDARDS, FLOODPLAIN REGULATIONS AND REPEALING SECTIONS TO REORGANIZE EXISTING ORDINANCE LANGUAGE, CORRECT CODE REFERENCES, AND CLARIFY LANGUAGE

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

SECTION 1: Readopted sections. Tracy Municipal Code sections 9.04.010, 9.04.020 and 9.04.040 are readopted in their entirety without change.

SECTION 2: Amended sections. Tracy Municipal Code sections 9.04.030 and 9.04.050 are hereby amended to read as follows:

9.04.030 Adoption by reference of the California Building Code.
The City hereby adopts by reference the code entitled "2019 California Building Code," Volumes 1 and 2, including appendices C, F, H, I, K and O, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Building Code"), as amended by this chapter. The California Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

9.04.050 Amendments to the California Building Code
The City of Tracy hereby makes the following local amendments to the California Building Code:

CHAPTER 1

Section 105.2 item 1 is amended to read as follows:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided that the floor area is not greater than 120 square feet (11m²) and the story height does not exceed 11' 7" feet.

Section 105.2 item 2 is amended to read as follows:

2. Fences meeting all the following

1. Not exceeding 7 feet
2. Not used as a pool, spa or hot tub barrier
3. When constructed of concrete or masonry shall not exceed 4 feet in height above adjacent finished grade level

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section 105.5 is amended to read as follows:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

CHAPTER 5

Section 501.2 is amended to read as follows:

Section 501.2 Address Identification. New and existing buildings shall be provided and maintained with approved address identification. The identification shall comply with all of the following:

1. Not less than 4" high with a 1/2" stroke width
2. Located minimum of 6' above grade
3. Illuminated at night. Illumination shall be either internal or external at an intensity of 5.0 foot- candles
4. Numbers shall contrast with the background.
5. Numbers shall be placed on a portion of the building that is both legible and visible from the street that fronts the property
6. Numbers shall not be placed on a moveable door and shall not be obstructed from view from the street.
7. Addresses shall be Arabic numbers or alphabetical letters and conventional in form

Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response.

Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way.

Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space. Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings.

An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

CHAPTER 18

Section 1808.6.1 is amended by adding the following text to the end of the section:

3. Slabs-on-grade installed in conjunction with foundations shall also be designed to resist differential volume changes and to prevent horizontal and vertical displacement of the slab.

APPENDIX O

Section O108.2.4 is amended to read as follows:

O108.2.4 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 42 inches (914 mm) in height. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

SECTION 3: Readopted sections. Tracy Municipal Code sections 9.06.010, 9.06.020 and 9.06.050 are readopted in their entirety without change.

SECTION 4: Amended sections. Tracy Municipal Code sections 9.06.030, 9.06.040 and 9.06.060 are hereby amended to read as follows:

9.06.030 Adoption by reference of the California Fire Code.

The City hereby adopts by reference the code entitled "2019 California Fire Code" including appendices B, BB, C, CC, D, F, H, L and N, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Fire Code"), as amended by this chapter. The California Fire Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.

9.06.040 Penalty Provisions

The California Fire Code subsection 110.4 is amended to read as follows:

110.4 Violations Penalties. Violations of this Chapter shall be enforced by the City of Tracy in accordance with the provisions of City of Tracy Municipal Code Section 9.02.040

9.06.060 Amendments to the California Fire Code.

The City of Tracy hereby makes the following local amendments to the California Fire Code:

CHAPTER 1

Section 103.2 Appointment, is hereby repealed in its entirety as it purports to give vested employment rights different than currently exists for the fire code official.

Section 105.2.3 is amended to read as follows:

Section 105.2.3 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the fire code official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the fire code official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application.

A new application shall be submitted and corresponding fees shall be paid when an application for a permit has expired.

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Extensions. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.”

Section 105 is amended by adding subsection 105.6.50.1 to read as follows:

Section 105.6.50.1 Christmas tree lots, haunted house or corn maze. An operational permit is required to operate a temporary or permanent operation.

Section 106 is amended by adding subsection 106.2.3 to read as follows:

106.2.3 Reinspection Fee. A reinspection fee may be assessed for each inspection, test, or reinspection when such portion of work for which an inspection is requested is not complete or when corrections requested to be inspected are not made. This section is not to be interpreted as requiring reinspection fees the first time an inspection or test is rejected for failure to comply with the requirements of the code, but as controlling the practice of requesting inspections/tests before the job is ready for such inspection or test. Reinspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which the inspection/test is requested, failure for those individuals conducting the test to show up at the scheduled time or deviating from the approved plans. The fee shall be equal to all incurred costs for inspection and administrative staff at the fully burdened rate.

CHAPTER 2

Section 202 subsection FALSE ALARM is amended to read as follows:

FALSE ALARM shall mean the giving, signaling or transmission to any public fire station or company or to any officer or employee thereof, whether by telephone, spoken word or otherwise, information to the effect that there is a fire, medical emergency, rescue request, or other need for emergency service at or near the place indicated by the person giving, signaling, or transmitting such information, and there is found to be no need for emergency services.

CHAPTER 3

Section 315 is amended by adding section 315.7.8 to read as follows:

Section 315.7.8 Outside storage of pallets, palletized packing boxes, bin boxes and other combustibles.

Section 315.7.8.1 Operational permit required. An operational permit shall be obtained to store pallets, palletized packing boxes, bin boxes and other combustible materials in excess of 2500 cubic feet.

Section 315.7.8.2 Height

Pallets, palletized packing boxes, bin boxes and other combustible materials shall be stored or piled with due regard to stability but in no case greater than 15 feet in height.

Exception: Bin boxes may be stacked to a maximum height of 20 feet.

Section 315.7.8.3 Proximity to other combustible yard storage

Pallets, palletized packing boxes and bin boxes shall be stored within the limitations to other combustible yard storage as per Table 315.7.8.3 (a). The distance of stacked pallets, palletized packing boxes or bin boxes adjacent to buildings on the same lot shall comply with Table 315.7.8.3 (b)

Table 315.7.8.3 (a)
Minimum distance of piled storage to other combustible yard storage

# of Pallets Bins or boxes	Min. Ft.
<50	20 Feet
50-200	30 Feet
>200	50 Feet

Table 315.7.8.3 (b)
Minimum distance of piled or combustible storage to buildings

Building Wall Construction	# of Pallets, Bins or Boxes		
	<50	50-200	>200

Masonry without openings	0 ft.	0 ft.	15 ft.
Wood or metal With outside sprinklers	10 ft.	20 ft	30 ft.
Wood, Metal or Masonry W/O outside sprinklers	20 ft.	30 ft.	50 ft.

Section 315.7.8.4 Proximity to property line

Where pallets, palletized packing boxes, bin boxes or other combustibles are piled or stored adjacent to a property line, the distance from such storage or pile shall not be less than 20 feet to the property line.

Section 315.7.8.5 Fire access

Fire access driveways between and around pallets, palletized packing boxes, bin boxes or other combustibles shall be a minimum of 20 feet in width and maintained free from accumulation of rubbish, weeds, machinery, equipment or other obstructions that may block access or add to the fire hazard. Driveways shall be spaced so as to establish a maximum grid of storage not to exceed 50 feet by 50 feet and no pile shall exceed 2500 square feet in dimension or more than 50 feet in any one dimension. An approved turning radius around such piles shall be maintained at all times.

Section 315.7.8.6 Fencing

Outside storage of pallets, palletized packing boxes, bin boxes or other combustibles operating under a permit shall be enclosed by a suitable fence not less than 6 feet in height.

Section 315.7.8.7 Water Supply

An approved water supply and hydrants capable of supplying the required fire flow shall be provided within 400 feet or all portions of the storage area in accordance with section 507 of the 2019 California Fire Code or NFPA 1142 (where municipal water supplies are not available).

CHAPTER 4

Section 401.5 is amended by adding subsection 401.5.1 Cost to read as follows:

Section 401.5.1 Cost recovery. All costs incurred by the City to any response to a false alarm will be charged to that person, property owner, firm or corporation causing the transmission of the false alarm.

CHAPTER 5

Section 503.6 is amended to read as follows:

Section 503.6 Security gates. The installation of security gates across a fire apparatus access road shall require, prior to installation, approval by the fire code official. Where security gates are installed they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times. All electrically operated automatic gates across fire apparatus access roads shall be equipped with traffic preempting optical signal receivers compatible with the emitters utilized by the Fire

Department, which will activate the gate and override all command functions of the gate controller. Knox Switches shall be provided at automatic gates. The traffic preemptive optical signal receiver and key switch shall be provided on both sides of an automatic access gate where an exit loop is not provided. The automatic gate shall have a battery backup or manual mechanical disconnect readily accessible to emergency personnel in case of power failure. All gates must meet Fire Department standards deemed necessary by the fire code official for rapid, reliable access. Electric gate operators, where provided, shall be listed in accordance with UL 325.

Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. All manual gates shall be equipped with a Knox-Box containing a key to the gate, or an approved Knox-Padlock.

Section 505.1 is amended to read as follows:

Section 505.1 Address Identification. New and existing buildings shall be provided and maintained with approved address identification. The identification shall comply with all of the following:

1. Not less than 4" high with a 1/2" stroke width
2. Located minimum of 6' above grade
3. Illuminated at night. Illumination shall be either internally or externally at an intensity of 5.0 foot-candles
4. Numbers shall contrast with the background.
5. Numbers shall be placed on a portion of the building that is both legible and visible from the street that fronts the property
6. Numbers shall not be placed on a moveable door and shall not be obstructed from view from the street.
7. Addresses shall be Arabic numbers or alphabetical letters and conventional in form

Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response.

Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way.

Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space.

Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

Section 506.1 is amended to read as follows:

Section 506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life safety or firefighting purposes, the fire code official is authorized to require a key box in which all keys necessary for entering any portion of the property, building or area shall be contained. The key box shall be manufactured by Knox (listed in accordance with UL 1037) and as a minimum size, shall be a Knox-Box 3200 series box with exterior dimensions of 5"x4"x3 3/4". Larger boxes will be required dependent upon the number of keys to be set within the box. The Knox-Box shall be installed at a height of 72" above finished grade in an accessible location approved by the fire code official. Keys within the box shall be permanently and readily identified.

Section 506 is amended by adding subsection 506.3 to read as follows:
Section 506.3 Hazardous materials management plan box. When a facility stores or uses hazardous materials, the fire code official may require the installation of a secured box manufactured by KNOX and located at the facilities primary entrance or fire control room. The plan box shall contain up-to-date hazardous materials inventory sheets (HMIS) of all of the hazardous materials stored or used within the facility, hazardous materials management plan (HMMP) and contact information of the company liaison to the fire department. The plan box shall be water proof and of sufficient size to contain HMMP and HMIS information without the need to fold the documentation.

Section 509 is amended by adding subsection 509.3 to read as follows:
509.3 Fire Control Room. All new buildings protected with an automatic fire extinguishing system shall be provided with a Fire Control Room in which shall contain system control valves and where practical, fire alarm panel, smoke exhaust controls and all other equipment (excluding fire pump) as designated by the fire code official. If the electrical power equipment is not located within the Fire Control Room, then, it shall be located in a room immediately adjacent thereto or as approved by the fire code official. The fire control room shall be located so as to be directly accessible from the exterior of the building and provided with a durable and permanent sign on the exterior of the access door to identify the space as the fire control room.

CHAPTER 9

Section 903 is amended by adding subsection 903.2.20 to read as follows:
Section 903.2.20 Automatic fire sprinklers. In addition to the requirements specified in Section 903 of this code, an automatic fire sprinkler system shall be installed throughout and maintained in operable condition in the following buildings:

1. Every building hereafter constructed in which the total area of the building is greater than 6,000 square feet including overhangs.
2. Every building hereafter constructed of three or more stories in height as defined in the building code.
3. Every building hereafter remodeled or improved within a three-year period of time when the cost of improvements (alterations and/or structural repairs to the building) requiring permits exceeds a valuation threshold as specified below and the total area of the building exceeds 6,000 square feet.

The calculation is determined using a valuation threshold of \$100,000 based on the 1985 "ENR US20 Cities" Average Construction Cost Index of 4195 adjusted by area cost

factors. The City will annually update the valuation threshold to a current amount based on the increase in the index since the last figure used.

4. Every building hereafter changed in occupancy classification and the total area is greater than 6,000 square feet, and the proposed use is deemed to be more hazardous based on risk analysis by the fire code official
5. Every building hereafter in which square footage is increased by 50% or more within a three- year period and the total square footage of the building exceeds 6000 square feet. If the additional square footage added to a building creates a total that exceeds the minimum code requirement for sprinklers for that occupancy type, then automatic sprinklers shall be required.
6. (Exception) Minor additions; not greater than 500 square feet in area to existing non-sprinklered buildings and the purpose of the addition is for accessory storage or disabled access upgrades.

Section 912.5 is amended to read as follows:

Section 912.5 Signs. A metal sign with raised letters at least 1 inch (25 mm) in size shall be mounted on all fire department connections serving automatic sprinklers, standpipes or fire pump connections. Such signs shall read: AUTOMATIC SPRINKLERS or STANDPIPES or TEST CONNECTION or a combination thereof as applicable. Where the fire department connection serves a portion of a building or a specific building among multiple buildings a sign shall be provided to reflect the appropriate building or portion of a building served.

Section 913 is amended by adding the following text to the end of the section:

Section 913.7 Meters and testing devices. Where fire pumps are provided, they shall have a test loop installed in accordance with the applicable portions of NFPA 20 Section 4.21.2.

CHAPTER 11

Section 1103.2 amended to read as follows:

Section 1103.2 Emergency responder radio coverage in existing buildings. Existing buildings that do not have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction shall be equipped with such coverage when any of the following conditions apply:

1. Where the use or occupancy group of the building has been changed and the use or occupancy is more hazardous.
2. Where the addition of metal racking systems, equipment, or interior walls utilizing metal, masonry or concrete materials that interfere with emergency responder radio coverage within the building as noted below:
 - a. Where multiple tenant spaces exist within a single structure, only the tenant space where improvements are made that trigger radio coverage shall have radio coverage. The improvements made to provide adequate radio coverage shall be designed, however, to have the capability to expand indoor radio coverage to all other areas of the building by adding cable and antennas if needed for subsequent improvements in these other areas of the building. Survivability of the cable pathway and "junction" locations between tenant spaces shall be addressed.
 - b. New metal racks (including required aisle and flue space) or equipment installed that increase existing metal racks (including required aisle and flue space) or equipment by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces

- greater than 400,000 square feet shall require radio coverage.
- c. New metal racks (including required aisles and flue spaces) or equipment that cover 30% or greater area of the tenant space where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet; 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces greater than 400,000 square feet.
 - d. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that increase existing masonry or concrete walls and elevated floor/ceilings and metal-framed walls and floor/ceilings (area calculation) by 40% or greater of tenant spaces up to 100,000 square feet, 35% or greater of tenant spaces up to 400,000 square feet and 25% or greater of tenant spaces more than 400,000 square feet shall require radio coverage.
 - e. New masonry or concrete walls and elevated floor/ceilings and metal-framed walls or floor/ceilings installed that cover 30% or greater area of the tenant space (area calculation) where no such improvements previously existed shall require radio coverage in tenant spaces up to 100,000 square feet, 25% or greater of tenant spaces up to 400,000 square feet and 20% or greater of tenant spaces more than 400,000 square feet.
3. Every building hereafter in which square footage of the building is increased by 50% or more within a three-year period and the total square footage of the building exceeds 10,000 square feet.
Exception: 1). Group R Division 3 Occupancies and buildings constructed entirely of structural members made of wood.

APPENDIX B

Section B105.2 is amended by adding the following text to the end of the section: Exception:

5. A maximum reduction in required fire-flow of up to 50 percent, as approved by the fire code official, is allowed when the building is provided with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 as opposed to the 75% reduction values given for minimum fire flows in Table B1105.2. A reduction in required fire-flow of up to 75 percent, as approved by the fire code official, is allowed for warehouse buildings of Type I, Type II, and Type III construction provided with ESFR automatic fire sprinkler systems. The resulting fire-flow for any of these reductions shall not be less than 1500 gallons per minute for the prescribed duration according to Table B105.1(2). Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix C.

APPENDIX BB

Section BB105.1 and Exception is amended to read as follows:

Section BB105.1 The minimum fire-flow and flow duration for school buildings shall be as specified in Table BB105.1.

Exception: A reduction in required fire flow of up to 50 percent is allowed when the building is provided with an approved automatic sprinkler system. When a reduction in fire flow is used, fire flow shall not be less than 1500 gallons per minute for the prescribed duration as specified in Table BB105.1. Reduction of fire-flow applies to the fire hydrants requirements as specified in Appendix CC.

APPENDIX C

Appendix C is amended by adding section C106 to read as follows:

Section C106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table C102.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table C102.1 footnote "b"

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

APPENDIX CC

Appendix CC is amended by adding section CC106 to read as follows:

Section CC106 Hydrant type. The fire code official shall approve the type of fire hydrants to be installed in the public right of way or on private property prior to any such installation.

Table CC105.1 Number and Distribution of Fire Hydrants, footnote "b" is repealed and amended to read as follows:

Table CC105.1 footnote "b"

b. Where streets are provided with median dividers that make access to hydrants difficult, cause time delay, or create undue hazard or both, or where arterial streets are provided with four or more traffic lanes, hydrant spacing shall average 500 feet on each side of the street and be arranged on an alternating basis.

SECTION 5: Readopted sections. Tracy Municipal Code sections 9.08.010, 9.08.020, 9.08.040, 9.08.060 and 9.08.080 through 9.08.160 are readopted in their entirety without change.

SECTION 6: Amended sections. Tracy Municipal Code sections 9.08.030, 9.08.050 and 9.08.070 are hereby amended to read as follows:

9.08.030 Adoption by reference of the California Electrical Code.

The City hereby adopts by reference the code entitled "2019 California Electrical Code," copyrighted by the National Fire Protection Association and approved by the California Building Standards Commission (hereinafter "California Electrical Code"), as amended by this chapter. The California Electrical Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

9.08.050 Amendments to the California Electrical Code

The City hereby makes the following local amendments to the California Electrical Code

SECTION 250.52(A)(5) AND 250.52(A)(7)

Section 250.52(A)(5) and 250.52(A)(7) is amended to read as follows:

Section 250.52(A)(5) Rod and Pipe Electrodes. Rod and pipe electrodes shall be not less than 2.44 m (8 ft) in length and shall consist of the following materials.

(a) Grounding electrodes of pipe or conduit shall not be smaller than metric designator 21 (trade size $\frac{3}{4}$) and any piping subject to undue corrosive action, shall be listed for corrosive soils or protected in a manner suitable for the purpose and is subject to the approval of the Building Official.

(b) Rod-type grounding electrodes of stainless steel and copper coated steel shall be at least 15.87 mm (5/8-inch) in diameter, unless listed for corrosive soils, unless listed.

Section 250.52(A)(7) Plate Electrodes. Each plate electrode shall expose not less than 0.186 m² (2 ft²) of surface to exterior soil. Electrodes of electrically conductive coated iron or steel plates, shall be at least 6.4 mm (1/4 inch) in thickness and listed for corrosive soils. Electrodes of bare ferrous plates shall not be permitted. Solid, uncoated electrodes of non-ferrous metal shall be at least 1.5mm (0.06 in) in thickness.

9.08.070 Corrosive Soils.

The City of Tracy has extensive areas where corrosive soils are present and therefore any ferrous or galvanized conduit, piping, connections or equipment in contact with the ground shall be appropriately protected unless otherwise listed.

SECTION 7: Readopted sections. Tracy Municipal Code sections 9.10.010, 9.10.020, 9.10.040 and are readopted in their entirety without change.

SECTION 8: Amended sections. Tracy Municipal Code sections 9.10.030 and 9.10.050 are hereby amended to read as follows:

“9.10.030 Adoption by reference of the California Residential Code. The City hereby adopts by reference the code entitled "2019 California Residential Code" and appendices H, I, O, R, S, W and X copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Residential Code"), as amended by this chapter. The California Residential Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6.”

9.10.050 Amendments to the California Residential Code

The City hereby makes the following local amendments to the California Residential Code

CHAPTER 1

Section R105.2 item 1 is amended to read as follows:

1. One-story detached accessory structures, provided that the floor area does not exceed

120 square feet (11.15 m²) and the story height does not exceed 11 feet 7 inches.

Section R105.2 item 2 is amended to read as follows:

2. Fences meeting all the following
 1. Not exceeding 7 feet
 2. Not used as a pool, spa or hot tub barrier
 3. When constructed of concrete or masonry shall not exceed 4 feet in height above adjacent finished grade level.

Section R105.3.2 is amended to read as follows:

Section R105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section R105.5 is amended to read as follows:

Section R105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

CHAPTER 3

Table R301.2(1) is amended to read as follows:

Table R301.2(1)
Climatic and geographic design Criteria

GRO UND SNO W	Wind design				SEISMI C DESIGN CATEG	SUBJECT TO DAMAGE FROM Weathering” Fro nt Ter mite			WIN TER DESIGN	ICE BARRIER UNDERLA YMENT	FLOO D HAZAR DS	AIR FREE ZING INDEX	MEA N ANN UAL
	Spe ed	Topogr aphic	Spe cial	Windb orne		Negligi ble	NA	Very Hea					
0	110	NO	NO	NO	D1-D2				36.6 Deg	NO	See note	3 Deg E-Day	60.7 Deg

Elevation	Latitude	Winter heating	Summer cooling	Altitude correction	Indoor design	Design temperature	Heating temperature
140	38	32	94	1.0	70	75	38
Cooling temperature	Wind velocity	Wind velocity	Coincident wet bulb	Daily Range	Winter humidity	Summer humidity	
19	15	7.5	69	38	50%	50%	

Note: For flood hazards, refer to Flood Insurance Rate Maps, 2009, published by FEMA. Most of Tracy is in Zone X, outside the 0.1 % annual-chance floodplain. General area lying north of I-205 and small portions at the south edge of Tracy are in the 1% annual chance of 100-year floodplain, and in the 200-year floodplain published by the Department of Water Resources.

Section R319 is amended to read as follows:

R319 Address Identification. New and existing buildings shall be provided and maintained with approved address identification. The identification shall comply with all of the following

1. Not less than 4" high with a 1/2" stroke width
2. Located minimum of 6' above grade
3. Illuminated at night. Illumination shall be either internally or externally at an intensity of 5.0 foot-candles
4. Numbers shall contrast with the background.
5. Numbers shall be placed on a portion of the building that is both legible and visible from the street that fronts the property
6. Numbers shall not be placed on a moveable door and shall not be obstructed from view from the street.
7. Addresses shall be Arabic numbers or alphabetical letters and conventional in form.

Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response.

Multiple residential units serviced by vehicular access to the rear of the buildings through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new buildings as to be plainly visible and legible from the rear access way.

APPENDIX X

Section AX108.2.4 is amended to read as follows:

AX108.2.4 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 42 inches (914 mm) in height. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.

SECTION 9: Added Section. Section 9.10.060 of the Tracy Municipal Code is hereby added to read as follows:

9.10.060 One- and two-family dwellings automatic fire suppression systems.

An automatic residential fire sprinkler system shall be installed in one- and two-family dwellings including all newly installed manufactured homes in accordance with Title 25

SECTION 10: Readopted sections. Tracy Municipal Code sections 9.12.010, 9.12.020, 9.12.040 are readopted in their entirety without change.

SECTION 11: Amended sections. Tracy Municipal Code sections 9.12.030 and 9.12.050 are amended to read as follows:

9.12.030 Adoption by reference of the California Plumbing Code.

The City hereby adopts by reference the code entitled "2019 California Plumbing Code," including appendices A, B, C, D, E, G, H, I, J and K , copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Plumbing Code"), as amended by this chapter. The California Plumbing Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

9.12.050 Amendments to the California Plumbing Code

The City of Tracy hereby makes the following local amendments to the California Plumbing Code.

CHAPTER 1

Section 104.3.3 is amended to read as follows:

Section 104.3.3 Time Limitation of Application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application.

A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section 104.4.3 is amended to read as follows:

Section 104.4.3 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

Section 104.4.4 is amended to read as follows:

Section 104.4.4 Extensions. A permittee holding an unexpired permit shall be permitted to apply for an extension of the time within which work shall be permitted to commence under that permit where the permittee is unable to commence work within the time required by this section. The Authority Having Jurisdiction shall be permitted to extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented the action from being taken. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 12: Added section. Tracy Municipal Code section 9.12.060 is added to read as follows:

9.12.060 Corrosive Soils.

The City of Tracy has extensive areas where corrosive soils are present and therefore any ferrous or galvanized conduit, piping, connections or equipment in contact with the ground shall be appropriately protected unless otherwise listed.

SECTION 13: Readopted sections. Tracy Municipal Code sections 9.14.010, 9.14.020 and 9.14.040 are readopted in their entirety without change.

SECTION 14: Amended section. Tracy Municipal Code section 9.14.030 is hereby amended to read as follows:

9.14.030 Adoption by reference of the California Green Building Standards Code
The City hereby adopts by reference the code entitled "2019 California Green Building Standards Code" without appendices and copyrighted by the California Building Standards Commission (hereinafter "California Green Building Standards Code"), as amended by this chapter. The California Green Building Standards Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 15: Readopted sections. Tracy Municipal Code sections 9.16.010, 9.16.020 and 9.16.040 are readopted in their entirety without change.

SECTION 16: Amended sections. Tracy Municipal Code sections 9.16.030 and 9.16.050 are hereby amended to read as follows:

"9.16.030 Adoption by reference of the California Mechanical Code.

The City hereby adopts by reference the code entitled "2019 California Mechanical Code," and appendices D and F attached thereto, copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission (hereinafter "California Mechanical Code"), as amended by this chapter. The California Mechanical Code is on file with the City Clerk, and is available for inspection and

copying in accordance with Government Code section 50022.6.”

9.16.050 Amendments to the California Mechanical Code.

The City of Tracy hereby make the following local amendments to the California Mechanical Code:

CHAPTER 1

Section 104.3.3 is amended to read as follows:

Section 104.3.3 Time Limitation of Application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section 104.4.3 is amended to read as follows:

Section 104.4.3 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

Section 104.4.4 is amended to read as follows:

Section 104.4.4 Extensions. A permittee holding an unexpired permit shall be permitted to apply for an extension of the time within which work shall be permitted to commence under that permit where the permittee is unable to commence work within the time required by this section. The Authority Having Jurisdiction shall be permitted to extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented the action from being taken. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 17: Added section. Tracy Municipal Code section 9.16.060 is hereby added to read as follows:

9.16.060 Corrosive Soils.

The City of Tracy has extensive areas where corrosive soils are present and therefore any ferrous or galvanized ducting, conduit, piping, connections or equipment in contact with the ground shall be appropriately protected unless otherwise listed.

SECTION 18: Amended section. Tracy Municipal Code section 9.40.050 (c) (4) is hereby amended to read as follows:

Size, location and lighting. New and existing buildings shall be provided and maintained with approved address identification. The identification shall comply with all of the following

1. Not less than 4" high with a 1/2" stroke width
2. Located minimum of 6' above grade
3. Illuminated at night. Illumination shall be either internally or externally at an intensity of 5.0 foot-candles
4. Numbers shall contrast with the background.
5. Numbers shall be placed on a portion of the building that is both legible and visible from the street that fronts the property
6. Numbers shall not be placed on a moveable door and shall not be obstructed from view from the street.
7. Addresses shall be Arabic numbers or alphabetical letters and conventional in form

Additionally, where access is by means of a private road and/or the building address cannot be viewed from the public way, a monument, pole or other approved sign or means shall be used to identify the structure. Where required by the fire code official, address numbers/figures shall be provided in additional approved locations to facilitate emergency response.

Multiple tenant spaces serviced by vehicular access to the rear of the building through any driveway, alleyway, or parking lot shall have numbers or addresses placed prior to occupancy on all new and existing buildings as to be plainly visible and legible from the rear access way.

Multiple tenant spaces serviced by rear access through a corridor, exit court, or exit yard shall have approved numbers or addresses displayed on the rear of the tenant space. Multiple tenant spaces that front on interior walkways or pedestrian malls shall have approved numbers or addresses placed over the entrance door in all new and existing buildings. An illuminated annunciator or directory board shall be required at every entrance where deemed necessary by the fire code official.

SECTION 19: Readopted sections. Tracy Municipal Code sections 9.48.010, 9.48.020 and 9.48.040 are readopted in their entirety without change.

SECTION 20: Amended section. Tracy Municipal Code section 9.48.030 is hereby amended to read as follows:

9.48.030 Adoption by reference of the California Historical Building Code.

The City hereby adopts by reference the code entitled "2019 California Historical Building Code" including all appendices attached thereto and copyrighted by the California Building Standards Commission (hereinafter "California Historical Building Code"), as amended by this chapter. The California Historical Building Code is on file with the City Clerk, and is available

for inspection and copying in accordance with Government Code section 50022.6.”

SECTION 21: Readopted section. Tracy Municipal Code section 9.50.010, 9.50.020 and 9.50.040 are readopted in their entirety without change.

SECTION 22: Amended sections. Tracy Municipal Code sections 9.50.030 and 9.50.050 are amended to read as follows:

9.50.030 Adoption by reference of the California Existing Building Code.

The City hereby adopts by reference the code entitled "2019 California Existing Building Code", without appendices, copyrighted by the International Code Council and the California Building Standards Commission (hereinafter "California Existing Building Code"), as amended by this chapter. The California Existing Building Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.”

9.50.050 Amendments to the Existing Building Code.

The City of Tracy hereby makes the following local amendments to the Existing Building Code.

CHAPTER 1

Section 105.3.2 is amended to read as follows:

Section 105.3.2, Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, an application shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new application shall be submitted and corresponding fees shall be paid when an application has expired.

Section 105.5 is amended to read as follows:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 12 months after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated. However, at the discretion of the building official, a permit shall not be extended more than two times if this code or any other pertinent code, law or ordinance has been adopted subsequent to the date of application. A new permit shall be obtained and corresponding fees shall be paid when a permit has expired.

SECTION 23: Amended section. Tracy Municipal Code section 9.52.150 (c) (1) is hereby amended to read as follows:

New construction and substantial improvements shall have the lowest floor elevation, including basement, elevated 1 foot or higher above the base flood elevation. Nonresidential structures may meet the standards set forth in subsection (3) of this subsection. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

SECTION 24: Readopted sections. Tracy Municipal Code sections 9.64.010, 9.64.020 and 9.64.040 are readopted in their entirety without change.

SECTION 25: Amended section. Tracy Municipal Code section 9.64.030 is hereby amended to read as follows:

9.64.030 Adoption by reference of the California Energy Code.
The City hereby adopts by reference the code entitled "2019 California Energy Code," without appendices, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6."

SECTION 26: Title, chapter and section headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 27: Constitutionality. 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 the Ordinance.

SECTION 28: Effective date. This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 29: Publication. A summary of this ordinance shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of November, 2019, and finally adopted on the _____ day of _____, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2019-_____

SETTING FORTH FINDINGS TO SUPPORT LOCAL AMENDMENTS TO THE 2019 CALIFORNIA CODE OF REGULATIONS, TITLE 24 PARTS 1-12, BY THE BUILDING SAFETY DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT AND THE COMMUNITY RISK REDUCTION DIVISION OF THE SOUTH SAN JOAQUIN COUNTY FIRE AUTHORITY

WHEREAS, Health and Safety Code Section 17958 provides that the City of Tracy ("City") shall adopt Ordinances and regulations imposing the same or modified or changed requirements as are contained in the regulations adopted by the State of California pursuant to Health and Safety Code Section 17922, and

WHEREAS, Health and Safety Code Section 17958.5 permits the City to make modifications or changes to the requirements contained in the provisions published in the California Building Standards Code and other regulations adopted pursuant to Health and Safety Code Section 17922 (hereinafter "Codes"), and

WHEREAS, Health and Safety Code Section 17958.7(a) requires that the City Council, before making any modifications or changes to the Codes, shall make an express finding that such changes or modifications are reasonably necessary because of local climactic, geographic, or topographic conditions, and

WHEREAS, City staff have recommended that changes and modifications be made to the Codes and have advised that certain said changes and modifications be made to the California Building Code, 2019 Edition, the California Fire Code, 2019 Edition, the California Electrical Code, 2019 Edition, the California Residential Code, 2019 Edition, the California Mechanical Code, 2019 Edition, and the California Existing Building Code, 2019 Edition, are reasonably necessary due to the local conditions in the City of Tracy and have further advised that the remainder of said changes and modifications are of an administrative nature;

NOW THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy makes the following findings supporting the local amendments to the California Code of Regulations, Title 24 Parts 1-12:

1. Amending Section 105.2 item 1 of the California Building Code clarifying building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
2. Amending Section 105.2 item 2 of the California Building Code specifying specific fence types that are not exempt from a building permit. This amendment is administrative in nature.
3. Amending Section 105.3.2 of the California Building Code clarifying the time limitations for permit applications. This amendment is administrative in nature.
4. Amending Section 105.5 of the California Building Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
5. Amending Section 501.2 of the California Building Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.

6. Amending Section 1808.6.1 of the California Building Code clarifying the requirements for slabs-on-grade. This amendment is due to geological strata of expansive soils and that is intended to address the differential volume changes of soil and to prevent horizontal and vertical displacement of the slab.
7. Amending Section O108.2.4 of the California Building Code by requiring guardrail heights located at lofts to coincide with current California Residential Code requirements. This amendment is administrative in nature.
8. Repealing Section 103.2 of the California Fire Code giving vested employment rights not consistent with City policy. This amendment is administrative in nature.
9. Amending Section 105.2.3 of the California Fire Code clarifying the time limits for permit applications. This amendment is administrative in nature.
10. Amending Section 105.3.2 of the California Fire Code clarifying the process and time limits for extensions to permits. This amendment is administrative in nature.
11. Adding Section 105.6.50.1 to the California Fire Code expanding operation permit requirements for both temporary and permanent operation of Christmas tree lots, haunted houses and corn mazes. This amendment is administrative in nature.
12. Adding Section 106.2.3 to the California Fire Code specifying when reinspection fees may be assessed. This amendment is administrative in nature.
13. Amending Section 202 of the California Fire Code clarifying the definition of "False Alarm". This amendment is administrative in nature.
14. Amending Section 110.4 of the California Fire Code clarifying the violations and penalties provisions. This amendment is administrative in nature.
15. Adding Sections 315.7.8 through 315.7.8.7 to the California Fire Code requiring specific limitations on the exterior storage of pallets, palletized packing boxes, and bin boxes due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements for limitations on placement, pile height and pile size, fire access, fencing and water supply will mitigate the added danger posed to the citizens and properties of the City of Tracy.
16. Adding Section 401.5.1 to the California Fire Code specifying recovery costs for responding to false alarms. This amendment is administrative in nature.
17. Amending Section 503.6 of the California Fire Code clarifying the requirements for access where electrically operated gates are provided. This amendment is administrative in nature.
18. Amending Section 505.1 of the California Fire Code clarifying the requirements for address identification on new and existing buildings. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
19. Amending Section 506.1 of the California Fire Code clarifying the requirements for the type and placement of key boxes. This amendment is administrative in nature and provides information that is lacking in the Fire Code, where the Fire Code points to local authority requirements.
20. Adding Section 506.3 to the California Fire Code requiring that a hazardous material plan box be provided due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of hazardous materials plan boxes mitigates this issue by providing for faster more precise

response by fire service responders by having immediate access to information thereby saving time and properly deploying Fire Department resources.

21. Adding Section 509.3 to the California Fire Code requiring that all buildings protected by automatic fire extinguishing systems be provided with a Fire Control Room due to the significant local hazard of wind-driven fires. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of control rooms provides for faster more precise response by fire service responders as well as providing exposure protection for fire service equipment not addressed elsewhere in the code.
22. Adding Section 903.2.20 to the California Fire Code requiring fire sprinklers in a variety of buildings due to the climatic condition of low water table and minimal rainfall. The use of automatic fire sprinklers has been documented to show that suppressing an equivalent fire requires approximately only 1/3 the required water flow by direct application at the incipient stage of the fire rather than subsequent application of hose streams.
23. Amending Section 912.5 of the California Fire Code identifying requirements for proper signs indicating which portion of a building or building on a multiple building site for which an FDC serves. The local climatic and topographic condition creates a wind tunnel effect increasing the speed at which fires spread. If an FDC is not properly identified as to which building it serves, critical operational time is lost.
24. Adding Section 913.7 to the California Fire Code to read, "Where fire pumps are provided, a test loop shall be installed in accordance with the applicable portions of NFPA 20 Section 4.21.2." This amendment is due to the climatic condition of low water table and minimal rainfall. The use of a test loop for performing the annual testing of fire pumps reduces water usage that will further effect the water table and create possible water shortages for necessary fire-fighting.
25. Amending Section 1103.2 of the California Fire Code specifying in detail the thresholds for the enforcement for radio coverage in existing buildings. This amendment is administrative in nature.
26. Adding Section B105.2 Exception 5 to the California Fire Code specifying the conditions for the reduction of fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
27. Amending Section BB105.1 of the California Fire Code specifying the conditions for use of Exception 1 to reduce fire flow. The local climatic and topographic conditions create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The limiting of the reduction of fire flow will help to mitigate the added danger posed to the citizens and properties of the City of Tracy.
28. Adding Section C106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment, therefore, is an administrative clarification.
29. Amending Table C102.1 footnote b of the California Fire Code altering the conditions for use of footnote b. CFC Table C102.1 footnote b, provides fire hydrant spacing and flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes as conditions and replaces them with a more usable standard, which is based on the difficulty of fire operations across the median since the standards do not address the width of the

median, intervening features such as transportation stops or grade differentials and is administrative in nature.

30. Amending Table CC105.1 footnote b to the California Fire Code altering the conditions for use of footnote b. CFC Table CC105.1 footnote b, provides fire hydrant spacing and flow conditions for streets with medians based upon the number of lanes and specific traffic volume. This amendment removes the vehicle count and number of lanes conditions and replaces them with a more usable standard, which is based on the difficulty of fire operations across the median since the standards do not address the width of the median, intervening features such as transportation stops or grade differentials and is administrative in nature.
31. Adding Section CC106 to the California Fire Code indicating that the Fire Code Official shall specify the permissible type of fire hydrants. CFC Section 507.2.1 indicates that the fire hydrants and mains shall comply with NFPA 24. Chapter 7, Section 7.1.1 of NFPA 24 specifies that all fire hydrants shall be an approved type. This amendment is, therefore, an administrative clarification.
32. Amending Sections 250.52(A)(5) and 250 (A)(7) of the California Electrical Code which requires increased protection for the size of buried electrical grounds due to the geological condition that corrosive soils are notably present within and around the city limits of the City of Tracy which corrode and destroy such grounding at an accelerated rate.
33. Amending Section R105.2 item 1 of the California Residential Code clarifying the building height of permit-exempted one-story detached accessory structures. This amendment is administrative in nature.
34. Amending Section R105.2 item 2 of the California Residential Code identifying specific fence types that are not exempt from a permit. This amendment is administrative in nature.
35. Amending Section R105.3.2 of the California Residential Code clarifying the time limitations for plan review applications and permissible extensions. This amendment is administrative in nature.
36. Amending Section R105.5 of the California Residential Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
37. Amending Table R301.2(1) of the California Residential Code by inputting jurisdictional specific information into the table (design criteria). This amendment is administrative in nature.
38. Amending Section R319 of the California Residential Code clarifying the requirements for address identification. This amendment is due to the local climatic and topographical conditions that create a wind tunnel effect increasing the speed at which fires spread and increasing exposure hazards to structures. The inclusion of these requirements will enable a quicker response by our Fire Department to an emergency fire event.
39. Amending AX108.2.4 of the California Residential Code by requiring guardrail heights located at lofts to coincide with other provisions of the current California Residential Code. This amendment is administrative in nature.
40. Amending Section 104.3.3 of the California Plumbing Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
41. Amending Section 104.4.3 of the California Plumbing Code clarifying the time limits for plumbing permits and permissible extensions. This amendment is administrative in nature.
42. Amending Section 104.4.4 of the California Plumbing Code clarifying extensions for plumbing permits. This amendment is administrative in nature.

43. Amending Section 106.3 of the California Plumbing Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.
44. Amending Section 104.3.3 of the California Mechanical Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
45. Amending Section 104.4.3 of the California Mechanical Code clarifying the time limits for mechanical permits and permissible extensions. This amendment is administrative in nature.
46. Amending Section 104.4.4 of the California Mechanical Code clarifying the extensions for mechanical permits. This amendment is administrative in nature.
47. Amending Section 106.3 of the California Mechanical Code by modifying the text of subsection 106.3 for penalties and violations. This amendment is administrative in nature.
48. Amending Section 105.3.2 of the California Existing Building Code clarifying the time limits for plan review applications and permissible extensions. This amendment is administrative in nature.
49. Amending Section 105.5 of the California Existing Building Code clarifying the time limits for building permits and permissible extensions. This amendment is administrative in nature.
50. Amending Section 113.4 of the California Existing Building Code by modifying the text of subsection for penalties and violations. This amendment is administrative in nature.

The aforementioned amendments have been incorporated in detail in Ordinance _____.

BE IT FURTHER RESOLVED, The Building Division of the Development Services Department shall file copies of Resolution 2019-_____ and Ordinance _____ with the California Building Standards Commission as required by Health and Safety Code Section 17958.7.

* * * * *

The foregoing Resolution 2019-_____ was adopted by the Tracy City Council on the ____th day of _____ 2019 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.C

REQUEST

PUBLIC HEARING TO APPROVE AN AMENDMENT TO THE CITYWIDE STORM DRAINAGE MASTER PLAN AND ADOPT STORM DRAINAGE IMPACT FEE STUDY AND NEW AND UPDATED FEES FOR THE LAMMERS AND MOUNTAIN WATERSHED AREAS OF THE CITY

EXECUTIVE SUMMARY

The City Council adopted the Citywide Storm Drainage Master Plan (Master Plan) in April 2013, Supplement No. 1 to the Master Plan and Storm Drainage Development Impact Fees for New Impact Fee Areas in January 2014, and Supplement No. 2 to the Master Plan and Storm Drainage Development Fees for New Impact Fee Areas in October 2018. This item requests Council approval of Supplement No. 3 to the Master Plan to update facilities in the Lammers and Mountain House Watershed areas of the City and related Storm Drainage Development Impact Fees and fee programs.

Approval of Supplement No. 3 to the Master Plan and its accompanying Storm Drainage Impact Fee Study will amend the Master Plan and Storm Drainage Development Impact fees applicable to the Lammers and Mountain House Watershed areas of the City. The updated impact fees have been prepared in accordance with the Mitigation Fee Act (AB1600), and the applicable findings are provided in the Storm Drainage Impact Fee Study for the Lammers and Mountain House Watershed areas of the City.

DISCUSSION

Supplement No. 3 to the Master Plan will serve to re-define master plan storm drainage infrastructure for the Lammers and Mountain House Watershed areas of the City and make minor adjustments to drainage Sub-basin boundaries. The primary motivating factors for these updates include the following:

- 1) The alignment of selected segments of the Lammers Outfall Storm Drain system is proposed to be amended. Alterations will include a northerly shift of some storm drain segments to follow the south side of Eleventh Street to more efficiently follow existing topography and allow certain storm drain and sanitary sewer trunk lines to align parallel and contiguous to each other to improve efficiency of construction and maintenance.
- 2) Extensive development has occurred in this area since the current Master Plan was adopted and an update is needed to allow for official adoption of minor changes in Sub-basin boundaries, detention basin sizes, and locations associated with proposed storm drainage infrastructure.
- 3) The proposed updates may improve opportunities to accelerate the construction of the Lammers Outfall Storm Drain System, facilitating the conversion of several existing temporary retention basins serving existing development to detention basins having a positive drainage outflow.

- 4) Storm Drainage Development Impact Fees for this area need to be revised to reflect the storm drainage infrastructure plan changes and current construction cost estimates.

Proposed master plan storm drainage infrastructure changes associated with Supplement No. 3 to the Master Plan include the following:

- Changes to the alignment of selected segments of the proposed Lammers Outfall Storm Drain system.
- Minor Sub-basin changes (L17A/L17B, transfer 22 acres of the Mountain House Watershed to the Lammers Watershed, L20/L14).
- DET MWH3a/3b/3c storage volume is reduced from 37 acre-feet (AF) to 33 AF due to a 22 acre reduction in the contributing drainage area per the watershed adjustment cited above.
- DET LW6 storage volume is increased from 101 AF to 103 AF due to minor sub-basin changes (L20/L14).
- DET LW9a storage volume is increased from 89 AF to 94 AF due to minor sub-basin changes (L17A/L17B) and watershed adjustments.
- DET LW8 is no longer depicted as a linear basin.
- DET LW10A, LW10B, LW9a and LW6 have minor location or configuration changes.
- DET LW3 is shown as an aggregate basin not located as of yet and will become three (3) or so smaller basins to be determined by the Specific Plan process for the property formerly known as Gateway.
- DET LW4 and LW5 will drain to the existing Lammers Road street storm drain system and/or future onsite storm drainage facilities serving the property formerly known as Gateway that will be directed to DET LW3; DET LW4 and LW5 (1 cfs outflow, total) will be “pass through” drainage in DET LW3 and will not affect the DET LW3 storage volume.

Also, the following statement contained at the top of page 5.22 in the existing Master Plan relevant to new development within the Mountain House Watershed is proposed to be changed from:

New development within the Mountain House Watershed will not be allowed by the City prior to the execution of said agreement. (“Said agreement” refers to a future drainage agreement with Mountain House CSD).

to:

New development within the Mountain House Watershed will not be allowed to discharge to downstream facilities operated by the Mountain House CSD unless an agreement that authorizes said discharge is executed between the City and the Mountain House CSD.

Supplement No. 3 to the Master Plan does not alter the following relevant components of the Master Plan as it pertains to the subject area:

- The 2010 Drainage Agreement between the City of Tracy and the West Side Irrigation District.
- Outflow rates from detention basins proposed to serve this area (except for a DET LW3 outflow increase from 4 cfs to 5 cfs for “pass through” of storm water already stored and detained in DET LW4 and LW5).

Storm drainage planning information from the existing Master Plan is shown for the Lammers and Mountain House Watershed areas on attached Attachment A. Proposed revisions to the Master Plan are shown on attached Attachment B.

New proposed Storm Drainage Development Impact Fees resulting from the above changes and comparisons with existing fees are provided in Tables 1, 2, 3, and 4 below and the supporting documentation including the required AB1600 findings are included in the updated Storm Drainage Impact Fee Study for the Lammers and Mountain House Watershed areas prepared by Harris and Associates.

Table 1
Proposed Fee Summary for Lammers Watershed

DESCRIPTION	LAMMERS WATERSHED FEE		
	IMPACT FEE*	PROGRAM ADMIN. *(5%)	TOTAL IMPACT FEE*
Residential - Very Low Density	\$ 1,586	\$ 79	\$ 1,665
Residential - Low Density	\$ 1,456	\$ 73	\$ 1,529
Residential - Medium Density (attached 2-4)	\$ 969	\$ 48	\$ 1,017
Residential - High Density (Attached 4+)	\$ 868	\$ 43	\$ 911
Industrial	\$ 26,592	\$ 1,330	\$ 27,922
Office	\$ 26,592	\$ 1,330	\$ 27,922
Retail	\$ 26,592	\$ 1,330	\$ 27,922

* Residential Fees are shown per dwelling unit, Non-residential Fees are shown per acre.

Table 2
Proposed Fee Summary for Mountain House Watershed

DESCRIPTION	MOUNTAIN HOUSE WATERSHED FEE		
	IMPACT FEE*	PROGRAM ADMIN. *(5%)	TOTAL IMPACT FEE*
Mountain House Watershed			
Industrial	\$ 17,451	\$ 873	\$ 18,324
Office	\$ 17,451	\$ 873	\$ 18,324
Retail	\$ 17,451	\$ 873	\$ 18,324

* Non-residential Fees are shown per acre. There are only non-residential land uses in the Mountain House Watershed.

Table 3
Lammers Watershed Fee Comparison

DESCRIPTION	PREVIOUS FEE AMOUNT**	NEW FEE AMOUNT*	DELTA	PERCENT CHANGE
Lammers Watershed				
Residential - Very Low Density	\$ 1,610	\$ 1,665	\$ 55	3.4%
Residential - Low Density	\$ 1,478	\$ 1,529	\$ 51	3.5%
Residential - Medium Density (attached 2	\$ 984	\$ 1,017	\$ 33	3.4%
Residential - High Density (Attached 4+)	\$ 880	\$ 911	\$ 31	3.5%
Industrial	\$ 26,993	\$ 27,922	\$ 929	3.4%
Office	\$ 26,993	\$ 27,922	\$ 929	3.4%
Retail	\$ 26,993	\$ 27,922	\$ 929	3.4%

* Residential Fees are shown per dwelling unit, Non-residential Fees are shown per acre

** TIMP fees were updated by ENR on 6/2019.

Table 4
Mountain House Watershed Fee Comparison

DESCRIPTION	PREVIOUS FEE AMOUNT**	NEW FEE AMOUNT*	DELTA	PERCENT CHANGE
Mountain House Watershed				
Industrial	\$ 17,901	\$ 18,324	\$ 423	2.4%
Office	\$ 17,901	\$ 18,324	\$ 423	2.4%
Retail	\$ 17,901	\$ 18,324	\$ 423	2.4%

* Non-residential Fees are shown per acre. There are only non-residential land uses in the Mountain House Watershed.

** TIMP fees were updated by ENR on 6/2019.

FISCAL IMPACT

Development Impact Fees are paid by the developers to fund infrastructure improvements required to serve their developments. Administration and updates to these fees are part of the program management funded through the soft costs included in all of the infrastructure cost estimates.

STRATEGIC PLAN

This agenda item is consistent with the City Council's Economic Development Strategy, to ensure physical infrastructure necessary for development are constructed.

RECOMMENDATION

That City Council conduct the public hearing, take public testimony, adopt and approve by resolution:

1. Supplement No. 3 to the Citywide Storm Drainage Master Plan, and
2. Storm Drainage Development Impact Fee Study for the Lammers and Mountain House Watershed areas and new and updated Storm Drainage Fees for these areas as set forth therein.

Prepared by: James Nelson, PE, Storm Water Consulting, Inc.

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

Approved by: Jenny Haruyama, City Manager

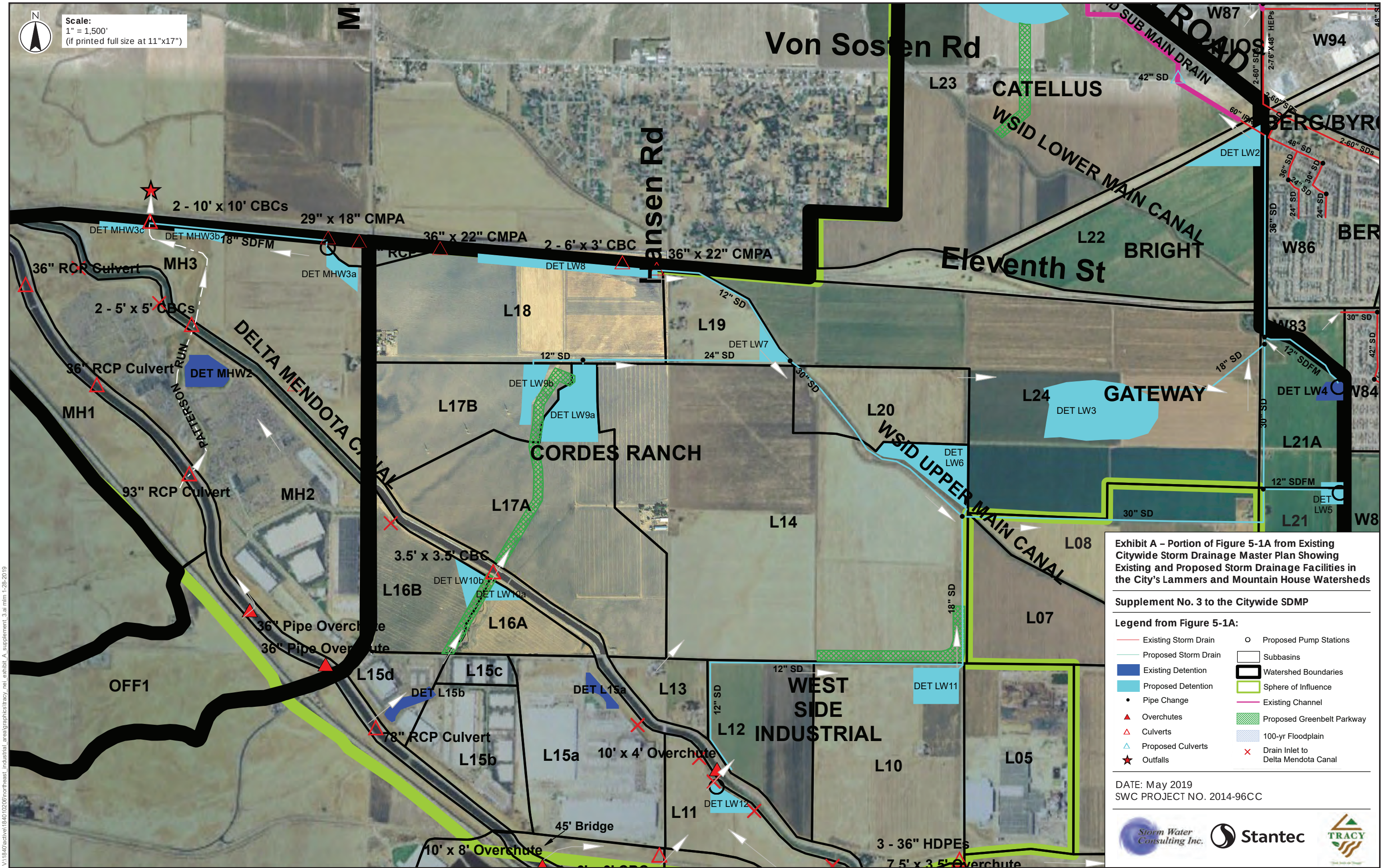
ATTACHMENTS

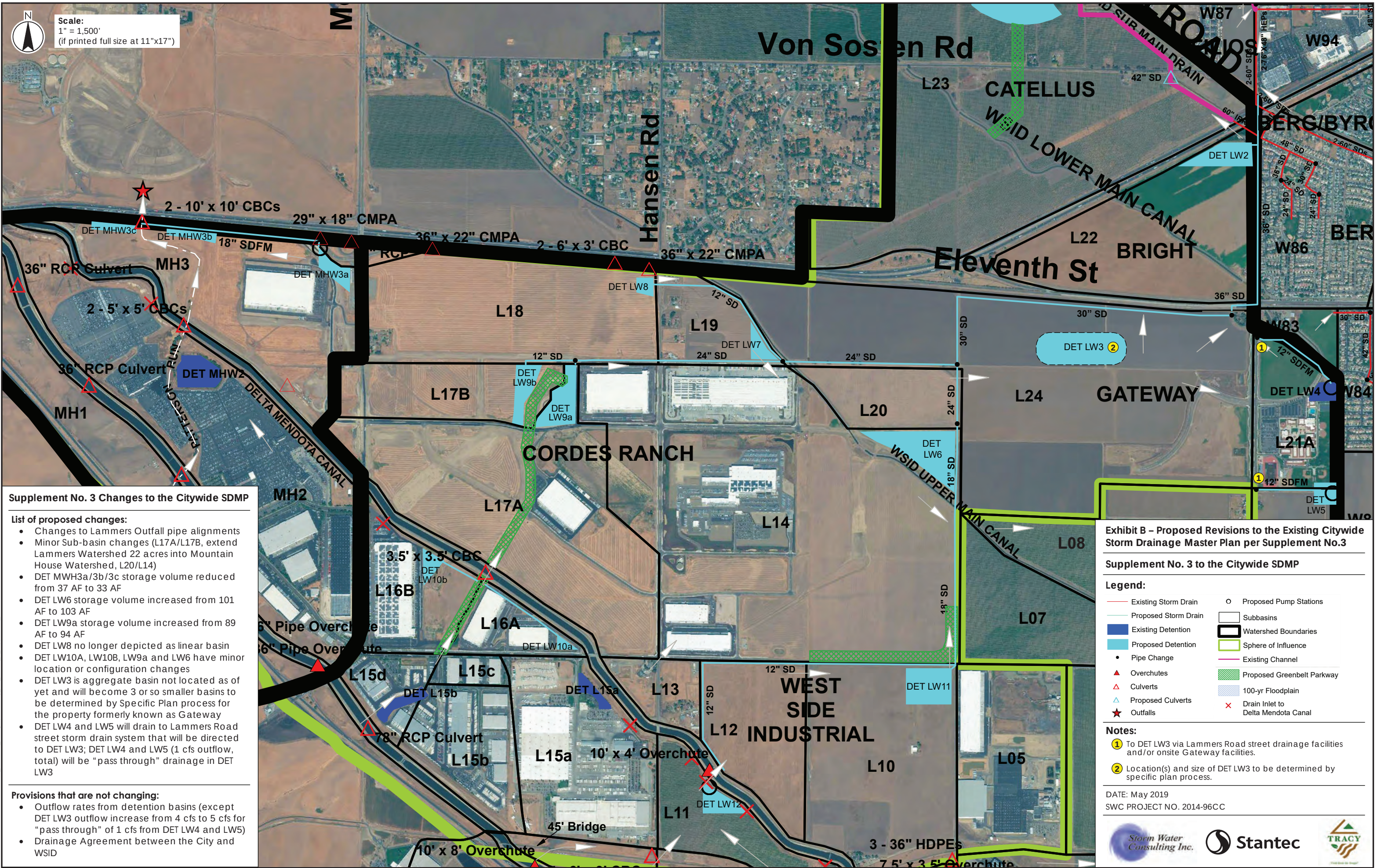
Attachment A – Existing Citywide Storm Drainage Master Plan Facilities – Lammers and Mountain House Watershed Areas

Attachment B – Proposed Revisions to the Existing Citywide Storm Drainage Master Plan

Attachment C – Supplement No. 3 to Citywide Storm Drainage Master Plan, Lammers and Mountain House Watersheds (Storm Water Consulting, Inc.)

Attachment D – Storm Drainage Impact Fee Study, Lammers and Mountain House Watersheds (Harris & Associates)





Supplement No. 3 Changes to the Citywide SDMP

- List of proposed changes:**
- Changes to Lammers Outfall pipe alignments
 - Minor Sub-basin changes (L17A/L17B, extend Lammers Watershed 22 acres into Mountain House Watershed, L20/L14)
 - DET MWH3a/3b/3c storage volume reduced from 37 AF to 33 AF
 - DET LW6 storage volume increased from 101 AF to 103 AF
 - DET LW9a storage volume increased from 89 AF to 94 AF
 - DET LW8 no longer depicted as linear basin
 - DET LW10A, LW10B, LW9a and LW6 have minor location or configuration changes
 - DET LW3 is aggregate basin not located as of yet and will become 3 or so smaller basins to be determined by Specific Plan process for the property formerly known as Gateway
 - DET LW4 and LW5 will drain to Lammers Road street storm drain system that will be directed to DET LW3; DET LW4 and LW5 (1 cfs outflow, total) will be "pass through" drainage in DET LW3

- Provisions that are not changing:**
- Outflow rates from detention basins (except DET LW3 outflow increase from 4 cfs to 5 cfs for "pass through" of 1 cfs from DET LW4 and LW5)
 - Drainage Agreement between the City and WSID

Exhibit B – Proposed Revisions to the Existing Citywide Storm Drainage Master Plan per Supplement No.3

Supplement No. 3 to the Citywide SDMP

Legend:

Existing Storm Drain	Proposed Pump Stations
Proposed Storm Drain	Subbasins
Existing Detention	Watershed Boundaries
Proposed Detention	Sphere of Influence
Pipe Change	Existing Channel
Overchutes	Proposed Greenbelt Parkway
Culverts	100-yr Floodplain
Proposed Culverts	Drain Inlet to Delta Mendota Canal
Outfalls	

Notes:

① To DET LW3 via Lammers Road street drainage facilities and/or onsite Gateway facilities.

② Location(s) and size of DET LW3 to be determined by specific plan process.

DATE: May 2019
SWC PROJECT NO. 2014-96CC



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TECHNICAL MEMORANDUM (FINAL VERSION)

Date: October 8, 2019

To: Robert Armijo, City Engineer

From: Jim Nelson

Subject: **Supplement No. 3 to Citywide Storm Drainage Master Plan
Lammers and Mountain House Watersheds**

SWC File: 2014-96CC

This Technical Memorandum and its supporting exhibits and tables present Supplement No. 3 to the Citywide Storm Drainage Master Plan (SDMP) that was adopted by the Tracy City Council on April 16, 2013 by Resolution No. 2013-056. This supplement has been prepared to revise and update components of the storm drainage infrastructure plan for the Lammers and Mountain House Watersheds in the City's Sphere of Influence.

The primary reasons for preparing this Supplement No. 3 to the Citywide SDMP at this time include the following:

- The alignment of selected segments of the Lammers Outfall Storm Drain system is proposed to be altered. Alterations will include a northerly shift of some storm drain segments to follow the south side of Eleventh Street to more efficiently follow existing topography and allow certain storm drain and sanitary sewer trunk lines to align parallel and contiguous to each other to improve efficiency of construction and maintenance.
- Extensive development has occurred in this area since the current Citywide SDMP was adopted, and an update is needed to allow for official adoption of minor changes in Sub-basin boundaries and

detention basin sizes and locations associated with proposed storm drainage infrastructure.

- The revisions herein may improve opportunities to accelerate the construction of the Lammers Outfall Storm Drain System, facilitating the conversion of several existing temporary retention basins serving existing development to detention basins having a positive drainage outflow.

Proposed revisions and updates to the Citywide SDMP presented herein have been supported by additional hydrologic and hydraulic calculations, additional investigation of physical conditions and input from City staff.

Exhibit A is a portion of Figure 5-1A from the Citywide SDMP that depicts the existing adopted storm drainage plan for the broader portion of the City where changes and updates are being proposed with this Supplement No. 3. The area to be served includes Cordes Ranch, various International Park of Commerce existing and proposed development areas, the property formerly known as the Gateway property, and other properties in the area.

Proposed updates to program storm drainage infrastructure and minor adjustments to Sub-basins and Watershed boundaries proposed per this Supplement No. 3 to the Citywide SDMP are depicted and listed on Exhibit B and include the following:

- Changes to the alignment of selected segments of the Lammers Outfall Storm Drain system.
- Minor Sub-basin changes (L17A/L17B, transfer 22 acres of the Mountain House Watershed into the Lammers Watershed, L20/L14).
- DET MWH3a/3b/3c storage volume is reduced from 37 acre-feet (AF) to 33 AF due to a 22 acre reduction in the contributing drainage area per the watershed adjustment cited above.

Supplement No. 3 to Citywide Storm Drainage Master Plan (FINAL VERSION)

Lammers and Mountain House Watersheds

To: Robert Armijo, City Engineer

October 8, 2019

Page 3

- DET LW6 storage volume is increased from 101 AF to 103 AF due to minor sub-basin changes (L20/L14).
- DET LW9a storage volume is increased from 89 AF to 94 AF due to minor sub-basin changes (L17A/L17B) and watershed adjustments.
- DET LW8 is no longer depicted as a linear basin.
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- DET LW3 is shown as an aggregate basin not located as of yet and will become three (3) or so smaller basins to be determined by the Specific Plan process for the property formerly known as Gateway.
- DET LW4 and LW5 will drain to the existing Lammers Road street storm drain system and/or future onsite storm drainage facilities serving the property formerly known as Gateway that will be directed to DET LW3; DET LW4 and LW5 (1 cfs outflow, total) will be “pass through” drainage in DET LW3 and will not affect the DET LW3 storage volume.

Also, the following statement contained at the top of page 5.22 in the Citywide SDMP relevant to new development within the Mountain House Watershed is proposed to be changed from:

New development within the Mountain House Watershed will not be allowed by the City prior to the execution of said agreement. (“Said agreement” refers to a future drainage agreement with Mountain House CSD).

to:

New development within the Mountain House Watershed will not be allowed to discharge to downstream facilities operated by the Mountain House CSD

unless an agreement that authorizes said discharge is executed between the City and the Mountain House CSD.

Supplement No. 3 does not alter the following relevant components of the Citywide SDMP as it pertains to the subject area:

- The 2010 Drainage Agreement Between the City of Tracy and The West Side Irrigation District
- Outflow rates from detention basins proposed to serve this area (except for a DET LW3 outflow increase from 4 cfs to 5 cfs for “pass through” of storm water already stored and detained in DET LW4 and LW5).

This Supplement No. 3 to the Citywide Storm Drainage Master Plan also includes updated Opinions of Probable Cost (OPCs) for program storm drainage infrastructure that will serve the Lammers and Mountain House Watersheds. Separate OPCs have been prepared each watershed. These OPCs will be incorporated into an updated impact fee analysis performed by Harris & Associates for these watersheds.

Exhibits:

Exhibit A – Portion of Figure 5-1A from Existing Citywide Storm Drainage Master Plan Showing Existing and Proposed Storm Drainage Facilities in the City’s Lammers and Mountain House Watersheds

Exhibit B – Proposed Revisions to the Existing Citywide Storm Drainage Master Plan per Supplement No. 3

Tables:

Table 1 – Opinion of Probable Cost for Program Storm Drainage Infrastructure, Supplement No. 3 to the Citywide SDMP (Lammers Watershed)

Table 2 – Opinion of Probable Cost for Program Storm Drainage Infrastructure, Supplement No. 3 to the Citywide SDMP (Mountain House Watershed)

Supplement No. 3 to Citywide Storm Drainage Master Plan (FINAL VERSION)

Lammers and Mountain House Watersheds

To: Robert Armijo, City Engineer

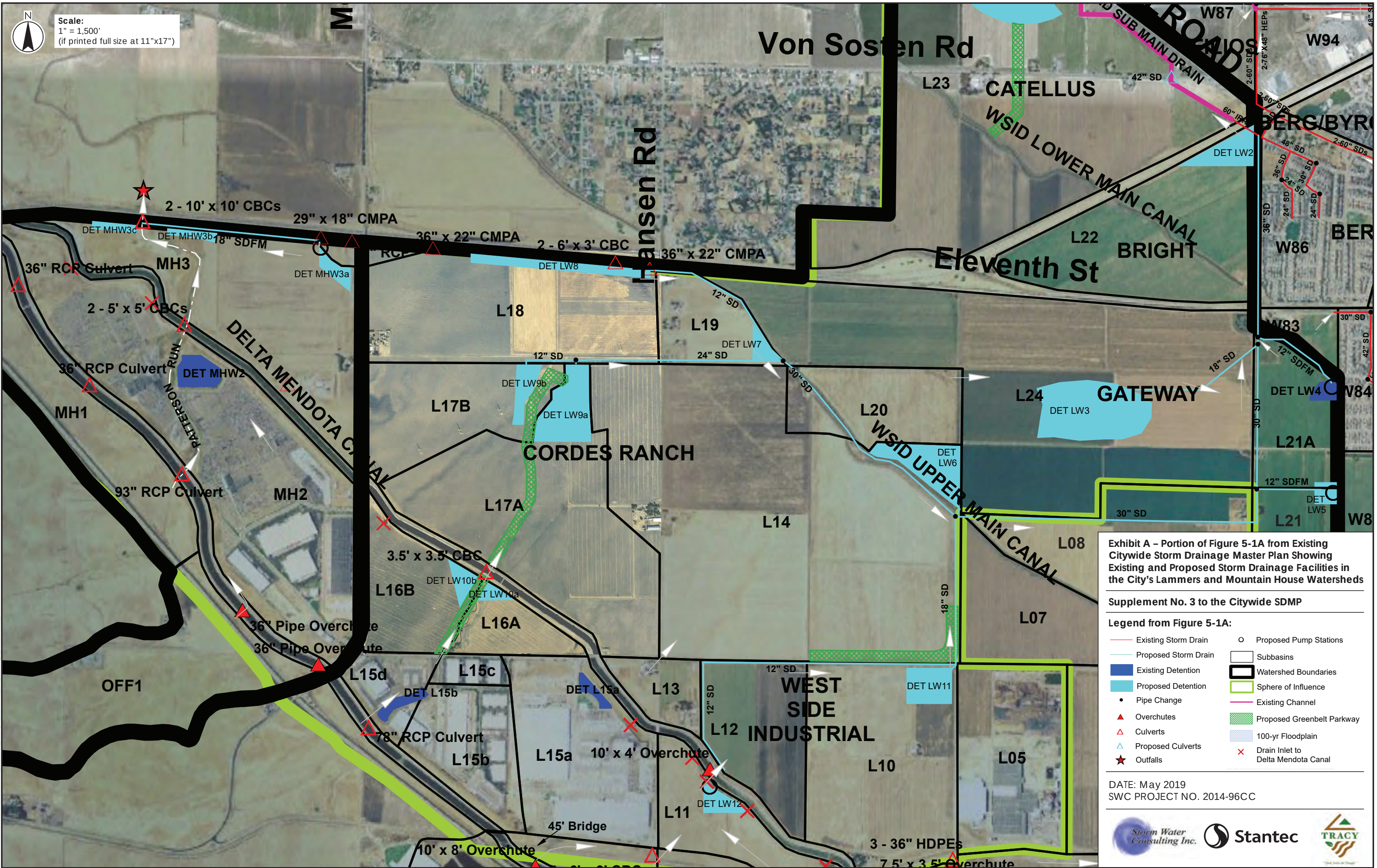
October 8, 2019

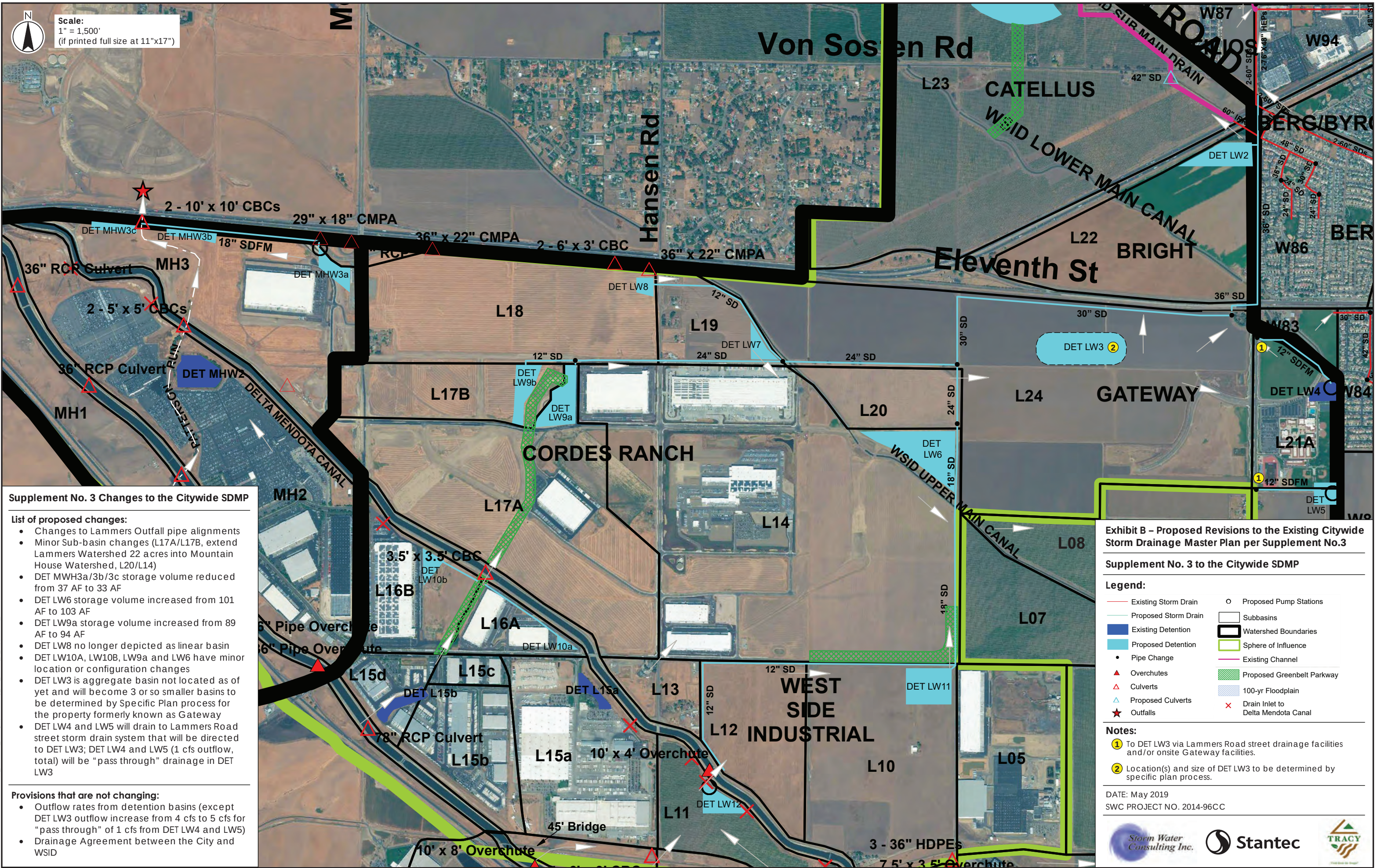
Page 5



James H. Nelson

Cc: Andrew Malik, City of Tracy
Bill Dean, City of Tracy
Al Gali, City of Tracy
Ilene Macintire, City of Tracy
Nanda Gottiparthi, SNG Associates
Mike O'Connor, SNG Associates
Alison Bouley, Harris & Associates
Sarah McIlroy, Stantec





Scale:
1" = 1,500'
(if printed full size at 11"x17")

Supplement No. 3 Changes to the Citywide SDMP

- List of proposed changes:**
- Changes to Lammers Outfall pipe alignments
 - Minor Sub-basin changes (L17A/L17B, extend Lammers Watershed 22 acres into Mountain House Watershed, L20/L14)
 - DET MWH3a/3b/3c storage volume reduced from 37 AF to 33 AF
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- Provisions that are not changing:**
- Outflow rates from detention basins (except DET LW3 outflow increase from 4 cfs to 5 cfs for "pass through" of 1 cfs from DET LW4 and LW5)
 - Drainage Agreement between the City and WSID

Exhibit B - Proposed Revisions to the Existing Citywide Storm Drainage Master Plan per Supplement No.3

Supplement No. 3 to the Citywide SDMP

Legend:

Existing Storm Drain	Proposed Pump Stations
Proposed Storm Drain	Subbasins
Existing Detention	Watershed Boundaries
Proposed Detention	Sphere of Influence
Pipe Change	Existing Channel
Overchutes	Proposed Greenbelt Parkway
Culverts	100-yr Floodplain
Proposed Culverts	Drain Inlet to Delta Mendota Canal
Outfalls	

Notes:

① To DET LW3 via Lammers Road street drainage facilities and/or onsite Gateway facilities.

② Location(s) and size of DET LW3 to be determined by specific plan process.

DATE: May 2019
SWC PROJECT NO. 2014-96CC



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Table 1
Opinion of Probable Cost for Program Storm Drainage Infrastructure
Supplement No. 3 to the Citywide SDMP (Lammers Watershed)

DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
LAMMERS WATERSHED				
Construction of Major Facilities				
DET LW1 (90 AF, plus 32 AF add'l excavation)	122	AF	\$ 16,000	\$ 1,952,000
DET LW2 (27 AF, plus 10 AF add'l excavation)	37	AF	\$ 16,000	\$ 592,000
DET LW3 (87AF, plus 30 AF add'l excavation)	117	AF	\$ 16,000	\$ 1,872,000
DET LW5 (Non-Program)				
DET LW6 (103 AF, plus 50 AF add'l excavation)	153	AF	\$ 16,000	\$ 2,448,000
DET LW7 (Non-Program)				
DET LW8 (34 AF, plus 5 AF add'l excavation)	39	AF	\$ 16,000	\$ 624,000
DET LW9a (94 AF, plus 38 AF add'l excavation)	132	AF	\$ 16,000	\$ 2,112,000
DET LW9b (18 AF, plus 6 AF add'l excavation)	24	AF	\$ 16,000	\$ 384,000
DET LW10a/10b (20 AF, plus 7 AF add'l excavation)	27	AF	\$ 16,000	\$ 432,000
DET LW11 (30 AF, plus 11 AF add'l excavation)	41	AF	\$ 16,000	\$ 656,000
DET LW12 (13 AF, plus 4 AF add'l excavation)	17	AF	\$ 16,000	\$ 272,000
DET LW4 Pump Station (0.5 cfs capacity)	1	LS	\$ 350,000	\$ 350,000
DET LW5 Pump Station (0.5 cfs capacity, Non-Program)				
DET LW12 Pump Station (0.5 cfs capacity)	1	LS	\$ 350,000	\$ 350,000
Greenbelt Parkway	11,200	LF	\$ 340	\$ 3,808,000
Construction of Storm Drains				
12" SD & SDFM	13,400	LF	\$ 75	\$ 1,005,000
18" SD	4,100	LF	\$ 100	\$ 410,000
24" SD	7,900	LF	\$ 150	\$ 1,185,000
30" SD	6,185	LF	\$ 200	\$ 1,237,000
36" SD	3,590	LF	\$ 300	\$ 1,077,000
36" SD (Crossing of Eleventh Street)	102	LF	\$ 500	\$ 51,000
42" SD (Von Sosten Road, WSID Sub-Main Drain)	150	LF	\$ 500	\$ 75,000
Other Items				
Dewatering	1	LS	\$ 2,500,000	\$ 2,500,000
WSID Crossing Agreement	2	EA	\$ 5,000	\$ 10,000
Interflow Structure at WSID Connection (Lammers Road)	1	LS	\$ 30,000	\$ 30,000
WSID Discharge Agreement (First 30 Years)	1	EA	\$ 2,040,000	\$ 2,040,000
Subtotal of Construction				\$ 25,472,000
Design & Planning @ 10% of Construction Subtotal				\$ 2,547,200
Construction Management @ 10% of Construction Subtotal				\$ 2,547,200
General Contingency @ 15% of Construction Subtotal				\$ 3,820,800
Program Administration @ 5% of Construction Subtotal				\$ 1,273,600
Land Acquisition				
DET LW1	35.0	AC	\$ 150,000	\$ 5,250,000
DET LW2	11.0	AC	\$ 150,000	\$ 1,650,000
DET LW3	48.0	AC	\$ 150,000	\$ 7,200,000
DET LW5 (Non-Program)				
DET LW6	21.0	AC	\$ 150,000	\$ 3,150,000
DET LW7 (Non-Program)				
DET LW8	5.0	AC	\$ 150,000	\$ 750,000
DET LW9a	25.0	AC	\$ 150,000	\$ 3,750,000
DET LW9b	7.0	AC	\$ 150,000	\$ 1,050,000
DET LW10a/10b	9.0	AC	\$ 150,000	\$ 1,350,000
DET LW11	12.0	AC	\$ 150,000	\$ 1,800,000
DET LW12	6.0	AC	\$ 150,000	\$ 900,000
Greenbelt Parkway	51.4	AC	\$ 150,000	\$ 7,710,000
12" SD Easement	2.2	AC	\$ 50,000	\$ 110,000
Subtotal of Land Acquisition				\$ 34,670,000
TOTAL ESTIMATED COST				\$ 70,330,800

Table 2
Opinion of Probable Cost for Program Storm Drainage Infrastructure
Supplement No. 3 to the Citywide SDMP (Mountain House Watershed)

DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
MOUNTAIN HOUSE WATERSHED				
Construction of Major Facilities				
DET MHW3a/3b/3c (33 AF, plus 14 AF add'l excavation)	47	AF	\$ 16,000	\$ 752,000
DET MHW 3a Pump Station (3.0 cfs capacity)	1	LS	\$ 350,000	\$ 350,000
Construction of Storm Drains				
18" SDFM	3,300	LF	\$ 100	\$ 330,000
Other Items				
Dewatering	1	LS	\$ 150,000	\$ 150,000
Mountain House Discharge Agreement	1	LS	TBD	TBD
Subtotal of Construction				\$ 1,582,000
Design & Planning @ 10% of Construction Subtotal				\$ 158,200
Construction Management @ 10% of Construction Subtotal				\$ 158,200
General Contingency @ 15% of Construction Subtotal				\$ 237,300
Program Administration @ 5% of Construction Subtotal				\$ 79,100
Land Acquisition				
DET MHW3a/3b/3c	10.0	AC	\$ 150,000	\$ 1,500,000
18" SDFM Easement	1.5	AC	\$ 50,000	\$ 75,000
Subtotal of Land Acquisition				\$ 1,575,000
TOTAL ESTIMATED COST				\$ 3,789,800

Note: TBD = To Be Determined and Added to Costs at a Later Date



Harris & Associates



Storm Drainage Impact Fee Study Lammers and Mountain House Watersheds

For the
City of Tracy
San Joaquin County, California

August 2019



Executive Summary

The City of Tracy (City), like most communities in California, has adopted development impact fees for storm drainage to promote the idea that “growth pays for growth”. The Mitigation Fee Act of 1987 (commonly referred to as AB1600) sets forth the findings an agency must make in the adoption of its fee program as well as the ongoing reporting requirements.

Harris in conjunction with Storm Water Consulting Inc. were tasked to review the Storm Drainage Fees for the Lammers and Mountain House Watersheds in the City’s Sphere of Influence with the intention of updating the proposed storm drainage infrastructure and the storm drainage fees new development in these areas would be responsible for paying. Storm Water Consulting Inc. prepared Supplement No. 3 to Citywide Storm Drainage Master Plan to present the proposed revisions to the storm drainage infrastructure. This review and Supplement No. 3 were completed with the following goals in mind:

- Adjust the selected alignments of the Lammers Outfall Storm Drain system.
- Minor changes to the Sub-basin boundaries and detention basin sizes and locations associated with proposed storm drainage infrastructure.
- Improving the opportunities to accelerate the construction of Lammers Outfall Storm Drain System, facilitating the conversion of several existing temporary retention basins serving existing development to detention basins having a positive drainage outflow.

The following tables illustrate the proposed fee updates for Lammers and Mountain House Watersheds and provides a comparison of the proposed fees to the fees currently being collected.

Table 1
Proposed Fee Summary for Lammers Watershed

DESCRIPTION	LAMMERS WATERSHED FEE		
	IMPACT FEE*	PROGRAM ADMIN. *(5%)	TOTAL IMPACT FEE*
Residential - Very Low Density	\$ 1,586	\$ 79	\$ 1,665
Residential - Low Density	\$ 1,456	\$ 73	\$ 1,529
Residential - Medium Density (attached 2-4)	\$ 969	\$ 48	\$ 1,017
Residential - High Density (Attached 4+)	\$ 868	\$ 43	\$ 911
Industrial	\$ 26,592	\$ 1,330	\$ 27,922
Office	\$ 26,592	\$ 1,330	\$ 27,922
Retail	\$ 26,592	\$ 1,330	\$ 27,922

* Residential Fees are shown per dwelling unit, Non-residential Fees are shown per acre.



Table 2
Proposed Fee Summary for Mountain House Watershed

DESCRIPTION	MOUNTAIN HOUSE WATERSHED FEE		
	IMPACT FEE*	PROGRAM ADMIN. *(5%)	TOTAL IMPACT FEE*
Mountain House Watershed			
Industrial	\$ 17,451	\$ 873	\$ 18,324
Office	\$ 17,451	\$ 873	\$ 18,324
Retail	\$ 17,451	\$ 873	\$ 18,324

* Non-residential Fees are shown per acre. There are only non-residential land uses in the Mountain House Watershed.

Table 3
Lammers Watershed Fee Comparison

DESCRIPTION	PREVIOUS FEE AMOUNT**	NEW FEE AMOUNT*	DELTA	PERCENT CHANGE
Lammers Watershed				
Residential - Very Low Density	\$ 1,610	\$ 1,665	\$ 55	3.4%
Residential - Low Density	\$ 1,478	\$ 1,529	\$ 51	3.5%
Residential - Medium Density (attached 2-	\$ 984	\$ 1,017	\$ 33	3.4%
Residential - High Density (Attached 4+)	\$ 880	\$ 911	\$ 31	3.5%
Industrial	\$ 26,993	\$ 27,922	\$ 929	3.4%
Office	\$ 26,993	\$ 27,922	\$ 929	3.4%
Retail	\$ 26,993	\$ 27,922	\$ 929	3.4%

* Residential Fees are shown per dwelling unit, Non-residential Fees are shown per acre

** TIMP fees were updated by ENR on 6/2019.

Table 4
Mountain House Watershed Fee Comparison

DESCRIPTION	PREVIOUS FEE AMOUNT**	NEW FEE AMOUNT*	DELTA	PERCENT CHANGE
Mountain House Watershed				
Industrial	\$ 17,901	\$ 18,324	\$ 423	2.4%
Office	\$ 17,901	\$ 18,324	\$ 423	2.4%
Retail	\$ 17,901	\$ 18,324	\$ 423	2.4%

* Non-residential Fees are shown per acre. There are only non-residential land uses in the Mountain House Watershed.

** TIMP fees were updated by ENR on 6/2019.

It is recommended that the City adopt the proposed fees in a timely manner to successfully fund the storm drainage infrastructure required to serve the planning areas in the Lammers and Mountain House Watersheds area in the City's Sphere of Influence. A comprehensive analysis and the required AB1600 findings are detailed in subsequent report sections.



Introduction

This impact fee analysis report has been prepared for Supplement No. 3 to the Citywide Storm Drainage Master Plan for Lammers and Mountain House Watersheds in the City's Sphere of Influence. Supplement No. 3 addresses the program storm drainage infrastructure requirements to serve new development in the Lammers and Mountain House Watershed areas.

The City adopted *the City of Tracy Citywide Storm Drainage Master Plan (SDMP)* on April 16, 2013 by resolution 2013-056, as well as the *City of Tracy Citywide Storm Drainage Master Plan Impact Fee Analysis and Supplement No. 1 for New Impact Fee Program Areas* on January 7, 2014 by Resolution 2014-10. On October 2, 2018, the City adopted *Supplement No. 2 for New Impact Fee Program Areas* by Resolution 2018-203 and *Storm Drainage Impact Fee Study for the Expanded Northeast Industrial Area and Eastside Industrial Area* by Resolution 2018-204.

At this time, Storm Water Consulting Inc. has prepared Supplement No. 3 to Citywide Storm Drainage Master Plan for the Lammers and Mountain House Watersheds in the City's Sphere of Influence (SDMP Update). The SDMP Update revises the storm drainage infrastructure and minor adjustments to sub-basins and watershed boundaries. As a result of this update, new impact fees are being calculated for the Lammers and Mountain House Watersheds.

The development areas included in the Citywide Storm Drainage Master Plan, with the exception of those listed above, are not affected by this impact fee analysis.

Program Storm Drainage Areas and Infrastructure

With development occurring in the Lammers and Mountain House Watersheds, the SDMP Update revises the proposed Storm Drainage Master Plan infrastructure. A need for revised impact fees for these fee areas is the result of various factors. Some of these main factors are:

- Northward shift to select segments of the Lammers Outfall Storm Drain system to follow the south side of Eleventh Street and existing topography, and allow certain storm drain and sanitary sewer trunk lines to align parallel and contiguous to each other to improve efficiency of construction and maintenance.
- Minor changes to the proposed storm drainage Sub-basin boundaries and detention basin sizes and locations.
- Improving the opportunities to accelerate the construction of the Lammers Outfall Storm Drain System, facilitating the conversion of several existing temporary retention basins serving existing development to detention basins having a positive drainage outflow.

The following is a summary of the updated infrastructure for Lammers and Mountain House Watersheds from the SDMP Update and are depicted on Exhibit B. These updates and adjustments have been supported by Storm Water Consulting, Inc. through hydrologic and hydraulic calculations and additional investigation of physical conditions and input from the City staff.



- Changes to the alignment of selected segments of the proposed Lammers Outfall Storm Drain system.
- Minor Sub-basin changes, L17A/L17B transfer 22 acres of the Mountain House Watershed into the Lammers Watershed, L20/L14.
- DET MWH3a/3b/3c storage volume is reduced from 37 acre-feet (AF) to 33 AF due to a 22 acre reduction in the contributing drainage area per the watershed adjustment cited above.
- DET LW6 storage volume is increased from 101 AF to 103 AF due to minor sub-basin changes (L20/L14).
- DET LW9a storage volume is increased from 89 AF to 94 AF due to minor sub-basin changes (L17A/L17B) and watershed adjustments.
- DET LW8 is no longer depicted as a linear basin.
- DET LW10A, LW10B, LW9a and LW6 have minor location or configuration changes.
- DET LW3 is shown as an aggregate basin not located as of yet and will become three (3) or so smaller basins to be determined by the Specific Plan process for the property formerly known as Gateway.
- DET LW4 and LW5 will drain to the existing Lammers Road street storm drain system and/or future onsite storm drainage facilities serving the property formerly known as Gateway that will be directed to DET LW3; DET LW4 and LW5 (1 cfs outflow, total) will be “pass through” drainage in DET LW3 and will not affect the DET LW3 storage volume.

The SDMP Update does not alter the components of the Citywide SDMP as it pertains to the 2010 Drainage Agreement Between the City of Tracy and The West Side Irrigation District and also the outflow rates from detention basins proposed to serve these areas except for a DET LW3 outflow increase from 4 to 5 cfs for pass through of storm water already stored and detained in DET LW4 and LW5.

Opinion of Probable Cost

Overview

This section details the Opinions of Probable Cost for the storm drainage infrastructure that will serve the two fee areas in this fee analysis. These costs are taken from Supplement No. 3 to Citywide Storm Drainage Master Plan prepared by Storm Water Consulting Inc.

Cost Estimating Considerations

Soft costs accounted for in all opinions of probable cost are as follows:

- Design and Planning – 10% of construction costs
- Construction Management – 10% of construction costs
- General Contingency – 15% of construction costs
- Program Administration – 5% of impact fees

The program administration is necessary to administer the impact fee programs. As the program administration will be collected into the City’s separate program administration fund, the program



administration has been removed from the probable costs and is included as a separate fee of five percent mark-up of the Lammers and Mountain House Watersheds Fees.

It is important to note, as the construction date for each facility is unknown at this point in time, it is critical that these cost estimates be updated annually by the Engineering News Record San Francisco Construction Cost Index or a similar index as adopted by City Council. Annual updates ensure that the cost estimates are continually relevant to the anticipated construction cost.

Infrastructure Costs by Fee Area

Lammers Watershed

Table 5 details the opinion of probable cost for the remaining facilities in the Lammers Watershed.

The following storm drainage improvements been completed and fee credits have been issued. Since these project credits have been issued, these improvements are removed from the remaining costs.

- DET LWB 10b (18 acre-feet)
- DET LW6 (151 acre-feet)
- 24 inch line in Capital Parks (2,325 linear feet)
- 30 inch line for the West Side Irrigation District (345 linear feet)
- 24 inch Capital Parks (1,433 linear feet)
- 24 inch Huntington Way (332 linear feet)

In order to determine the cost that must be funded by remaining development, the fund balance is subtracted from the cost of the remaining facilities and the outstanding developer credits are added to the costs. These calculations are shown in Table 5.

A program administration fee of 5% is not included in this cost estimate but is added to the fee as an administrative component.



Table 5
Opinion of Probable Cost for Program Storm Drainage Infrastructure
Supplement No. 3 to the Citywide SDMP (Lammers Watershed)

DESCRIPTION	Total QTY	Remaining QTY	UNIT	UNIT COST	TOTAL COST
LAMMERS WATERSHED					
Construction of Major Facilities					
DET LW1 (90 AF, plus 32 AF add'l excavation)	122	122	AF	\$ 16,000	\$ 1,952,000
DET LW2 (27 AF, plus 10 AF add'l excavation)	37	37	AF	\$ 16,000	\$ 592,000
DET LW3 (87AF, plus 30 AF add'l excavation)	117	117	AF	\$ 16,000	\$ 1,872,000
DET LW5 (Non-Program)					
DET LW6 (103 AF, plus 50 AF add'l excavation)	153	3	AF	\$ 16,000	\$ 48,000
DET LW7 (Non-Program)					
DET LW8 (34 AF, plus 5 AF add'l excavation)	39	39	AF	\$ 16,000	\$ 624,000
DET LW9a (94 AF, plus 38 AF add'l excavation)	132	132	AF	\$ 16,000	\$ 2,112,000
DET LW9b (18 AF, plus 6 AF add'l excavation)	24	24	AF	\$ 16,000	\$ 384,000
DET LW10a/10b (20 AF, plus 7 AF add'l excavation)	27	9	AF	\$ 16,000	\$ 144,000
DET LW11 (30 AF, plus 11 AF add'l excavation)	41	41	AF	\$ 16,000	\$ 656,000
DET LW12 (13 AF, plus 4 AF add'l excavation)	17	17	AF	\$ 16,000	\$ 272,000
DET LW4 Pump Station (0.5 cfs capacity)	1	1	LS	\$ 350,000	\$ 350,000
DET LW5 Pump Station (0.5 cfs capacity, Non-Program)					
DET LW12 Pump Station (0.5 cfs capacity)	1	1	LS	\$ 350,000	\$ 350,000
Greenbelt Parkway	11,200	11,200	LF	\$ 340	\$ 3,808,000
Construction of Storm Drains					
12" SD & SDFM	13,400	13,400	LF	\$ 75	\$ 1,005,000
18" SD	4,100	4,100	LF	\$ 100	\$ 410,000
24" SD	7,900	3,810	LF	\$ 150	\$ 571,500
30" SD	6,185	5,840	LF	\$ 200	\$ 1,168,000
36" SD	3,590	3,590	LF	\$ 300	\$ 1,077,000
36" SD (Crossing of Eleventh Street)	102	102	LF	\$ 500	\$ 51,000
42" SD (Von Sosten Road, WSID Sub-Main Drain)	150	150	LF	\$ 500	\$ 75,000
Other Items					
Dewatering	1	1	LS	\$ 2,500,000	\$ 2,500,000
WSID Crossing Agreement	2	2	EA	\$ 5,000	\$ 10,000
Interflow Structure at WSID Connection (Lammers Road)	1	1	LS	\$ 30,000	\$ 30,000
WSID Discharge Agreement (First 30 Years)	1	1	EA	\$ 2,040,000	\$ 2,040,000
Subtotal of Construction					\$ 22,101,500
Design & Planning @ 10% of Construction Subtotal					\$ 2,210,150
Construction Management @ 10% of Construction Subtotal					\$ 2,210,150
General Contingency @ 15% of Construction Subtotal					\$ 3,315,225
Land Acquisition					
DET LW1	35.0	35.0	AC	\$ 150,000	\$ 5,250,000
DET LW2	11.0	11.0	AC	\$ 150,000	\$ 1,650,000
DET LW3	48.0	48.0	AC	\$ 150,000	\$ 7,200,000
DET LW5 (Non-Program)					
DET LW6	21.0	21.0	AC	\$ 150,000	\$ 3,150,000
DET LW7 (Non-Program)					
DET LW8	5.0	5.0	AC	\$ 150,000	\$ 750,000
DET LW9a	25.0	25.0	AC	\$ 150,000	\$ 3,750,000
DET LW9b	7.0	7.0	AC	\$ 150,000	\$ 1,050,000
DET LW10a/10b	9.0	9.0	AC	\$ 150,000	\$ 1,350,000
DET LW11	12.0	12.0	AC	\$ 150,000	\$ 1,800,000
DET LW12	6.0	6.0	AC	\$ 150,000	\$ 900,000
Greenbelt Parkway	51.4	51.4	AC	\$ 150,000	\$ 7,710,000
12" SD Easement	2.2	2.2	AC	\$ 50,000	\$ 110,000
Subtotal of Land Acquisition					\$ 34,670,000
TOTAL ESTIMATED COST					\$ 64,507,025.00
Less Lammers Watershed Fund Balance					\$ (131,861.96)
Outstanding Lammers Watershed Developer Credit²					\$ 370,650.00
REMAINING COST FOR NEW PROGRAM STORM DRAINAGE INFRASTRUCTURE					\$ 64,745,813.04

Notes:

- 1) Infrastructure Cost Estimates Source: Storm Water Consulting, Inc. James Nelson, May 15, 2019.
- 2) Credits: Phase 1c Building 1 - LWB10b (18 AF) and LW6 (151 AF). Phase 1b Medline - 24" Capital Parks (2,325 LF), 30" WSID (345 LF). Phase 1e 24" Capital Parks (1,433 LF), 24" Huntington Way (332 LF). These items quantities have been deducted.
- 3) The following program administration has been removed from the cost estimate. A 5% PM fee is added on to the fee.



Mountain House Watershed

Table 6 details the opinion of probable cost for the remaining facilities in the Mountain House Watershed. The fund balance is subtracted from the remaining costs to determine the cost to be funded from remaining development. These calculations are shown in Table 6.

Table 6
Opinion of Probable Cost for Program Storm Drainage Infrastructure
Supplement No. 3 to the Citywide SDMP (Mountain House Watershed)

DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
MOUNTAIN HOUSE WATERSHED				
Construction of Major Facilities				
DET MHW3a/3b/3c (33 AF, plus 14 AF add'l excavation)	47	AF	\$ 16,000	\$ 752,000
DET MHW 3a Pump Station (3.0 cfs capacity)	1	LS	\$ 350,000	\$ 350,000
Construction of Storm Drains				
18" SDFM	3,300	LF	\$ 100	\$ 330,000
Other Items				
Dewatering	1	LS	\$ 150,000	\$ 150,000
Mountain House Discharge Agreement	1	LS	TBD	TBD
Subtotal of Construction				\$ 1,582,000
Design & Planning @ 10% of Construction Subtotal				\$ 158,200
Construction Management @ 10% of Construction Subtotal				\$ 158,200
General Contingency @ 15% of Construction Subtotal				\$ 237,300
Land Acquisition				
DET MHW3a/3b/3c	10.0	AC	\$ 150,000	\$ 1,500,000
18" SDFM Easement	1.5	AC	\$ 50,000	\$ 75,000
Subtotal of Land Acquisition				\$ 1,575,000
TOTAL ESTIMATED COST				\$ 3,710,700.00
Less Mountain House Watershed Fund Balance				\$(531,140.83)
REMAINING COST FOR NEW PROGRAM STORM DRAINAGE INFRASTRUCTURE				\$ 3,179,559.17

Note: TBD = To Be Determined and Added to Costs at a Later Date



Storm Drainage Impact Fees

Overview

New development within the Lammers and Mountain House Watersheds will fund the storm drainage infrastructure detailed in the Opinions of Probable costs shown in Table 5 and Table 6.

Fee Methodology

There are several methodologies that can be used to determine the impact fees for new development. The applicability of these methodologies is primarily based on the type of infrastructure or facility that an impact fee is being calculated for and the technical documentation that is available to support the establishment of the fee.

For the purpose of this fee analysis, a Plan-Based fee methodology was used for calculating the storm drainage impact fees and is consistent with the methodology utilized in the *2013 Impact Fee Analysis for New Impact Fee Program Areas* prepared by Stantec.

The methodology used in calculating the fees is shown below:

1. The net remaining undeveloped acreage for each watershed was determined and is shown in Exhibit C.
2. The net areas for each proposed land use category within the impact fee program area were divided by the total net area of undeveloped land to yield a proportional land use area percentage.
3. In order to establish an equitable fee structure, the land use area percentages were then weighted according to their assigned percent impervious values. The percent impervious values are per the impervious values used in the *2013 Impact Fee Analysis for New Impact Fee Program Areas* prepared by Stantec.
4. Each land use is then assigned a proportional funding responsibility (share of the costs) by dividing their impervious area by the total impervious area.
5. The total fee responsibility for each land use category is then determined by multiplying the proportional funding responsibility percentages by the total infrastructure cost for the impact fee program area.
6. The total funding responsibility for each land use category is then divided by the net acreage to calculate the impact fee for each land use category on a per acre basis.
7. For residential land uses, the impact fee per acre is then converted to a fee per dwelling unit using density assumptions.



8. An Administration Fee is determined by multiplying the impact fees by five percent.

Table 7 and 8 details the storm drainage impact fees by planning area and subsequently by land use that were derived using the preceding methodology.



Table 7
City of Tracy
Storm Drainage Impact Fees (Updated Lammers Watershed)

Impact Fee Program Area	Remaining Infrastructure Cost*	Land Use Category	Remaining Net Acreage by Land Use Category***	Proportional Land Use Area Within Impact Fee Program Area	Percent Impervious	Proportional Funding Factor (Land Use % times % Impervious)	Proportional Funding Responsibility (Funding Factor % of Total)	Total Fee Responsibility	Impact Fee (Per Acre)	Residential Dwelling Units	Impact Fee (Per Dwelling Unit)	Program Administration **	Total Impact Fee **
Lammers Watershed	\$ 64,745,813	Residential - Very Low Density	34.00	1.35%	6%	0.0008	0.1%	\$ 95,173	\$ 2,799.00	60	\$ 1,586.00	\$ 79.00	\$ 1,665.00
		Residential - Low Density	23.80	0.95%	16%	0.0015	0.3%	\$ 177,656	\$ 7,465.00	122	\$ 1,456.00	\$ 73.00	\$ 1,529.00
		Residential - Medium Density (attached 2-4)	23.80	0.95%	22%	0.0021	0.4%	\$ 244,277	\$ 10,264.00	252	\$ 969.00	\$ 48.00	\$ 1,017.00
		Residential - High Density (Attached 4+)	45.90	1.83%	41%	0.0075	1.4%	\$ 877,969	\$ 19,128.00	1012	\$ 868.00	\$ 43.00	\$ 911.00
		Industrial	1562.04	62.24%	57%	0.3548	64.2%	\$ 41,538,324	\$ 26,592.00	N/A	N/A	\$ 1,330.00	\$ 27,922.00
		Office	596.70	23.77%	57%	0.1355	24.5%	\$ 15,867,684	\$ 26,592.00	N/A	N/A	\$ 1,330.00	\$ 27,922.00
		Retail	223.55	8.91%	57%	0.0508	9.2%	\$ 5,944,731	\$ 26,592.00	N/A	N/A	\$ 1,330.00	\$ 27,922.00
Total			2509.79	100.00%		0.5530	100.0%	\$ 64,745,813					

* Remaining Infrastructure not yet in approved OIA as of May 2019.

** Residential Fees are shown per dwelling unit, Non-residential Fees are shown per acre.

*** Land that has paid impact fees as of May 2019 are removed from acreage.

Table 8
City of Tracy
Storm Drainage Impact Fees (Updated Mountain House Watershed)

Impact Fee Program Area	Remaining Infrastructure Cost*	Land Use Category	Remaining Net Acreage by Land Use Category**	Proportional Land Use Area Within Impact Fee Program Area	Percent Impervious	Proportional Funding Factor (Land Use % times % Impervious)	Proportional Funding Responsibility (Funding Factor % of Total)	Total Fee Responsibility	Impact Fee (Per Acre)	Program Administration (Per Acre)	Total Impact Fee (Per Acre)
Mountain House Watershed	\$ 3,179,559	Industrial	152.45	83.67%	57%	0.4769	83.7%	\$ 2,660,403	\$ 17,451.00	\$ 873.00	\$ 18,324.00
		Office	18.70	10.26%	57%	0.0585	10%	\$ 326,326.99	\$ 17,451.00	\$ 873.00	\$ 18,324.00
		Retail	11.05	6.06%	57%	0.0346	6.1%	\$ 192,830	\$ 17,451.00	\$ 873.00	\$ 18,324.00
Total			182.20	100.00%		0.5700	100.0%	\$ 3,179,559			

* Remaining Infrastructure not yet in approved OIA as of May 2019.

** Land that has paid impact fees as of May 2019 are removed from acreage.



AB 1600 Findings

This section provides the nexus findings for establishing and/or revising development impact fees for storm drainage pursuant to Assembly Bill (AB) 1600.

AB 1600, which was enacted by the State of California in 1987, created the Mitigation Fee Act – Section 66000 et seq. of the Government Code. The Mitigation Fee Act requires that all public agencies satisfy five requirements when establishing, increasing, or imposing a fee as a condition of approval of a development project. These requirements are as follows:

1. Identification of the purpose of the fee.
2. Identification of how the fee will be used.
3. Determination of how there is a reasonable relationship between the fee's use and the type of development projects on which the fee is imposed.
4. Determination of how there is a reasonable relationship between the need for the public storm drainage facilities and the type of development projects on which the fee is imposed.
5. Determination of how there is a reasonable relationship between the amount of the fee and the cost of the public storm drainage facilities (or portion of facilities) attributable to new development.

These required findings are made below:

Requirement #1: Identify the purpose of the fee.

New development increases the impervious area and generates the need for additional storm drainage facilities. These storm drainage facilities are required in order to provide adequate drainage to the parcels in the Lammers and Mountain House Watershed Areas. The purpose of the Lammers Watershed and Mountain House Watershed impact fees are to provide a source of funding for the improvements and to ensure that each development pays their fair share of the cost for the storm drainage infrastructure specific to each watershed area as identified in the City of Tracy Supplement No. 3 to the Citywide Storm Drainage Master Plan. These facilities are illustrated in Exhibit B and the opinions of probable costs are summarized in Tables 5 and 6.

Requirement #2: Identify the use to which the fee will be put.

The Lammers Watershed impact fee and the Mountain House Watershed impact fees will be used to construct the program storm drainage facilities in each watershed area per Supplement No. 3 to Citywide Storm Drainage Master Plan. These facilities include underground storm drains, detention basins, and appurtenant improvements as summarized in Tables 5 and 6 and illustrated in Exhibit B.

Requirement #3: Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

New development within the Lammers and Mountain House Watershed Areas will increase the impervious area, which generates additional storm water runoff and the associated need for storm drainage facilities within the respective program areas. The Lammers Watershed and Mountain House Watershed impact fees are calculated based on the estimated impervious area generated by each land



use. This methodology ensures the fees are directly related to the impact created by the new development.

Requirement #4: Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

Each new development will generate additional runoff in the Lammers and Mountain House Watershed Areas as defined in the Storm Drainage Master Plan and Supplement No. 3. Hydrologic and hydraulic calculations were performed by Storm Water Consulting Inc. and additional investigation of physical conditions and input was provided by the City staff. The result of the findings were utilized to develop the recommended storm drainage infrastructure for the Lammers and Mountain House Watershed Areas, summarized in Tables 5 and 6. Each new development will pay for their fair share of the required storm drainage infrastructure in their respective watershed based on the estimated impervious area.

Requirement #5: Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

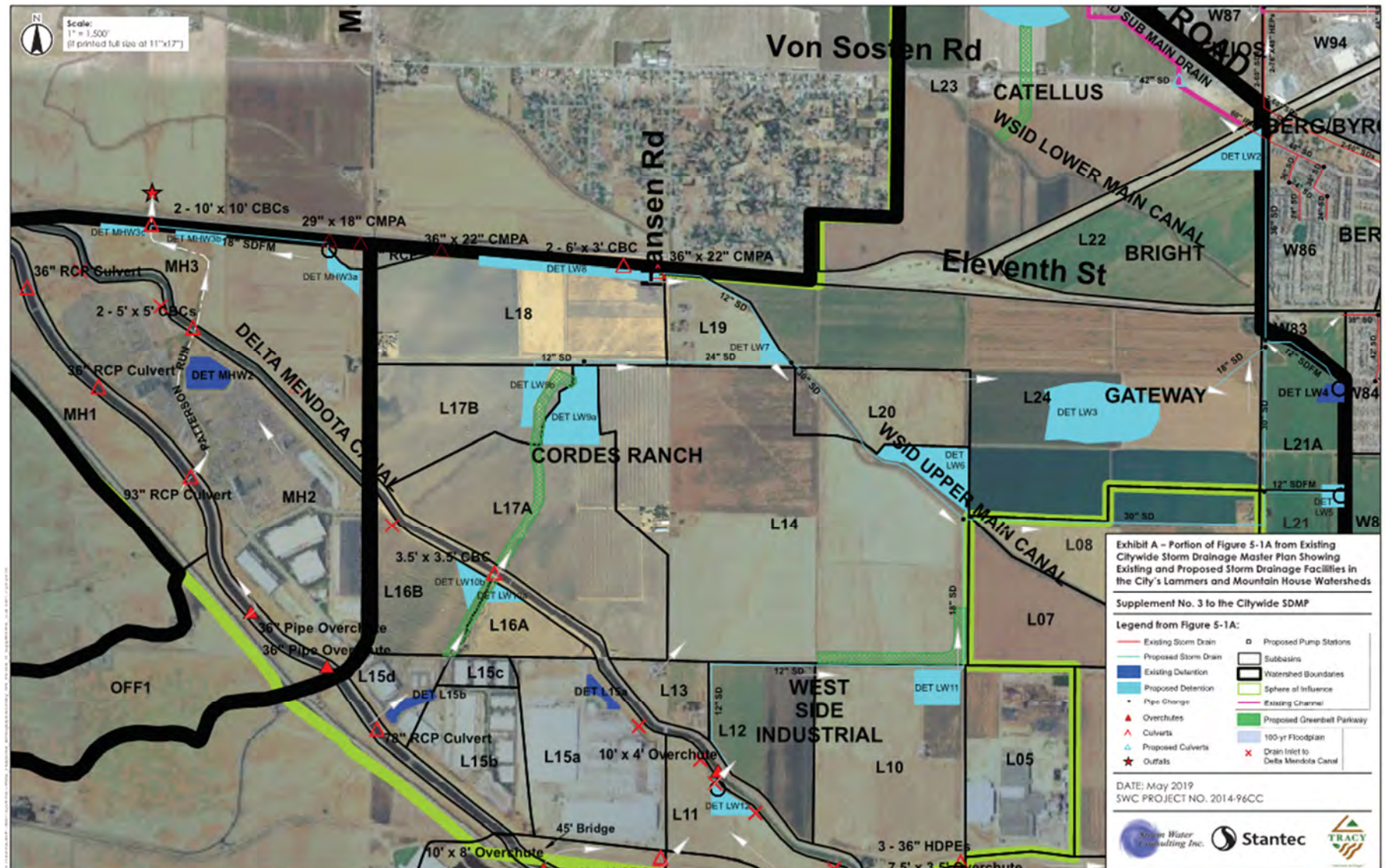
The opinions of probable cost for the required storm drainage collection facilities for the Lammers Watershed and Mountain House Watershed depicted in Tables 5 and 6 are spread to each respective watershed based on the estimated impervious area. This calculation for the Lammers Watershed and Mountain House Watershed impact fees are shown in Tables 7 and 8. These calculations ensure that new development projects fund their fair share of the required storm drainage infrastructure based on the increased impervious area created by each new development.

Exhibits

Exhibit A: Portion of Figure 5-1A from Existing Citywide Storm Drainage Master Plan Showing Existing and Proposed Storm Drainage Facilities in the City's Lammers and Mountain House Watersheds

Exhibit B: Proposed Revisions to the Existing Citywide Storm Drainage Master Plan per Supplement No. 3

Exhibit C: Remaining "undeveloped" acreages (as of 5/2019)



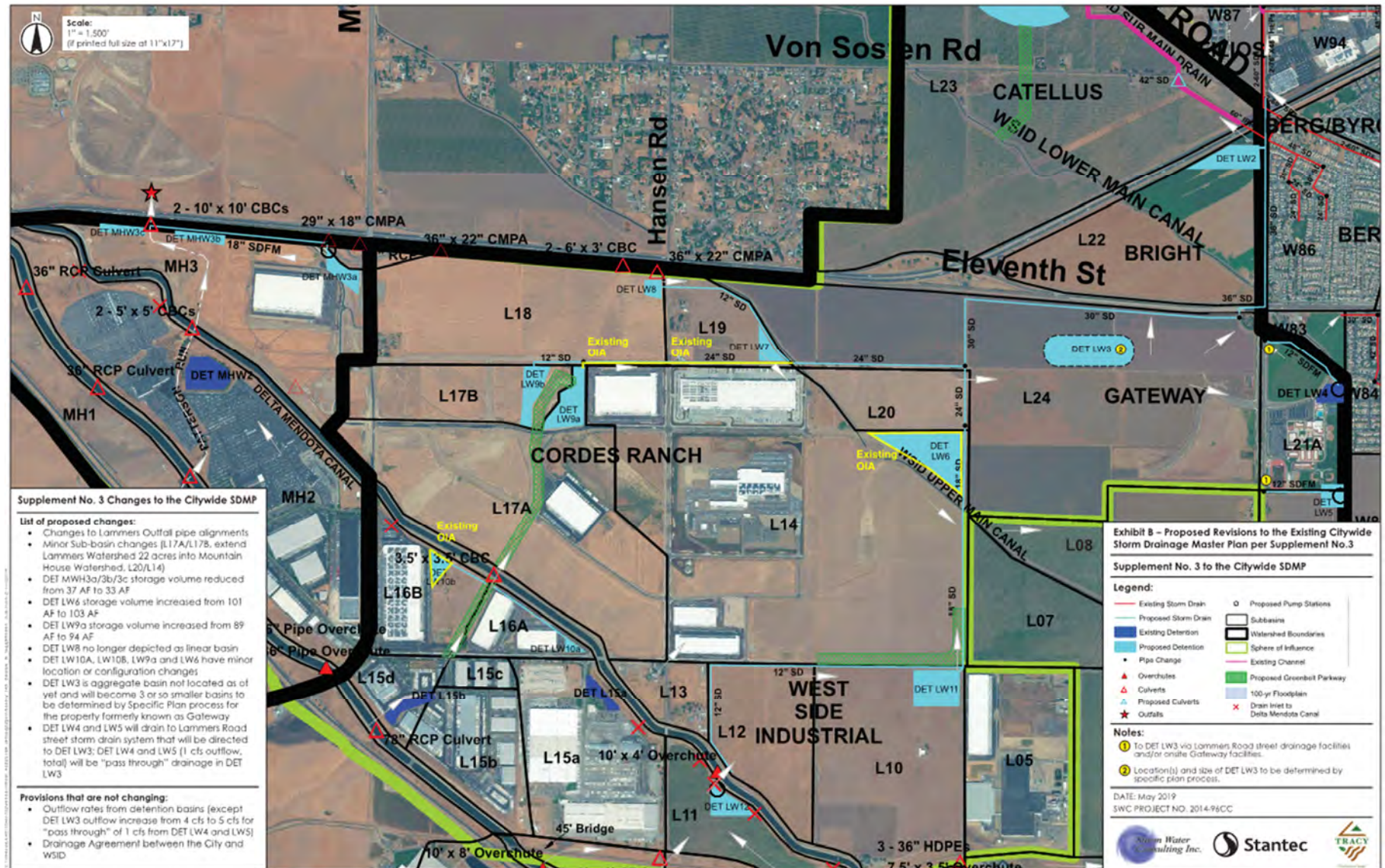




Exhibit C

Lammers Watershed Acreages (as of 5/2019)

Land Use Category	Gross Acreage ¹	Net Acreage by Land Use Category (Gross Acreage X 85%)	Developed Net Acres (Acreage)	Remaining Net Acreage
Residential - Very Low Density	40.00	34.00	0.00	34.00
Residential - Low Density	28.00	23.80	0.00	23.80
Residential - Medium Density (attached 2-4)	28.00	23.80	0.00	23.80
Residential - High Density (Attached 4+)	54.00	45.90	0.00	45.90
Industrial	2287.00	1943.95	381.91	1562.04
Office	702.00	596.70	0.00	596.70
Retail	263.00	223.55	0.00	223.55
Total:	3402.00	2891.70	381.91	2509.79

Notes:

1) Gross acreage is per the November 2013 Citywide Storm Drainage Master Plan

Mountain House Watershed Acreages (as of 5/2019)

Land Use Category	Gross Acreage ¹	Net Acreage by Land Use Category (Gross Acreage X 85%)	Developed Net Acres (Acreage)	Remaining Net Acreage
Industrial	221.00	187.85	35.40	152.45
Office	22.00	18.70	0.00	18.70
Retail	13.00	11.05	0.00	11.05
Total:	256.00	217.60	35.40	182.20

Notes:

1) Gross acreage is per the November 2013 Citywide Storm Drainage Master Plan

Developed Net Acres as of 5/2019

Development	Parcel No.	Acres
Lammers Watershed		
Buildings 3 and 4	209-120-09	30.44
IPC 6	209-120-09 & 10	25.60
Building 1	209-120-08	52.97
Medline	209-220-13	57.60
FedEx	209-220-10 & 11	117.08
IPC 12	209-120-10	33.90
Thermo Fisher	209-220-12	10.60
IPC 23	209-220-12	16.72
IPC 9	209-120-09	37.00
Mountain House Watershed		
Building 25	209-080-39	35.40
Lammers Subtotal:		381.91
Mountain House Subtotal:		35.40
Total:		417.31

RESOLUTION 2019-_____

APPROVING SUPPLEMENT NO.3 OF THE CITYWIDE STORM DRAINAGE MASTER PLAN

WHEREAS, The City adopted the Citywide Storm Drainage Master Plan (Master Plan), as approved by City Council Resolution No. 2013-056, on April 16, 2013, and

WHEREAS, The City adopted Supplement No.1 of the Master Plan, as approved by City Council Resolution No. 2014-009, on January 7, 2014, and

WHEREAS, The City adopted Supplement No.2 of the Master Plan, as approved by City Council Resolution No. 2018-203, on October 2, 2018, and

WHEREAS, It is in the City's interest to update the Master Plan as indicated in Supplement No.3, including adjustments to the master plan storm drainage infrastructure for the Lammers and Mountain House Watershed areas and minor adjustments to drainage Sub-basin boundaries;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves Supplement No.3 of the Citywide Storm Drainage Master Plan.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2019-_____

ADOPTING THE UPDATED STORM DRAINAGE IMPACT FEE STUDY FOR THE LAMMERS AND MOUNTAIN HOUSE WATERSHED AREAS AND APPROVING THE ESTABLISHMENT OF NEW AND UPDATED STORM DRAINAGE DEVELOPMENT IMPACT FEES FOR THESE AREAS

WHEREAS, The City adopted the City of Tracy Citywide Storm Drainage Master Plan Impact Fee Analysis for New Impact fee Program areas, as approved by City Council Resolution No. 2014-010, on January 7, 2014, and

WHEREAS, The City adopted Supplement No.3 of the Citywide Storm Drainage Master Plan that revised master plan storm drainage infrastructure for the Lammers and Mountain House Watershed Areas and make minor adjustments to drainage Sub-basin boundaries by City Council Resolution 2019-_____, on November 5, 2019, and

WHEREAS, The City's consultant, Harris & Associates, has prepared a fee study, titled "Storm Drainage Impact Fee Study for Lammers and Mountain House Watershed" dated August 2019, in accordance with the Mitigation Fee Act (also known as AB1600), which identifies the storm drainage infrastructure for the Lammers and Mountain House Watershed Areas to be financed by the Lammers Watershed Impact Fee and the Mountain House Watershed Impact Fee and the fair share contribution of new developments by land use in the City, and

WHEREAS, In accordance with Government Code Section 66016, at least 14 days prior to the public hearing at which the Council first considered the adoption of the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the City for mailed notice of meetings on new or increased fees or service charges, and

WHEREAS, In accordance with Government Code Section 66016, data supporting the imposition of the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee, including the estimated costs of providing the infrastructure to be financed by the proposed fee, in the form of the Lammers and Mountain House Watershed Impact Fee Update, dated August 2019, were made available for public review and comment for 10 days prior to the public hearing at which the Council first considered the adoption of the Fee, and

WHEREAS, Ten days advance notice of the public hearing at which the Council first considered the adoption of the Fee was given by publication in accordance with Section 6062a of the California Government Code;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby finds and determines as follows:

1. In adopting the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee set forth in this resolution, the City Council is exercising its powers under Article XI, Section 7 of the California Constitution.
2. The purpose of the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee is to finance Lammers and Mountain House Watershed infrastructure facilities ("Facilities"), as identified in the Storm Drainage Impact Fee

Study for Lammers and Mountain House Watershed, dated August 2019, prepared by Harris & Associates and attached hereto as Attachment C.

3. The Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee collected pursuant to this resolution shall be used to finance the Lammers and Mountain House Watershed facilities/infrastructure.
4. There is a reasonable relationship between the use of the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee revenues and the type of development projects on which such fee is imposed (which are new residential, retail, office, and industrial development projects) in that all new development located within the Lammers and Mountain House Watershed Area will generate, or contribute to, the need for the Facilities by increasing the number of residents and workers in the City and the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee revenues will be used to finance new development's share of the costs of the Facilities.
5. There is a reasonable relationship between the need for the Master Plan storm drainage infrastructure for the Lammers Watershed and Mountain House Watershed and the type of development projects on which the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee is imposed in that new development in the Lammers Watershed and Mountain House Watershed Areas (both residential and non-residential) will contribute to the need for the Facilities by increasing the number of residents and workers, each of which generate or contribute to the need for the Facilities.
6. There is a reasonable relationship between the amount of the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee set forth in this resolution and the cost of the facilities to be funded attributable to the development on which such Fees are imposed, in that the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee are based on the increase impervious area created by new development
7. The Fee imposed by this Resolution is consistent with the City's General Plan.

BE IT FURTHER RESOLVED, that the City Council of the City of Tracy hereby:

1. Adopts the Updated Storm Drainage Impact Fee Study for Lammers and Mountain House Watershed, attached hereto, and
2. Adopts the updated Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee for the Master Plan Lammers and Mountain House Watershed Areas.
3. Authorizes the Development Services Director to annually adjust the Lammers Watershed Impact Fee and Mountain House Watershed Impact Fee each year on July 1st using the June Engineering News Record Construction Cost Index for San Francisco in accordance with Tracy Municipal Code Section 13.04.070(a). The first update will occur on July 1, 2020 using the June 2019 index as the base year. This annual adjustment will offset the effects of inflation-related construction cost increases.

* * * * *

The foregoing Resolution 2019-_____ was passed and adopted by the Tracy City Council on the 5th day of November 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

November 5, 2019

AGENDA ITEM 3.D

REQUEST

PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 5.24 WASTE DISPOSAL AND ADDING A NEW CHAPTER 5.26 DISCHARGE OF FATS, OILS AND GREASE, TO THE TRACY MUNICIPAL CODE TO BE CONSISTENT WITH STATE AND FEDERAL LAWS REGARDING THE DISPOSAL OF WASTEWATER

EXECUTIVE SUMMARY

Pursuant to Section 402 of the Clean Water Act, the California Water Code requires a wastewater treatment plant facility, similar to the City of Tracy, to create and implement a pretreatment program. Such pretreatment programs are typically inspected once every two years to determine compliance.

On May 22, 2018, PG Environmental, an EPA contract company, completed an audit of the City of Tracy's Pretreatment Program on behalf of the Central Valley Regional Water Authority Control Board. The final Pretreatment Compliance Audit (PCA) report submitted to the City on September 27, 2018 contained eleven required actions and six strongly recommended actions to improve the City's Pretreatment Program. Several of these requirements and recommendations involve changes to the Title 5, Chapter 5.24 of the Tracy Municipal Code (TMC), also known as the Sewer Use Ordinance (SUO). In addition, Chapter 5.26 also needs to be added to the TMC to include Fats, Oils and Grease (FOG) program which was required per the 2016 inspection of the pretreatment program.

DISCUSSION

The Central Valley Regional Water Quality Control Board (CVRWQCB) sets forth waste discharge requirements for the City of Tracy's Wastewater Treatment Plant (WWTP) through a National Pollutant Discharge Elimination System (NPDES) permit, pursuant to Section 402 of the Clean Water Act (CWA) and implementing regulations adopted by the United States Environmental Protection Agency (USEPA) and Chapter 5.5, Division 7 of the California Water Code. One such requirement of the CWA for a facility such as the City of Tracy's WWTP is the creation and implementation of a pretreatment program. Pretreatment programs related to wastewater for Publicly Owned Treatment Works (POTW) are typically inspected every other year to determine compliance with requirements of the NPDES permit and other State and Federal regulations.

The 2018 PCA report contained eleven required action items and six recommendations as listed below. Chapter 5.24 of the TMC needs to be amended to address the findings of that report. In addition, the proposed amendment of the TMC also includes a new Chapter 5.26 in the TMC for the FOG program which was one of the requirements of the 2016 inspection report.

1. 2018 PCA Required Action Items

Out of the eleven action items required by the audit report, three were addressed administratively by amending language to the existing Wastewater permit. One action item will be addressed during the development of an enforcement response plan completed at the staff level. The remaining seven action items (PCA requirement #3-9) are addressed as follows:

2018 Requirements #3-9

- These requirements are satisfied by proposing changes to the Tracy Municipal Code to reflect language in 40 CFR 403. This includes two definitions, two specific prohibitions, notification requirements, legal authority, and proper sampling techniques.

2. 2018 PCA Recommended Items

Out of the six recommended action items, only one recommendation (#4) is addressed as follows: The remaining items do not impact the City's day-to-day operations and will be considered in the future if needed.

Recommendation #4

- This recommendation is met by proposing the revised language of Section 5.24.560(d) to reflect language of 40 CFR 403.12(c).

3. 2016 Inspection Report – Required Item

The City has also developed a FOG program proposed to be codified as Chapter 5.26 of the TMC. This requirement was part of the recommendation listed in the previous inspections completed in 2016. The inclusion of the FOG program in the TMC will benefit the enforcement and operations of the wastewater treatment.

STRATEGIC PLAN

This agenda item does not relate to the Council's Strategic Plans.

FISCAL IMPACT

The City's monitoring and administration of the recommendations are funded through the Wastewater's operational budget. The amendments to the ordinance allows the City to establish permit fees and penalties to recapture the costs associated with the management and administration of the ordinance. There are no current fees in place for these costs. Staff will include these fees in the upcoming Master Fee Schedule update.

RECOMMENDATION

Staff recommends City Council:

- (1) Introduce and waive the full reading of an ordinance amending and clarifying provisions of Tracy Municipal Code Title 5 (SANITATION AND HEALTH) Chapter 5.24 (WASTE DISPOSAL); and
- (2) Introduce and waive the full reading of an ordinance adding Chapter 5.26 (DISCHARGES OF FATS, OILS AND GREASE) to Title 5 (SANITATION AND HEALTH).

Prepared by: Tasha Cheney, Environmental Compliance Officer, Utilities Department

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

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A: Proposed Ordinance 5.24 (showing tracked changes)
Attachment B: Proposed Ordinance 5.26

Title 5 – SANITATION AND HEALTH

Chapter 5.24 - WASTE DISPOSAL

~~Sections:~~

Article 1. - General Provisions

5.24.010 - Purpose and policy.

- (a) The purpose of this chapter is to provide uniform requirements for discharges into the City wastewater collection and treatment system and also to protect the local environment from the disposal of other undesirable wastes or materials.
- (b) This chapter enables the City to:
 - (1) Comply with the administrative provisions of the Clean Water Grant Regulations, the water quality requirements set by the Regional Water Quality Control Board, national standards of performance, State and Federal toxic discharge and pretreatment standards and any other criteria which are required or authorized by State or Federal law related to waste disposal;
 - (2) Prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system, pass through the system inadequately treated, contaminate the resultant sludge or impair the opportunity to recycle products of the treatment process;
 - (3) Provide for the equitable distribution of costs related to wastewater treatment and collection. This includes collection of revenues necessary for the maintenance of adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements and depreciation;
 - (4) Provide for the issuance of permits to certain persons who are, by contract or agreement with the City, users of the City publicly owned treatment works (POTW).
- (c) This article regulating waste disposal shall supersede all previous ordinances governing the items covered in this chapter. In the event there are any conflicts or inconsistencies between the provisions of this article and other provisions previously written in the City's Codes, the provisions of this chapter shall apply.
- (d) The provisions of this chapter shall apply to the direct or indirect discharge of all liquid wastes carried to the City's publicly owned treatment works (POTW). Except as otherwise provided, the Director of Utilities enforces the provisions of this chapter.

(Prior code § 5-6.101; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.020 - Definitions.

(Prior code § 5-6.102; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.030 - Adoption of definitions.

Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

(Prior code § 5-6.102.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.040 - Definitions used in the article.

For purposes of this chapter, the following words, phrases, and abbreviations shall have the meanings respectively ascribed to them in this section unless the context specifically indicates otherwise.

"Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act.

"Amalgam process wastewater" means any wastewater generated and discharged by a dental discharger through the practice of dentistry that may contain dental amalgam.

“Amalgam separator” means a collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility

"Applicant" means any person or group of persons, who applies for sewer service or a wastewater discharge permit.

An "authorized representative" of an industrial user shall be:

- (1) A responsible corporate officer such as a president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation;
- (2) A manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (3) A duly authorized representative of a responsible corporate officer of the individual user if the authorization is made in writing by the responsible corporate officer; the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and the written authorization is submitted to the Control Authority;
- (4) A general partner or proprietor if the company is a partnership or sole proprietorship respectively;
- (5) If an authorization under paragraph (3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (3) of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

~~"Batch dumps[WU1]" means the discharge of concentrated non-compatible pollutants in a manner or method that is not approved by the City.~~

“Batch process” means a treatment process in which a tank or vessel is filled with wastewater (or solution), the wastewater (or solution) is treated to meet discharge standards and is then released into the sanitary system. A batch process is not continuous.

"Biochemical oxygen demand (BOD)" means that quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five (5) days at twenty (20°) degrees centigrade expressed in terms of weight and concentration (milligrams per liter, mg/l).

"Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

"Categorical pretreatment standard" is any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405—471.

“Centralized waste treatment (CWT) facility” means any facility that treats (for disposal, recycling or recovery of material) any hazardous or non-hazardous industrial wastes, hazardous or non-hazardous industrial wastewater, and/or used material received from off-site. “CWT facility” includes both a facility that treats waste received exclusively from off-site and a facility that treats wastes generated on-site as well as waste received from off-site.

“Cesspool” means an underground reservoir, such as a cistern, well, or tank, used for receiving drainage or sewage from a residence.

"City" means the City of Tracy, City Manager or his designee, or the City Council of Tracy.

~~"C.O.D. (eC~~Chemical oxygen demand (COD)" means the measure of chemically oxidizable material in domestic or other wastewaters as determined by appropriate testing procedures and expressed in terms of mass per volume (mg/l).

"Code" means the Tracy Municipal Code.

"Commercial user" means ~~all retail stores, restaurants, office buildings, laundries, and other private business and service establishments~~ any user of the sewerage system, except those specifically classified as residential user or industrial user, whose premises are used to provide a product or service for retail or wholesale. Commercial shall include, but shall not be limited to retail stores, restaurants, office buildings, laundries, hotels, motels, healthcare facility, mobile businesses, and other private businesses and service establishments.

"Composite sample" means a collection of individual samples obtained at intervals during a specified period of time. Flow-proportioned composite samples are obtained by collecting incremental samples with volumes proportional to flow. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.

"Compatible pollutant" means a combination of biochemical oxygen demand, suspended solids, pH, fecal coliform bacteria, plus other pollutants that the City's POTW facilities are designed to accept and/or remove. Some compatible pollutants may be considered incompatible when discharged in significant quantities.

"Control authority" means the division of the City of Tracy, Utilities Department, which administers the POTW pretreatment program.

"Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

"Council" means the City Council of the City of Tracy.

"Customer" means any person, firm, association, corporation, or governmental agency served or entitled to be served by the City, for or without compensation.

"Daily maximum limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

"Dental amalgam" means an alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

"Dental discharger" means a facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to the POTW.

"Developer" means any person, or group of persons, who requests the Council to extend its sewage collection facilities.

"Development" means a parcel of land on which dwelling units, commercial or industrial buildings or other improvements are built.

"Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the State of California.

"Director" means the Director of Utilities of the City or his authorized representative, acting within the scope of his assigned duties.

"Domestic user" means a user discharging domestic wastewater from a private dwelling.

"Domestic wastewater" means the liquid and solid and waterborne wastes derived from the ordinary living processes of humans of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private disposal system.

"Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. For the purpose of this article, a mobile home space shall be considered a dwelling unit. More than one dwelling unit per structure and/or lot shall be deemed multiple dwelling units.

"Enforcement Compliance Schedule Agreement (ECSA)" means a mutual agreement between the City and the user amending the permitted pretreatment practices and/or installation of equipment to insure permit compliance.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

"Fats, oils, and grease (FOG) means any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that becomes or may become viscous, or solidifies or may solidify, with a change in temperature or other conditions."

"Finance Director" means the Finance Manager of the City of Tracy.

"Floor area" means the area included within the surrounding exterior walls of a building or portion thereof, exclusive of ramps, docks, vents, shafts, and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the floor or roof above.

"Food service establishment (FSE)" means food facilities defined in California Uniform Retail Food Facilities Law (CURFFL) Section 113789 of the Health and Safety Code, and any commercial or industrial entity within the boundaries of the sanitary sewer service area of the municipal wastewater control facility, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by mechanical ventilation as required by Health and Safety Code Section 114149. An establishment that limits its food preparation activities to those defined as "limited food preparation" in Health and Safety Code Section 113818 is not considered a FSE when engaged only in reheating, hot holding or assembly of ready to eat food products, provided that the establishment has no wastewater discharge containing a significant amount of FOG.

"Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the rate of flow in the waste stream and without consideration of time.

~~"Grease, oil and fats" means any material, or like material, that is free or extractable.~~

"Holding tank waste" means any waste from holding tanks such as those located on or in vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

"Incompatible pollutant" means any pollutant which is not a compatible pollutant as defined herein.

"Indirect discharge" means the discharge or the introduction of pollutants from any non-domestic source regulated under section 307(b) or (c) of the Act (33 U.S.C. 1317) into the POTW (including holding tank waste discharged into the system).

~~"Industrial user" or "user" [TC2] means any user that is a source of indirect discharge who discharges or causes a discharge of industrial wastewater directly or indirectly to the City sewage system which requires a permit under the provisions of this chapter. This specifically includes any categorical users connected to the City sewage system whether or not they discharge process wastewater source of indirect discharge.~~

"Industrial wastewater" means all water-carried wastes and wastewater of the community, excluding domestic wastewater, and shall include all wastewater from any producing, manufacturing, processing, agricultural or other operation. These may also include wastes of human origin similar to domestic wastewaters.

"Inspector" means a person authorized by the Director to inspect any development discharging or anticipating discharge to wastewater conveyance, processing and disposal facilities.

"Instantaneous limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Institutional user" means any user, including any outside user, public or private, operating a nonprofit school, church, hospital, lodge or club.

"Interference" means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act, the inhibition or disruption of the POTW treatment processes or operations which may contribute to the violation of any requirement of the City's National Pollution Discharge Elimination System permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

~~"Liquid waste manifest" means that receipt which is retained by the generator as required by the California Department of Health Services and/or the United States Government pursuant to the Resources Conservation Recovery Act.~~

"Mass emission rate" means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

"May" means permissive.

"Milligrams per liter" means a unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the formerly commonly used unit "parts per million," to which it is approximately equivalent in reporting the results of water and wastewater analysis.

"National pretreatment standard," "pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act which applies to industrial users. This term includes prohibitive discharge limits established pursuant to section 403.5 of this Act.

"New construction" means any structure planned or under construction for which a connection permit has not been issued.

"New source" means:

(1) any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located;
or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (m)(1)(ii) or (m)(1)(iii) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph." means any source, the construction of which is commenced after the publication of proposed regulations prescribing section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source.

"Normal working day" means the period of time during which production and/or operation is taking place.

"Pass-through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

"Permittee" means a person who has applied for and received permission to discharge pollutants into Tracy's sewerage system subject to the requirements and conditions established by the City.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"Pesticides" means those compounds, including, but not limited to, DDT (dichlorodiphenyltrichloroethane, both isomers), DDE (dichlorodiphenylethylene), DDD (dichlorodiphenyldichloroethane), aldrin, benzene hexachloride (alpha, beta and gamma isomers), chlordane, endrin, endrin aldehyde, 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), toxaphene, alpha-endosulfan, beta-endosulfan, endosulfan sulfate, heptachlor, heptachlor epoxide, dieldrin.

"pH" means the logarithm of the reciprocal of the quantity of hydrogen ions in moles per liter of solution used in expressing both acidity and alkalinity on a scale ranging from zero to fourteen (14) where seven (7) represents neutrality, numbers less than seven (7) increasing acidity, and more than seven (7) increasing alkalinity.

"Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked, or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and the radiological integrity of water.

"Polychlorinated biphenyls (PCB)" means those compounds, including, but not limited to, Aroclors, 1016, 1221, 1228, 1232, 1248, 1254, 1260, and 1262.

"Pretreatment or treatment" means the reduction of the amounts of pollutants, the concentration of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means, except as prohibited by 40 CFR section 403.6(d).

"Pretreatment requirements" means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

"Priority pollutants" means a listing of the toxic pollutants identified by EPA as having the greatest environmental concern and as incompatible and requiring pretreatment prior to discharge in order to prevent interference with POTW's operation, sludge contamination or treatment system pass-through into receiving waters or into the atmosphere.

"Public agency" means the State of California and any city, county, district, other local authority or public body of or within this State.

"Publicly owned treatment works (POTW)" means a treatment works as defined by section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plants. ~~sewers that convey wastewater to the POTW treatment plant, but does not include pipe, sewers of other conveyances not connected to a facility providing treatment.~~ For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

"Public sewer" means a sewer owned and operated by the City. All public sewers must be constructed in accordance with Tracy's regulations and specifications for construction of sanitary sewers.

"RCRA" means Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, et seq.).

"Regulatory agencies" means those agencies affecting the operation of Tracy's sewer system, including, but not limited to, the following:

- (1) United States Environmental Protection Agency, San Francisco and Washington, DC (EPA);
- (2) California State Water Resources Control Board (SWRCB); and
- (3) California Regional Water Quality Control Board (RWQCB).

"Regulatory compliance schedule agreement (RCSA)" means an agreement between the City and permittee to implement pretreatment practices and/or install equipment to ensure compliance with future revised categorical pretreatment standards or revised discharge limitations.

"Routine sampling" means sampling conducted prior to any enforcement action(s) initiated by the City. Sampling shall consist of either grab or composite sampling which may be conducted at the Director and/or designee's discretion.

"Sanitary sewage" means the portion of sewage exclusive of industrial wastes and stormwaters.

"Sanitary sewer" means a sewer to which storm, surface and ground waters are not intentionally admitted.

"Sanitary waste" means domestic wastewater.

"Sewage" means water carrying wastes from residences, business buildings, institutions and industrial establishments, together with such other waters as may be present, or any combination of such wastes and water. Also see wastewater.

"Sewage facilities" means any and all facilities used for collecting, conveying, pumping, treating and disposing of wastewater.

"Sewage works" means all sewer and facilities operated for carrying, collecting, pumping, treating, and disposing of sewage; also POTW.

"Sewer" means a pipe or conduit for carrying sewage.

"Sewer lateral" means a pipe or pipe and appurtenances that conveys wastewater from the plumbing of a structure to a sewer main. ~~means the pipe between the City's sewer line and the customer's service connection at the edge of the street or easement.~~

"Sewer main or main sewer" means a sanitary sewer pipe owned and controlled by the City of Tracy. The sewer main does not include any portion of the sewer lateral.

"Shall" means mandatory.

"Side sewer" means a connection with a sewer lateral from a house or other structure; also building sewer.

"Significant industrial user" means, except as provided in subsection (3) of this definition:

- (1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

- (2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (3) The City may determine that an industrial user subject to categorical pretreatment standards under section 403.6 and 40 CFR chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day of total categorical wastewater, (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - (i) The industrial user, prior to the City's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (ii) The industrial user annually submits the certification statement required in 40 CFR section 403.12(q) together with any additional information necessary to support the certification statement; and
 - (iii) The industrial user never discharges any untreated concentrated wastewater.
 - (iv) Upon finding that an industrial user meeting the criteria in subsection (1) of this definition has no reasonable potential for adversely affecting POTW's operation or for violation of any pretreatment standards or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.
- (4) Has, in his wastes, toxic pollutants in toxic amounts as defined in the standards issued under section 307a of the Federal Act;
- (5) Is found by the City to have a significant impact, either singularly or in combination with other contributing industries, on the POTW or sewage collection system;
- (6) Is otherwise subject to Federal categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
- (7) Has a discharge of wastewater which may contain, at any given time, any of the components as referred to in section 5.24.110, Limitations on Radioactive Wastes, and in section 5.24.060, Limitations on Wastewater Strength.

"Significant noncompliance" if the violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product ~~the product~~ of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative Standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug discharge ~~or slug load~~" means any discharge at a flow rate or concentration which could cause a violation of the general discharge prohibitions contained in TMC 5.24.050. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions; also batch dump.-

"Standard industrial classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

"State" means the State of California.

"Storm sewers or storm drains" means a sewer which carries storm and surface water but excludes sewage and polluted industrial wastes.

"Stormwater" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

"Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering.

"Temporary user" means any discharger who is granted temporary permission by the City to discharge unpolluted water, storm drainage or ground water to the City's sewerage facilities.

~~"T.O.C. (total organic carbon)~~ Total organic carbon (TOC)" means the measure of total organic carbon in domestic or other wastewater as determined by the appropriate testing procedure.

"Total halomethane" means the sum of all quantifiable values greater than 0.01 milligrams per liter of the following components: bromodichloromethane, dibromochloromethane, chloroform, bromoform, methylene chloride, chloromethane, and bromomethane. Halomethane means a methane molecule having one or more halogen atoms attached to it, including, but not limited to, bromodichloromethane, dibromochloromethane, chloroform, bromoform, methylene chloride, chloromethane, and bromomethane. Halogen atom means fluorine, chlorine, bromine, or iodine.

"Total oil and grease" means the hexane extractable material recovered by the Oil and Grease method which may include non-volatile petroleum hydrocarbons, waxes, animal fats, mineral and vegetable oils, soaps, sulfur compounds, organic dyes, chlorophylls.

"Total toxic organics (TTO)" means the summation of all quantifiable values greater than 0.01 milligrams per liter for the toxic organics listed in 40 CFR 401.15.

"Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

"Unpolluted water" means water to which no constituent has been added either intentionally or accidentally.

"User" means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.

"User charge" means a charge established and levied by the City that provides for the operation and maintenance expenses, capital expansion, capital recovery and adequate reserves for the sewage treatment works upon residential, commercial and industrial users in proportion to the use of the treatment works by their respective class.

"Waste" means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

"Wastehauler" means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for the purpose of discharging said waste into the City's system.

"Waste manifest" means that form required by regulatory bodies such as EPA, the Department of Transportation, the California Department of Health Services, the City of Tracy and/or the United States Government for all generators and/or transporters who transport, or offer for transport, hazardous, universal, or liquid waste for off-site treatment, recycling, storage or disposal.

"Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW. Also see sewage.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

(1) Abbreviations. The following abbreviations shall have the designated meanings:

BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
<u>SIU</u>	<u>Significant Industrial User</u>
<u>SNC</u>	<u>Significant Noncompliance</u>
SS	Suspended Solids
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
<u>TMC</u>	<u>Tracy Municipal Code</u>
<u>TSS</u>	<u>Total Suspended Solids</u>
USC	United States Code

(2) Word Usage. Words used in this article in the singular may include the plural and plural the singular. Use of masculine shall include feminine and use of feminine shall include masculine.

(Ord. 1119 §§ 1, 2, 2008; prior code § 5-6.102.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 2. - Regulations

5.24.050 - Prohibitions on discharge.

- (a) No person shall discharge to the City's sewer system wastes which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances:
- (1) A fire or explosion; prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
 - (i) Wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit or sixty (60°) degrees Centigrade (using the test methods specified in 40 CFR 261.21).
 - (2) ~~Obstruction of flow in the sewer system or damage to the sewerage facilities~~Any solid or viscous substance of such a size or in such a quantity that it may cause an obstruction to the flow in the sewer system or be detrimental to proper operation of the POTW. Such objectionable substances shall include, but are not limited to, asphalt, dead animals, offal, feathers, whole blood, bones, hair, fleshings, ashes, sand, mud, grit, straw, industrial process shavings, metal, glass, rags, lint, tar, plastics, wood, manure, paper products, either whole or ground;
 - (3) Danger to life or safety of any person or that which threatens the health of the public;
 - (4) Impairment of the effective maintenance or operation of the sewerage system;
 - (5) ~~Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems~~The release of toxic or malodorous gas or malodorous gas producing substances;
 - (6) The discharge of any pollutant, including oxygen-demanding pollutants (such as biochemical oxygen demand (BOD)), released in a discharge at a flow rate or pollutant concentration that will cause interference in the wastewater treatment process;
 - (7) Any waste containing an incompatible pollutant;
 - (8) Any compatible pollutant in excess of that permitted in the City's permit or special agreement;
 - (9) The City's effluent or any other product of the treatment process, residues, sludges or scums, to be unsuitable for reclamation, reuse or disposal;
 - (10) Discoloration or any other condition which affects the quality of the City's treatment works effluent in such a manner that receiving water quality requirements established by regulatory agencies cannot be met;
 - (11) Quantities or rates of flow which overload the City's collection or treatment facilities, or cause excessive City collection or treatment cost, or may use a disproportionate share of the City's facilities;
 - (12) Any discharge of any pollutant that causes pass-through is prohibited;
 - (13) Conditions which violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body having jurisdiction over the discharge of wastewater through the sanitary sewer system;
 - (14) Any water or wastes having a pH lower than six (6.0) or higher than nine (9.0) or having any other corrosive property capable of causing damages or injuries to structures, equipment, or personnel of the City;
 - (15) ~~A temperature~~Any wastewater with heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 104 degrees Fahrenheit (forty (40°) degrees Centigrade) or exceeds 140 degrees Fahrenheit (sixty (60°) degrees Centigrade) at the point of discharge;
 - (16) Any wastes requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes;
 - (17) Any water or wastes containing algacides, fungicides, antibiotics, insecticides, herbicides, strong oxidizing agents, or strong reducing agents.
 - (18) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(19) Any trucked or hauled pollutants, except at discharge points designated by the POTW:

- (b) No person shall discharge by vehicular transport, rail car, or dedicated pipeline, directly or indirectly, to the POTW any substance that is defined as a hazardous waste by the Regulatory Agencies.
- (c) No person shall transport from one location or facility to another for the purpose of treating or discharging it directly or indirectly to the POTW without written permission from the Director.

~~_(d) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the following provisions:~~

~~(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the City, if possible, at least ten (10) days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the City within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.~~

~~(d2) Bypass is prohibited, and the City may take enforcement action against an industrial user for a bypass, unless:~~

~~(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production;~~

~~(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and~~

~~(3) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the City, if possible, at least ten (10) days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the City within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.~~

~~The industrial user submitted notices as required under subsection (d)(1) of this section.~~

The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three (3) conditions listed in subsection (d)(2) of this section.

An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the above provisions.

5.24.060 - Limitations on wastewater strength.

(a) No person shall discharge wastewater containing constituents in excess of the quantities listed in Table 1.

TABLE 1
DISCHARGE LIMITS, mg/L

Constituent	Limit mg/L
Antimony	3.56
Arsenic	0.05
Beryllium	0.46
Cadmium	0.05
Chromium	1.18
Copper	1.51
Cyanide (Total)	0.34
Lead	0.6
Mercury	0.03
Molybdenum	0.14
Nickel	0.17
Selenium	0.05
Silver	0.94
Zinc	1.4
Ammonia	265
Sulfate	300
Sulfide	10
<u>Total Oil and Grease</u>	<u>200</u>
<u>Nonpolar Oil and Grease (mineral/petroleum origin)</u>	<u>100</u>
Benzene	0.13
bis(2-ethylhexyl)phthalate	5.1
Chlorobenzene	2.35
Chloroform	0.42
1,4-Dichlorobenzene	2.6
Dichloromethane	1.5
cis 1,3 Dichloropropene	0.09
Ethylbenzene	1.59
Total Halomethanes	10
~~Total Oil and Grease~~	~~525~~
Phenol	125
Tetrachloroethene (PCE)	0.51
Toluene	1.31

1,1,1-Trichloroethane	1.55
Trichloroethene (TCE)	0.71

The term "free cyanide" means those cyanides amenable to chlorination as described in the Annual Book of ASTM Standards, 1972, Standard D 2-36-72 Method B, page 553.

(b) No person shall discharge any wastewater:

- (1) In violation of any applicable federal categorical or state standards or other local regulations covering wastewater disposal;
- (2) Containing constituents in excess of the levels stated in their annual discharge permit.

The above limits may be modified by Council resolution for purposes of preventing POTW pass-through and/or interference.

(Ord. 1119 § 3, 2008; prior code § 5-6.202, as amended by § 1, Ord. 966 C.S., eff. January 15, 1998; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.070 - Accidental discharges/slugs discharges.

(a) Each user will ensure that the POTW is protected from discharge of prohibited materials or other substances regulated by this chapter. Such protection shall be provided and maintained by the user at the owner's or user's own cost and expense. Detailed plans showing protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. All existing users shall complete such a plan within twelve (12) months of the date that these ordinances become effective. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutant(s) into the system until accidental/slug discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

The Director or designee shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:~~Significant industrial users may be required to submit a Slug Discharge Control Plan to the City upon request, which shall contain, at a minimum, the following elements:~~

- (i) Description of discharge practices, including non-routine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days;
 - (iv) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, (including solvents), and/or measures and equipment for emergency response.
- (b) Notification. Users are required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge. In the case of an accidental or slug load discharge, it is the responsibility of the user to immediately notify the POTW of the incident. Notification shall identify the location of the discharge, the type, concentration, and volume of waste, and corrective actions taken and/or anticipated.

- (c) Written Notification. Within five (5) days following an accidental/slug discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fine, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(Prior code § 5-6.203; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.080 - Prohibition on storm drainage and ground water.

Storm water, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections to a sewer unless a permit is issued by the City. The City may approve the discharge of such water only when no reasonable alternative method of disposal is available. If a permit is granted for the discharge of such water into a sewer, the user shall pay the applicable charges and fees and meet such other conditions as required by the City. Discharge of hazardous or toxic materials, or water containing hazardous or toxic materials, into the storm drain system is prohibited.

(Prior code § 5-6.204; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.090 - Dilution water.

Any water added for the purpose of diluting wastes in lieu of treatment, to reduce the concentrations of pollutants present, or as a partial substitute for treatment is prohibited.

(Prior code § 5-6.205; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.100 - Prohibition on unpolluted water.

Unpolluted water, including, but not limited to cooling water, process water or blow-down from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a sewer unless a permit is issued by the City. The City may approve the discharge of such water only when no reasonable alternative method of disposal is available. If a permit is granted for the discharge of such water into a community sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the City.

(Prior code § 5-6.206; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.110 - Limitations on radioactive wastes.

No person shall discharge, or cause to be discharged, any radioactive waste into a public sewer except:

- (a) When the person is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials; and
- (b) When the waste is discharged in strict conformity with current California Radiation Control Regulations (California Administrative Code, Title 17) for safe disposal; and
- (c) When the person is in compliance with all rules and regulations of all other applicable regulatory agencies; and
- (d) When a permit has been obtained from the City.

(Prior code § 5-6.207; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.120 - Limitations on the use of grinders.

Wastes from garbage grinders shall not be discharged into a community sewer except:

- (a) Wastes generated in normal preparation ~~for of~~ food ~~normally consumed on the premises by residential users~~; or

- (b) Where the user has obtained a permit for that specific use from the City, and agrees to undertake whatever self-monitoring is required to enable the City to equitably determine the charges and fees based on the waste constituents and characteristics.

Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the community sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

(Prior code § 5-6.208; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.130 - Notification of hazardous waste discharges.

- (a) All Industrial Users shall notify the City, EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. Industrial users shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).
- (b) Dischargers are exempt from the requirements of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

- (c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the City of Tracy, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under paragraph (a) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Prior code § 5-6.209; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.140 - Limitations of the point of discharge.

- (a) No person, except local sewerage agencies involved in maintenance functions of sanitary sewer facilities, shall discharge any wastewater, waste products, solids or other fluids directly into a manhole or other opening in a sewer other than through an approved building sewer, unless, upon a written application by the user and payment of the applicable user charges and fees, the City issues a permit for such direct discharges.
- (b) No person except the City sewerage agencies shall leave open an unprotected sewer manhole.
- (c) Accidental spills into a City manhole must be reported to Tracy's POTW immediately by phone.

(Prior code § 5-6.210; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.150 - Holding tank wastes.

- (a) No person shall discharge any holding tank waste into a community sewer unless he has been issued a permit by the City and the Public Health Services of San Joaquin County unless otherwise allowed by the City under the terms and conditions of their permit. A separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the City.
- (1) An exception to the above is that no permit will be required of City residents for discharge of domestic wastes from recreational vehicle holding tanks provided that such discharges are made into a City approved facility designed to receive such wastes.

(Prior code § 5-6.211; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.160 - Pretreatment requirements.

The City shall implement and enforce its POTW Pretreatment Program as determined necessary. Users shall make wastewater acceptable under the limitations established therein before discharging into any sewer. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City before construction of the facility, along with an application for a permit to discharge wastewater, or a compliance schedule, as necessary. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide an effluent which complies with the provisions of this article. In such cases of non-compliance, the user will be subject to all the provisions of Article 6 of this chapter including the requirement for a compliance schedule for the installation and proper management of new pretreatment technology.

(Prior code § 5-6.212; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.170 - Screened industrial wastes.

No person shall discharge, cause, allow or permit to be discharged into the sanitary sewer system, or any part thereof, any industrial wastes unless such wastes have first been passed through twenty (20) mesh screens. This includes any garbage or any fruit, vegetable, animal, fish, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, fish or other foods or products.

The Director, by written permit, may authorize the discharge into the sanitary sewer system of such wastes if they are first passed through screens having larger openings if the Director is satisfied that such larger openings will provide screening efficiency and effectiveness equal to or better than that provided by the above specified openings.

Each person who shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system of the City, or any part thereof, any such wastes resulting from the processing, packaging or canning of fruits, vegetables, fish, or other foods or products shall install within or upon the premises from which such wastes are discharged, before such discharge of any wastes is made into the City's sanitary sewer system, or any part of such system, and thereafter maintain in good operating order, screens as specified in this section and appurtenances thereto, including, but not limited to all the necessary conveyors and elevators, all in sufficient quantity and of sufficient size and quality, to continuously and effectively screen not less than 100 percent of the peak hydraulic and solids loading imposed upon such screens and appurtenances during any processing period.

No one shall discharge any screened waste into the sanitary sewer system, or any part of the system, unless and until he shall obtain from the Director advanced approval to do so. The Director may require such persons to provide to the Director a report prepared by a registered engineer which shows, to the satisfaction of the Director, that the provisions of this section have been complied with by the discharger. The Director may also make such field tests and investigations as he deems necessary to satisfy himself that the provisions of this section have been complied with by the discharger. The Director shall not give such written approval if any such wastes cannot be processed successfully by the physical and biological processing units of the waste treatment plant.

Any and all equipment, sewer, pipelines, floor drains, or other facilities capable of discharging any garbage, fruit, vegetable, animal, fish, or any other solid industrial wastes resulting from the processing or packaging of the above or other foods or products into the sanitary system, or any part thereof, before such wastes have been screened as required by this section shall hereafter be locked, closed, and sealed in an approved manner. No person shall remove any such lock or seal, and no person shall discharge, or cause, or permit to be discharged, into any such equipment, sewers, pipelines, floor drains, or other facilities capable of discharging into the sanitary sewer system, or any part thereof, any unscreened industrial wastes without first having obtained from the Director his consent to do so.

(Prior code § 5-6.212.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.180 - ~~Grease, oil, and sand interceptors~~ Oil, sand and lint separators.

~~(a) Grease, oil, and~~ Oil and sand interceptors. Oil or sand interceptors shall be provided by the waste discharger in ~~restaurants, buildings with cafeterias, service stations, auto repair shops, carwashes, and other facilities~~ and when, in the reasonable opinion of the City, they are necessary for the proper handling of any flammable wastes, sand, grease, oil or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type and capacity approved by the City and shall be so located as to be readily and easily accessible for cleaning and inspections. Discharges from urinals, toilets, wash basins and other fixtures containing fecal material shall not flow through the interceptor.

~~Grease and o~~ Oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight and equipped with easily removable covers which when bolted in place, shall be gas-tight and water-tight.

When installed, all ~~grease, oil, and sand~~ interceptors shall be maintained by and at the discharger's expense in continuously efficient operation. Maintenance shall include the complete removal of all contents, including floating materials, wastewater and bottom sludges and solids. The discharger shall keep written records and documentation of all cleaning, repair, calibration, and maintenance required to demonstrate compliance with this section. Records shall be kept at the facility for a minimum of three (3) years and be made available upon request for inspection and copying by the Director.

Decanting or discharging of removed waste back into the trap or interceptor from which the waste was removed or any appurtenance of the wastewater collection system is strictly prohibited.

~~The use of chemicals or biological agents for removing or dissolving grease in a grease interceptor is prohibited. The discharger shall keep a record of the cleaning and maintenance of the grease interceptor, with receipts from the company doing the cleaning. These records shall be made available upon demand to the City.~~

(b) Sand/lint Separators. All industrial or commercial wastes which contain, or are likely to contain sand or grit and/or lint, shall be passed through a suitable separator before discharge to the City sewer system. The separator shall be of a type and capacity approved by the City and shall be located as to be readily accessible for cleaning and inspection.

(c) Before installation of any interceptor or separator, approval must be obtained from the City. The City has the right of final approval of the type and required size of the grease, ~~and~~ oil and sand interceptors.

(d) Food service establishments shall follow chapter 5.26.

(Prior code § 5-6.212.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.190 - Pretreatment required by federal categorical standards.

All users subject to national categorical pretreatment standards found in 40 CFR Chapter I, subchapter N, Parts 405-471 shall be required to meet those standards by the compliance dates specified in those requirements or, in the case of new industrial users, upon commencement of the discharge. Upon the promulgation of new standards for a particular industrial category, those limitations shall immediately apply. Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the City pursuant to EPA regulations set forth in 40 CFR Section 403.6. Local limits established by this document, however, take precedence over a categorical standard, if the local limit is more stringent.

Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, the user, subject to pretreatment standards and requirements, shall submit to the Director a compliance report indicating the nature and concentration of all pollutants in the discharge and the average and maximum daily flow from the regulated processes which are limited by pretreatment standards. Pollutant data shall be based on, but not limited to, at ~~least~~least one flow-paced composite sample. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified by a qualified professional.

Those users who are not in compliance with the applicable pretreatment standards or requirements by the compliance dates must enter into an Enforcement Compliance Schedule Agreement and will be subject to all the provisions of Article 6 of this chapter.

- (a) National Categorical Standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated in this chapter.

(Prior code § 5-6.212.3; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.200 - Separation of industrial and domestic wastewaters.

All domestic or sanitary wastewaters from rest rooms, showers, drinking fountains, etc., shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through any required pretreatment system or device and the sampling or flow measuring point.

(Prior code § 5-6.213; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.210 - Duty to connect premises producing wastewater to the City's sewer system.

- (a) Unless otherwise specifically provided by this section, no person owning or using real property within the City limits shall construct or use any system for the disposal of any waste, wastewater, or sewerage, other than through the City's wastewater system.
- (b) Exceptions for private domestic sewer systems.
 - (1) If, as of the effective date of the ordinance codified in this section or as of the date which the subject real property is annexed to the City, a person is using a private disposal system for domestic wastewater (including any privy, privy vault, septic tank, or cesspool) which has been constructed and is operated and maintained in accordance with all applicable federal, state and San Joaquin County Environmental Health Department regulations, then the person may continue to use the private disposal system.
- (c) Any person permitted to use a private disposal system for domestic wastewater in accordance with this section shall be required to connect to the City's wastewater sewer system within 120 days after receiving written notice from the City that all of the following have occurred:
 - (1) The private disposal system has failed, as indicated by: (i) the surfacing of sewerage following clean up and pumping of the private disposal system; or (ii) the collapse of the private disposal system structure; and
 - (2) There is a connection point to the City's wastewater sewer system which is within 200 feet from any boundary of the subject property; and
 - (3) There is adequate sewer line and sewer treatment capacity available to serve the subject property.
- (d) Any person required to connect to the City's wastewater sewer system in accordance with subsection (c) of this section shall:
 - (1) Pay to the City all applicable fees related to the connection to the City's wastewater sewer system.
 - (2) Provide for a separate connection to the City's wastewater sewer system for each building or structure served; provided, however, two (2) or more buildings or structures on the same lot may be served by one connection if adequate written documentation is submitted to the City Engineer which establishes the need.

- (e) The City declares that any private disposal system for domestic wastewater (including any privy, privy vault, septic tank, or cesspool) which is used in violation of this section shall constitute a public nuisance, and the City may use any legal means to abate the nuisance.

(Ord. 986 § 2, 1998; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.220 - Duty to connect premises producing domestic waste with the sewer system.

(Ord. 986 § 1 (part), 1998; prior code § 5-6.215; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.230 - Duty to connect premises producing industrial waste with the sewer system.

No person owning any premises within the limits of the City and no user of any premises within the limits of the City on which industrial waste is produced shall discharge industrial waste into the domestic waste sewer lines or into the industrial waste sewer lines without first obtaining a permit from the City for a connection thereto. No such person or user shall use any means of industrial waste disposal other than through the domestic waste sewer lines or the industrial waste sewer lines unless approval has been obtained from all concerned regulatory agencies and a permit has been obtained from the City. The City declares that any unapproved means of industrial waste disposal on any premises within the City limits shall constitute a public nuisance and may invoke any legal means to abate the same.

(Prior code § 5-6.216; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.240 - Maintenance and inspections of sewer connections.

Each user shall keep his sewer connections in good order at his expense and shall be liable for all damages resulting from his failure to do so. Any City inspector shall be admitted at all reasonable hours to any premises connected with the sewer system for the purpose of checking plumbing fixtures, protecting the right of the City, and determining facts relevant to the establishment, computation, and billing of the sewer service charges provided for in this article, including, in the case of industrial users, the examination of the user's records for purposes of checking the quantities of industrial waste produced, and compliance with this chapter.

(Prior code § 5-6.217; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.250 - Permits to connect—General.

(Ord. 986 § 1 (part), 1998; prior code § 5-6.218; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.260 - Disposal of unacceptable waste.

Waste not permitted to be discharged into the community sewer must be transported to a State-approved disposal site. The required ~~"Waste Haulers Report"~~waste manifest must be completed and a copy kept at the facility. The waste hauling manifest must be made available upon demand by the City, and retained for a minimum of three (3) years. All users are subject to applicable requirements under Section 204(b) and 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act.

(Prior code § 5-6.219; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.270 - Approval of plans for sewage construction.

No person, other than employees of the City or persons contracting to do work for the City shall construct, or cause to be altered, any public sewer, sewer lateral, house connection or industrial connection sewer, sewage pumping plant, pollution control plant, or other sewage facility within the City where existing or proposed wastewater flows will be discharged directly or indirectly to the facilities of the City without first obtaining approval of the plans and specifications from the City. The applicant shall submit to the City for approval construction plans and such specifications and other details as required to describe fully the proposed sewage facility. The plans shall have been

prepared under the supervision of, and shall be signed by, an engineer of suitable training, currently registered in the State of California.

Plans for sewage construction shall be designed in accordance with the standard specifications as adopted by the City and shall also meet all special design requirements as determined necessary by the City to meet any special conditions encountered.

An approval of plans for sewage construction shall expire one year after the date of approval and issuance of permit.

(Prior code § 5-6.220; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.280 - General standards of design.

The sewage collection system facilities shall be developed consistent with the system adopted by Council resolution. The construction of sewage collection facilities shall conform to the City standard specifications and plans approved by the City Engineer.

All fees shall be subject to provisions in Chapter 4, Article 1 of the Code as adopted by Council resolution.

(Prior code § 5-6.221; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.290 - Repair of private sewage disposal system.

(Ord. 986 § 1 (part), 1998; prior code § 5-6.222; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.300 - Duty to protect public water system.

All dischargers into the City sewage system shall take all measures necessary to provide protection against backflow of water from the user premises into the City potable water system. All protective back-flow prevention devices must meet all requirements of the "Regulations Relating to Cross-Connections" from Title 17 of the California Administrative Code and/or Title 11, Chapter 11.04, Section 11.04.050 of the Tracy Municipal Code.

(Prior code § 5-6.223; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.310 - Notification to employees.

A notice shall be permanently posted on the permittee's bulletin board or other prominent place advising employees whom to call in the event of a prohibited discharge. Employers shall insure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(Prior code § 5-6.224; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.320 - Applications outside of limits of city.

The Council may, at its discretion, refuse the use of the sewer system to any applicant whose property is located outside the limits of the City.

(Prior code § 5-6.225; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 3. - Wastewater Volume Determination

5.24.330 - Metered water supply.

When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the City, significant portions of water received are not discharged to a community sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the City.

(Prior code § 5-6.301; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.340 - Metered wastewater volume and metered diversions.

When charges and fees are based upon water usage and where, in the opinion of the City, a significant portion of the water received from any metered source does not flow into the community sewer because of the principal activity of the user or removal by other means, the charges and fees will be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user, and approved by the City, if the user is to avoid the application of the charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the City and at the user's expense. Such meter shall measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the Director.

(Prior code § 5-6.302; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.350 - Estimated wastewater volume.

(Prior code § 5-6.303; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.360 - Users without source meters.

For users where, in the opinion of the City, it is unnecessary or impractical to install meters, the charges and fees may be based upon an estimate of the volume to be discharged, prepared by the City. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinations of water use necessary to estimate the wastewater volume discharged.

(Prior code § 5-6.303.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.370 - Users with source meters.

For users who, in the opinion of the City, divert or discharge a significant portion of their flow from a community sewer, the charges and fees may be based upon an estimate of the flow and volume to be discharged, prepared by the user and approved by the City, provided the user obtains a Wastewater Discharge Permit and pays the applicable charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

(Prior code § 5-6.303.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 4. - Wastewater Discharge Surveys, Permits, Monitoring, and Administration

5.24.380 - Application.

Article 4 does not apply to "dwelling units."

(Prior code § 5-6.401; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.390 - Wastewater discharge surveys.

All potential dischargers, as determined by the City, may be required to have an annually updated Discharge Survey Report on file with the City. The Discharge Survey Report may include, but not be limited to, nature of user's business, production quantities, hours of operation, number and classification of employees, or other information which related to the user's operation, including the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged.

(Prior code § 5-6.402; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.400 - Wastewater discharge permits.

(Prior code § 5-6.403; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.410 - Mandatory discharge permits.

All significant industrial users proposing to connect to or discharge into the City's sewer shall obtain a wastewater discharge permit before connecting to or discharging into the City's sewer. All existing significant industrial users shall obtain a wastewater discharge permit within 180 days after the effective date of the ordinance codified in this chapter.

- (a) Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical standards and currently discharging to or scheduled to discharge to the POTW shall submit to the City a report which contains the information required in section 5.24.440(a)—(l) of this Code.
- (b) New sources and sources that become industrial dischargers to the City's sewer system subsequent to the promulgation of an applicable categorical standard shall submit to the City a report which contains the information required in section 5.24.440(a)—(l) of this Code ninety (90) days prior to the commencement of discharge.
- (c) The City has the right to condition or deny any new or increased contributions of pollutants or changes in the nature of pollutants discharged to the POTW by any discharger where such discharges do not meet applicable pretreatment standards and requirements, or where such contributions would cause the POTW to violate its NPDES permit.
- (d) All discharge permits are subject to all provisions of this chapter and all other regulations, charges for use and fees established by the City. The condition of wastewater discharge permits shall be uniformly enforced by the City in accordance with this chapter and all applicable State and Federal regulations.

(Ord. 1119 § 5, 2008; prior code § 5-6.403.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.420 - Temporary permits.

A permit shall be required of all users granted temporary permission to discharge unpolluted water, storm drainage, and groundwater into the sanitary sewer. This temporary permit may be granted when no alternative method of disposal is reasonably available. The provisions of Section 5.24.050 (Prohibitions on Discharge) of this chapter pertaining to wastewater strength and characteristics shall apply.

Users granted permission to discharge wastes of uncertain effect upon the treatment process may be required to obtain a bond by the City.

(Prior code § 5-6.403.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.430 - Wastehauler permits.

(a) All persons owning vacuum or “cesspool” pump trucks or other liquid waste transport trucks and desiring to discharge septic tank, seepage pit, or cesspool contents, industrial liquid wastes, or other liquid wastes to sewerage facilities of the City or to facilities that discharge directly or indirectly to such sewerage facilities shall first obtain a wastehauler discharge permit. All applicants shall complete the application form, pay the appropriate fees, and agree, in writing, to abide by all permit requirements.

(b) The Utilities Director and/or designee shall require haulers of industrial waste to obtain wastewater discharge permits. The Director shall require generators of hauled industrial waste to obtain wastewater discharge permits. The Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject

to all other requirements of this chapter. No load may be discharged without prior consent of the Director. The Director may require the industrial waste hauler or generator to provide a waste analysis of any load prior to discharge.

(c) Hauled waste may be introduced into the POTW only at locations designated by the Utilities Director, and at such times as are established by the Director. Such waste shall not violate Article 2 of this chapter, any requirements of the discharge permit, or any other requirements established by the City. Waste haulers shall also be subject to all State, County, and RCRA regulations related to waste disposal. Any violations of these requirements are subject to enforcement actions in Article 6 of this chapter.

(d) Each hauler, prior to discharging, may be subject to having his waste sampled, visually inspected, and/or analyzed by a laboratory as required by the Utilities Director and/or designee.

(e) All waste haulers, prior to discharging, must provide a waste discharge report (waste manifest) for every load. This report shall include, at a minimum, the name and address of the waste hauling company, truck identification, names and addresses of sources of waste, driver signature, and volume and characteristics of waste.

~~All waste haulers discharging septic wastes into the POTW shall obtain a Waste Hauler Discharger Permit. The provisions of Section 5.24.050 (Prohibitions on Discharge) of this chapter pertaining to wastewater strength and characteristics shall apply. Waste haulers shall also be subject to all State, County, and RCRA regulations related to waste disposal.~~

(Prior code § 5-6.403.3; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.440 - Permit application and baseline monitoring report.

Users seeking a Wastewater Discharge Permit shall complete and file with the Director, an application in the form prescribed by the Director. This application will require the submission of a baseline monitoring report supplying, but not limited to, the following information:

- (a) Name, address, and SIC number of applicant;
- (b) Names of executive officers and owners;
- (c) Type of business, products produced, and average rate of production;
- (d) Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 5.24.060, from each regulated process as determined by a laboratory approved by the City;
- (e) Total, average, and peak wastewater flow rates, including daily, monthly, and seasonal variations. These flows shall include those from regulated process streams or other streams as necessary;
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location, and elevation, including:
 - (1) Pretreatment equipment,
 - (2) Grease, oil and sand interceptors,
 - (3) Back-flow prevention devices,
 - (4) Chemical storage areas,
 - (5) Spill containment structures,
 - (6) Location of stormwater system,
 - (7) Hazardous waste management;
- (g) Material Safety Data Sheets for chemicals stored on the premises;
- (h) Spill prevention and control measures;
- (i) List of any environmental permits in possession of the applicant;
- (j) Anticipated pretreatment equipment and/or construction required by the applicant to meet all provisions of this chapter;

- (k) Existing users shall submit the results of sampling and analysis of the regulated waste streams. Such results will include the nature and concentration of the regulated pollutants in each waste stream, also the time, date and place of sampling and the methods of analysis.

Baseline sampling data shall be based on, but not be limited to, a minimum of one sampling analysis of pollutants. New users may be permitted to submit verifiable estimates of production, flow and the presence and quantity of regulated pollutants in its wastestream, where justified by feasibility considerations, and sampling is impractical;

- (l) Certification. A statement, reviewed by an authorized representative of the Industrial User and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements.
- (m) Other information may be required to properly evaluate the permit application. After evaluation and acceptance of the information supplied, the City may issue the appropriate permit to discharge wastewater.

(Prior code § 5-6.403.4; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.450 - Permit conditions.

Wastewater Discharge Permits shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the Director in accordance with this chapter, and applicable State and Federal regulations. Permits may contain the following:

- (a) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer;
- (b) The average and maximum allowable wastewater constituents and characteristics;
- (c) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (d) Requirements for installation of monitoring, inspection, and sampling facilities, as specified by the City;
- (e) Pre-treatment requirements;
- (f) Specifications for monitoring programs which may include sampling locations, frequency, and method of sampling, number, types, standards for tests reporting schedule, and frequency of calibration of flow monitoring equipment;
- (g) Requirements for submission of technical reports or discharge reports;
- (h) Requirements for maintaining plant records relating to wastewater discharge as specified by the City and affording the City access thereto;
- (i) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as in the users wastewater discharge);
- (j) Requirements for maintaining manifests, hazardous, or pretreatment wastes;
- (k) A statement that the City has the right to enter the property to inspect, monitor, collect samples, and to inspect and copy monitoring and discharge records;
- (l) The civil ~~and criminal~~ penalties and fees that can be levied for non-compliance with the permit conditions, City ordinance and State or Federal regulations;
- (m) Specifications, by type, as to what waste streams are authorized for discharge;
- (n) Minimum requirements for a slug discharge/accidental discharge plan are given in section 5.24.070 of this chapter;
- ~~(o)~~ Notification requirements;
- ~~(p)~~ Other conditions as deemed appropriate by the City-Director to insure compliance with this chapter.

(Ord. 1119 § 6, 2008; prior code § 5-6.403.5; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.460 - Duration of permits.

All permits shall be issued for a period of one year, unless determined otherwise by the Director. In no case shall permits be issued longer than five (5) years from date of issuance. All users must apply for permit renewal a minimum of ninety (90) days prior to the expiration of the existing permit. Permits are renewed annually by the City's Continuing Operating Permit.

(Prior code § 5-6.403.6; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.470 - Permit modifications.

Within ninety (90) days of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised as required for compliance with such standards within the time frame prescribed by such standard.

The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements are modified or other just cause exists. Any change or new conditions in the permit shall require the permittee to enter into an Enforcement Compliance Schedule Agreement (as per Section 5.24.710) with the City.

(Prior code § 5-6.403.7; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.480 - Transfer of wastewater permit.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or user shall also reapply and comply with the terms and conditions of the existing permit until a new permit is issued.

(Prior code § 5-6.403.8; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.490 - Special agreements.

Special agreements between the City and any persons or agency may be established when, in the opinion of the City, unusual or extraordinary circumstances compel special terms and conditions. Such special agreements may contain special provisions relating to the particular industry with which the agreement is made. All such agreements shall be subject to meeting provisions of all regulating agencies, including the Federal Categorical Pretreatment Standards.

(Prior code § 5-6.403.9; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.500 - Out of city industrial permits/-discharges.

Industrial wastewater discharge permits for dischargers located outside of the City's service area but tributary to the City's sewerage facilities, may be issued by the local sewerage agency after approval by the City and/or through special agreement. Inspection of the discharger's plant to determine compliance with industrial waste discharge regulations will be made under a coordinated plan of inspection developed by the affected agencies. Industrial waste discharge regulations and effluent limitations of affected agencies will apply to the discharger unless one agency specifically waives its requirements. The discharger must meet Federal Categorical Limits.

(Prior code § 5-6.403.10; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.510 - Wastewater monitoring.

(Prior code § 5-6.404; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.520 - Right of entry.

The Director or his duly authorized representative shall be permitted to enter all wastewater facilities of all properties served by the City for purposes of inspection, observation, measurement, sampling, testing, or any other duty in accordance with the provisions of this chapter.

(Prior code § 5-6.404.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.530 - Monitoring facilities.

Users who propose to discharge, or who in the judgment of the City could discharge now or in the future, wastewater with constituents and characteristics different from that produced by a dwelling unit may be required to install and maintain a monitoring facility at the user's expense, at a location acceptable to the Director and constructed in accordance with the City's requirements and construction standards and specifications.

When, in the judgment of the City, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be complete within ninety (90) days following written notification unless a time extension is otherwise granted by the City.

(Prior code § 5-6.404.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.540 - Inspection and sampling.

The City may inspect the facilities and inspect and copy monitoring and discharge records of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. All users, except domestic users, of premises where wastewater is created or discharged, shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The City shall have the right to set up on the user's property, except domestic users, such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identifications and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City will be permitted at any time to enter without delay for the purposes of performing their specific responsibilities.

(Prior code § 5-6.404.3; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.550 - Data collection.

Measurements of flow rates, flow volumes, COD, BOD, TOC, grease, and suspended solids for use in determining the annual industrial wastewater treatment charges and such measurements of other constituents believed necessary by the Director may be required of each discharger. All sampling analyses and flow measurements of industrial wastewater shall be performed by a state certified independent laboratory, by a laboratory of the industrial discharger approved by the Director, or by personnel of the City, at the discretion of the Director. If performed by the City's personnel, an appropriate charge shall be paid by the discharger requesting the test. Prior to the submittal to the City of data developed in the laboratory of an industrial discharger, the results shall be verified by a responsible administrative official of the industrial discharger under the penalty of perjury.

All analyses shall be performed in accordance with procedures established in Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the EPA Administrator. Any independent laboratory or discharger performing tests shall furnish any required test data or information of the test methods or equipment used if requested to do so by the Director.

All dischargers making periodic measurements shall furnish and install at the control manhole or other appropriate location a calibrated flume, weir, flowmeter, or similar device approved by the Director and suitable to measure the industrial wastewater flow rate and total volume. A recording and totalizing register for flowage may be required by the Director. In lieu of wastewater flow measurement, the Director may accept records of water usage and adjust the flow volumes by suitable factors to determine the peak and average flow rates for the specific industrial wastewater discharge. All devices used to measure the industrial wastewater flow rate and total volume shall be calibrated and certified, as required by the Director, by an approved service. Copies of the certifications shall be submitted to the Director along with monitoring reports.

Those industrial wastewater dischargers required by the Director to make periodic measurements of the industrial wastewater flow and constituents shall annually make the minimum number of such measurements required. ~~Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director for specific pollutant analyses or in demonstrated situations where flow-proportional sampling is not feasible. The minimum requirement for such periodic measurements shall be at least two (2) measurements per year of a twenty four (24) hour duration. Representative samples of the industrial wastewater shall be obtained at least once per hour over the twenty four (24) hour period, properly refrigerated, composited according to measured flow rates during the twenty-four (24) hours, and analyzed for the specified wastewater constituents.~~ Dischargers required to sample on only a few days per year shall collect representative samples of their discharge on the required monitoring dates. Industrial plants with large fluctuations in the quantity or quality of wastewater may be required to provide continuous sampling and analysis for every working day. When required by the Director, the discharger shall install and maintain, in proper order, automatic flow, proportional sampling, and/or automatic analysis and recording equipment.

~~Time proportional or grab samples may be allowed by the Director for specific pollutant analyses or in demonstrated situations where flow proportional sampling is not feasible.~~ Measurements to verify the quantities of waste flows and waste constituents reported by industrial dischargers will be conducted on a random basis by personnel of the City.

(Prior code § 5-6.404.4; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.560 - Reporting requirements.

- (a) Signatory Requirement. All required user reports must contain the following statement, and be signed by an "authorized representative" of the user (as defined in section 5.24.040 of this chapter):

Statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who managed the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for a knowing violation."

- (b) Compliance Date Report. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introductions of the wastewater into the POTW, any industrial user subject to categorical pretreatment standards and requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated processes which are limited by pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

- (c) Periodic Compliance Reports.

- (1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Director during the months of June and December, unless required more frequently in the pretreatment standard or by the Director, a report indicating the nature, concentration of pollutants and volume of the effluent which are limited by such pretreatment standards or required in the permit. Users subject to production-based categorical standards must report the actual average production rate for the reporting period. At the direction of the Director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., they may agree to alter the months during which the above reports are to be submitted. This report shall be signed by an authorized representative of the industrial user.
- (2) Significant noncategorical industrial users shall submit to the Director at least once every six months (on dates specified by the Director) a description of the nature, concentration, and flow of the pollutants required to be reported by the City. These reports shall be based on sampling and analysis performed in the

period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Administrator. This sampling and analysis may be performed by the City of Tracy in lieu of the significant noncategorical industrial user. Where the City of Tracy itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

- (3) Monthly monitoring reports submitted to the Director for the purpose of collecting wastewater user fees must be submitted no later than the seventh (~~7~~¹⁰~~th~~) day of the month following that reported.
 - (4) To verify the user's operating data, the Director may require a user to submit an inventory of all wastewater streams and production data.
 - (5) All users are required to notify the City prior to making any changes to their facility, operations or production methods that will substantially change the volume or character of the pollutants in their discharge or affect the potential for a slug discharge.
 - (6) If sampling by an industrial user indicates a violation of limits set by this chapter or State or Federal regulations, the user must notify the City within twenty-four (24) hours of becoming aware of the violation. The user must then repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation.
 - (7) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.
- (d) **Compliance Schedule Agreement Reporting.** ~~For a~~^{Any} user subject to an Enforcement Compliance Schedule Agreement or a Regulatory Compliance Schedule Agreement the following conditions shall apply:
- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (2) No increment referred to in paragraph (d)(1) of this section shall exceed 9 months.
 - (3) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Director.~~report to the Director, within fourteen (14) days of each specific date for achieving compliance, the status and progress of each term and condition for construction and/or acquisition and installation of required equipment related to pretreatment.~~

(Ord. 1119 § 7, 2008; prior code § 5-6.404.5; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.570 - Recordkeeping requirements.

All industrial users shall maintain records of all information resulting from any monitoring activities (whether or not such monitoring activities are required by this chapter) for a minimum of three (3) years. These records shall be made available upon request for inspection and copying by the Director. This period of retention shall be extended during the course of any unresolved litigation regarding the user or the POTW or when requested by the Director, appropriate State or EPA officials.

All analytical monitoring results shall include:

- (a) The date, exact place, method and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) The analytical techniques/methods used;
- (d) The results of such analyses.

(Prior code § 5-6.404.6; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.580 - Confidential information.

All information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agencies without restriction in accordance with state law, unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing the report, the portions of a report which have been determined confidential, as above, shall not be made available for inspection by the public but shall be made available to State agencies or agencies of the Federal government.

Wastewater constituents and characteristics will not be recognized as confidential information.

(Prior code § 5-6.404.7; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.590 - Discrepancies between the actual and the reported industrial wastewater discharge quantities.

Should measurements or other investigations reveal that the industrial discharger is discharging at a flow rate or at a combination of flow, biochemical oxygen demand, or suspended solids significantly in excess of that stated on the industrial wastewater permit, or in excess of the quantities reported to the City by the discharger and upon which the industrial wastewater treatment fee is based, the discharger shall apply for an amended industrial wastewater permit and shall be assessed for all delinquent charges, plus an administrative charge of ten (10) percent of the delinquent charges. An industrial discharger found in violation shall, in the absence of other evidence, be presumed to have been discharging at the determined parameter value over the preceding three (3) years or subsequent to the previous City verification of quantity parameter, whichever period is shorter.

For the purpose of establishing the correct treatment fees, at least two (2) twenty-four (24) hour composite samples and two (2) flow measurements shall be obtained by the City, with all costs of sampling and analysis to be paid by the discharger. The data obtained from such samplings, along with any other relevant information obtained by the City or presented by the discharger, shall be used by the Director in determining the quantity parameters for use in the formula.

(Prior code § 5-6.404.8; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 5. - Wastewater User Charges and Fees

5.24.600 - Purpose of wastewater charges and fees.

The purpose of the wastewater user charges and fees is to raise revenue for the cost of maintenance, construction, operation and improvement of the City POTW facilities. The sewage facilities include the collection, treatment, analysis and disposal of sewage, sludge, industrial sewage, industrial waste, septic tank truck waste, and the reclamation of water therefrom as a by-process.

(Prior code § 5-6.501; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.610 - Classification of users.

All users are classified by the City either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges

based on wastewater constituents and characteristics, to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the City's cost. Users are classified as single-family, multi-family, septage (wastehauler), cCommercial I, cCommercial II, cCommercial III, or industrial dischargers.

(Ord. 1052 § 2, 2003: prior code § 5-6.502; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.620 - Fees and charges.

In order to recover from the users of the City's wastewater disposal system the cost of implementing the program established by this chapter, the City Council may adopt by resolution fees and charges which may include:

- (a) Fees for reimbursement of costs of setting up and operating the City's pretreatment programs;
- (b) Fees for monitoring, inspections and surveillance procedures;
- (c) Fees for recurring accidental discharge procedures and construction;
- (d) Fees for permit applications;
- (e) Fees for filing appeals;
- (f) Fees for consistent removal by the City of pollutants otherwise subject to federal pretreatment standards;
- (g) Other fees as the City may deem necessary to carry out the requirements contained herein;
- (h) Connection charges based on wastewater constituents and characteristics, and capacity entitlements;
- (i) Fees for sampling and testing;
- (j) Fees as reimbursement of costs of setting up and operating a city-wide clean-up program of hazardous household wastes.

(Ord. 1052 § 3, 2003: prior code § 5-6.503; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.630 - Revenue recovery program.

All user charges shall be derived from the City Revenue Recovery Program. Users of the POTW shall be required to reimburse the City for all costs related to operation and maintenance, capital expenditures and reserve requirements for providing wastewater collection, treatment and disposal. User charges are developed by first estimating the City's annual revenue requirements, including those portions that were grant funded, and then determining for each user classification based on each user's proportionate share of all the costs of providing the sewerage service. Proportionate shares are derived from unit charges attributed to total and peak wastewater flows, Biochemical Oxygen Demand and total suspended solids discharged into the POTW. The operation and maintenance portion of the revenue required is derived from the unit charges related to total annual discharges into the POTW and the capital expenditures portion of the revenue required is derived from unit charges related to the peak discharges into the POTW. Other measurements of the organic content of the wastewater of a discharger, such as C.O.D.COD or T.O.C.TOC may be used, once a relationship between BOD and the parameter of measure is determined, instead of B.O.D.BOD. This relationship shall be used by the City in determining the charge for use.

(Prior code § 5-6.504; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.640 - Special situations.

Notwithstanding any other provision of this article, the City Council shall have the power to establish, by ordinance or by agreement with the user, the monthly wastewater service charges applicable to any public corporation, political subdivision, City, County, District, the State, or the United States of America, or any department or agency of any thereof (including any agency of the City), or applicable to any user outside the limits of the City.

(Ord. 1052 § 4, 2003: prior code § 5-6.504.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.650 - Capacity regulation, allocation and connection fees.

All connections to the sewer systems and conditions and fees associated with the capacity entitlement determination process are provided for in the Code as adopted by Council resolution.

(Prior code § 5-6.505; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.651 - Capacity reservation charge.

In the event an industry ceases operation and the wastewater capacity is not used, the wastewater capacity may be reserved for future use by paying a capacity reservation charge. The monthly capacity reservation charge shall be calculated as twenty-five (25) percent of the average monthly wastewater billing for the previous two (2) years. The capacity shall be reserved for a maximum period of two (2) years, unless the period is extended by written agreement authorized by the City Council. The capacity reservation charge shall be prorated if only a portion of the capacity is to be reserved. The capacity reservation charge shall be paid monthly. A capacity reservation charge is necessary as the majority of the City's wastewater treatment costs do not change with the volume of wastewater treated and it is in the best public interest to have the wastewater treatment plant fully utilized. Failure to pay the capacity reservation charge will result in the capacity reverting to the City to reallocate in accordance with City Council adopted policies. The capacity reservation charge only applies to significant industrial users as defined in Section 5.24.040.

(§ 2, Ord. 966 C.S., eff. January 15, 1998; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.660 - Sewer service charges, billing, payment and delinquencies.

Except as otherwise provided, all sewer service charges shall be billed and made payable and otherwise conform with the provisions of Chapter 3 of Title 11 of this Code.

(Prior code § 5-6.506; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.670 - Duties of director of public works and finance ~~manager~~director.

It shall be the duty of the Director to monitor all connections to the sewer system, and subject to the approval of the Council, to establish and administer such reasonable rules and regulations applicable to the use and operation of the sewer system and the sewage treatment and disposal system as may be deemed advisable or necessary provided, however, such rules and regulations so established shall not be in conflict with any provisions of this article and shall be at all times subject to appeal under section 5.24.810. It shall be the duty of the Finance Director to collect all sewer service charges. The Finance Director shall keep an accurate accounting and records showing the source, amount, and disposition of all funds received from sewer service charges and connection fees.

(Ord. 1111 § 4 Exh. A (part), 2007: prior code § 5-6.507; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 6. - Enforcement, Non-Compliance Fees and Abatement

5.24.680 - Enforcement responsibilities.

- (a) ~~The City Manager shall insure enforcement of this chapter by coordinating the actions of Finance Director and the Director of Utilities and any other City departments concerned~~ with implementing and enforcing the City's Enforcement Response Plan. [TC3]The Director of Utilities is hereby charged with the enforcement of all of the provisions of this chapter except where otherwise directed.
- (b) The City can require compliance with the terms of this chapter by issuing administrative orders that are enforceable in a court of law or by directly seeking court action.

(Prior code § 5-6.601; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.690 - Preliminary determination of non-compliance and related fees.

If routine sampling reveals non-compliance by the discharger with the mass emission rates or conditions specified in the user's permit, then the user shall pay to the City non-compliance fees as specified in Schedule A of Tables I and II, and City laboratory fees as set by the Council resolution in effect at the time of non-compliance. The

City may, however, impose a minimum fine of One Thousand and no/100ths (\$1,000.00) Dollars per day for each violation of this chapter. The non-compliance fees shall be in addition to and not in lieu of said fines.

- (a) Routine sampling shall be conducted in the time, place, manner and frequency determined at the sole discretion of the Director.
- (b) The fees specified shall commence on the date the sampling is started and shall continue to accumulate for each day sampled.

(Prior code § 5-6.602.1; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.700 - Probation order.

- (a) Grounds. In the event the Director determines that a permittee has discharged in violation of any provision of this chapter, or the terms, conditions and limitations of its discharge permit, or has not made payment of all amounts ~~owed~~ to the City for user charges, non-compliance fees or any other fees, the Director may issue a Probation Order, whereby the permittee must comply with all directives, conditions, and requirements therein within the time prescribed.
- (b) Probation Order—Non-Compliance Charges. If at any time while a Probation Order is in effect, a permittee discharges effluent to the City's sewerage system which is not in compliance with the Probation Order, the terms, conditions or limitations specified in the permittee's discharge permit, or with any provision of the chapter, then the permittee shall pay fees to the City as specified in Schedule B of Tables I and II of the adopted non-compliance fees, and the permittee may be assessed all other costs incurred during the sampling, including labor, equipment, materials, overhead, and laboratory fees, in addition to the foregoing.
- (c) Probation Order—Permit Suspension. If at any time while a Probation Order is in effect, a permittee discharges effluent to the City's sewerage system which is not in compliance with the Probation Order, the terms, conditions or limitations specified in the permittee's discharge permit, or with any provision of this chapter, the permittee shall be subject to permit suspension pursuant to the provisions of Section 5.24.740 of this chapter.
- (d) Probation Order—Expiration. A Probation Order issued by the Director shall be in effect for a period not to exceed ninety (90) days. Upon satisfactory compliance with the terms of the Probation Order and expiration thereof, any fees to be assessed due to subsequent non-compliance by Permittee shall be in accordance with Schedule A of Tables I and II of the adopted non-compliance fees.

(Prior code § 5-6.602.2; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.710 - Enforcement compliance schedule agreement (ECSA).

- (a) Grounds. Upon determination that an industrial user is in noncompliance with the terms, conditions or limitations specified in a permit or any provision of this chapter, and needs to construct and/or acquire and install equipment related to pretreatment, the Director may require the permittee to enter into an ECSA which will, upon the effective date of the ECSA, amend the permittee's permit. The ECSA shall contain the terms and conditions by which a permittee must operate during its term and shall provide specific dates for achieving compliance with each term and condition for construction and/or acquisition and installation of required equipment related to pretreatment.

An ECSA shall have a maximum term of 180 days, and upon showing of good cause, including but not limited to reasonable progress under the terms of the ECSA, it may be extended by the Director for an additional period of not to exceed 180 days.

- (b) ECSA—Payment of Amounts Owed. An ECSA shall not be approved by the City until such time as all amounts ~~owned~~ owed to the City, including user fees, non-compliance fees, deposits or civil penalties are paid in full, or an agreement for deferred payment secured by collateral or a third party, is approved by the City.
- (c) ECSA—Non-Compliance Charges. If, during the term of an ECSA, sampling reveals noncompliance by the permittee with the terms, conditions or limitations specified in the user's permit, or any provision of this chapter, the permittee shall pay the fees as specified in Schedule B of Tables I and II of the adopted non-compliance fees,

and may be assessed all other costs incurred during the sampling, including labor, equipment, materials, and overhead.

- (d) ECSA—Permit Suspension/Revocation. If compliance is not achieved in accordance with the terms and conditions of an ECSA during its term or after expiration, the Director may issue an order suspending or revoking the discharge permit pursuant to Section 5.24.740 of this chapter.
- (e) ECSA—Expiration. If, following the expiration of an ECSA, sampling reveals non-compliance by the permittee with the terms, conditions or limitations specified in the permit, or any provision of this chapter, the permittee shall pay fees as specified in Schedule B of Tables I and II of the adopted non-compliance fees. If the permittee remains in consistent compliance for a two (2) year period, then fees shall initially be established in accordance with Schedule A, Tables I and II.

(Prior code § 5-6.602.3; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.720 - Regulatory Compliance Schedule Agreement (RCSA).

If Federal Categorical Pretreatment Standards are adopted or revised by the United States Environmental Protection Agency, or in the event the City enacts revised discharge limitations, the Director, upon determination that an industrial user would not be in compliance with the future limitations, shall require the industrial user to enter into a RCSA with the City under terms and conditions that would provide for achieving compliance with all new standards by the industrial user on a specific date.

During the period said RCSA is in effect, any discharge by permittee in violation of the RCSA will require payment of non-compliance fees in accordance with Schedule A of Tables I and II of the adopted non-compliance fee.

Upon RCSA expiration, or in the event of non-compliance by permittee, non-compliance fees shall initially be established in accordance with Schedule A of Tables I and II of the adopted non-compliance fees. Enforcement actions thereafter will be based on applicable provisions of this chapter.

(Prior code § 5-6.602.4; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.730 - Batch dumps.

When the City determines that a user has discharged concentrated non-compatible pollutants to the sewerage system in a manner or method that is not approved by the City, non-compliance fees shall be assessed as set forth in Schedule C of Tables I and II of the adopted non-compliance fees. In addition, the user may be subject to permit suspension or permit revocation in accordance with Section 5.24.740 as well as additional legal enforcement remedies available to the City.

(Prior code § 5-6.602.5; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.740 - Administrative orders.

(a) Notice of Violation. The Utilities Director and/or designee may issue a written notice of violation to any user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, indicating possible enforcement actions and/or actions to be performed by user to comply with provisions of this chapter.

(b) ~~a~~ Cease and Desist Orders. When the City finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter or the provisions of a wastewater discharge permit, in addition to all other requirements and actions provided herein, the Director may issue a cease and desist order and direct that those persons not complying with such prohibitions, limitations, requirements or provisions:

- (1) Cease discharge immediately; or
- (2) Comply immediately; or
- (3) Comply in accordance with a time schedule set forth by the City.

- (cb) Public Nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the Director as authorized by this chapter are hereby declared a public nuisance and shall be corrected or abated as directed by the City. Any person creating a public nuisance is guilty of a misdemeanor.
- (de) Termination of Service. In addition to all other requirements and actions provided herein, the City may revoke any wastewater discharge permit or terminate sewerage service to any customer found in violation of the provisions of this chapter or whose discharge presents or may present, danger to the environment or that threatens to interfere with the POTW's operation. All costs for reinstituting service shall be paid by the permittee. Prior to termination of service, unless immediate termination is required, the Director shall notify, in writing, the owner and tenant, if any, of such property that service is intended to be so terminated and conduct a hearing thereon as herein provided. Such notice shall be mailed to the owner at the address shown on the records of the Assessor of the County and a copy shall be delivered to the tenant or posted conspicuously on the property. The notice shall state the date of the proposed termination of service and the reason therefore and the date the Utilities Department shall hold a hearing upon such intended termination. Such hearing shall not be held less than fifteen (15) days after the giving of notice as herein required. At the hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice. After the hearing, the Director ~~or his~~and/or designee shall make his determination and should he find grounds for the termination of service, he shall have the right to revoke that permit. The decision shall be reduced to writing within ten (10) days after submission of the cause by the parties thereto, and shall contain a brief statement of facts found to be true, the order of the Director or other person sitting as hearing officer. A copy shall be mailed or delivered to the permittee or his ~~legal council~~legal counsel. The revocation hearing shall be conducted in accordance with procedures established by the Director of Utilities and approved by the City Attorney.
- (ed) Immediate Termination of Service. The City may immediately, without prior written notification, suspend sewerage service when such suspension is necessary, in order to stop an actual discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, or cause the City to violate any State or federal law or regulation.

(Prior code § 5-6.603; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.750 - Enforcement.

Any wastewater discharger who discharges or causes the discharge of prohibited wastewaters which cause damages to the City's facility, detrimental effects on treatment processes, or other damages resulting in costs to the City shall be liable to the City for all damages occasioned thereby.

- (a) Injunction. Whenever a violation of the provisions of this chapter or a Federal or State pretreatment standard or requirement occurs, the City may, in addition to any other action provided herein, petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation.
- (b) Civil Penalties. Any person who violates any provision of this chapter or permit condition, or who violates any cease and desist order, prohibition or effluent limitation, may be liable civilly for a minimum penalty of One Thousand and no/100ths (\$1,000.00) Dollars per day for each day such violation occurs. The legal counsel of the City shall petition the Superior Court to impose, assess and recover such penalties.
- (c) Criminal Penalties. Any person who violates a provision of this chapter or permit condition, or who violates a cease and desist order, prohibition or effluent limitation, is guilty of a misdemeanor punishable as set forth in section 1.04.030.

(Ord. 1040 § 5 Exh. E (part), 2002; prior code § 5-6.604; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.760 - List of violators.

The Director shall annually publish in any paper of general circulation that provides meaningful notice within the City a list of the industrial users, which were in significant noncompliance of applicable pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall summarize any enforcement actions taken against the industrial user(s) during the same twelve (12) month period.

(Ord. 1119 § 8, 2008; prior code § 5-6.605; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.770 - Damage to facilities.

When a discharge of waste causes an obstruction, damage, or any other impairment to City facilities, the City may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(Prior code § 5-6.606; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.780 - Falsifying of information.

Any person who knowingly makes any false statement, representation, record, report, plan or other document filed with the City or knowingly renders inaccurate any monitoring device or method required under this chapter, becomes subject to civil and criminal penalties set forth in this chapter.

(Prior code § 5-6.607; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.790 - Right of entry.

In order to affect its powers, the City may enter upon private property, except domestic user property, at any reasonable time, for the purpose of inspection, maintenance of sanitary and waste disposal facilities, or inspection, copying, monitoring and discharge of records to determine compliance with this chapter.

(Prior code § 5-6.608; Ord. No. 1237, § 1(Att. A), 8-15-2017)

~~5.24.800 – Wastehauler non-compliance with permit requirements.~~

~~(a) Non-compliance with permit requirements shall be determined by an analysis of a grab sample of the effluent for any constituent or condition specified in the user's permit. If the effluent of a user is found by the analysis to be in excess of the concentrations or conditions specified in the user's permit and it can be proven to the satisfaction of the Director not to be of septic tank/cesspool or non-industrial origin, the following shall apply:~~

- ~~1. First violation and all subsequent violations: wastehauler shall identify, in writing, the source of the discharge.~~
- ~~2. Second violation: permittee's disposal privileges shall be suspended for five (5) days.~~
- ~~3. Third violation: permittee shall pay a noncompliance fee and the permit for disposal privileges shall be suspended for ten (10) days.~~
- ~~4. Fourth violation: the permit shall be revoked.~~

~~(b) For those wastehaulers discharging liquids from industrial sources, the following shall apply:~~

- ~~1. First violation: permittee shall pay a noncompliance fee.~~
- ~~2. Second violation: permittee shall pay a noncompliance fee and the permit shall be revoked.~~

(Prior code § 5-6.609; Ord. No. 1237, § 1(Att. A), 8-15-2017)

5.24.810 - Appeals.

The City costs incurred by reason of appeals by a permittee, which result in additional sampling and study, will be charged directly to the permittee.

Any user, permit applicant or permit holder affected by any decision, action or determination made by the Director interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Director written request for reconsideration within ten (10) days setting forth in detail the facts supporting the user's request for reconsideration. Such facts must include a statement listing newly discovered relevant facts that were not known or available to the user at the date of the hearing. The Director shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing within fifteen (15) days of receipt of request.

If the ruling on the request for reconsideration made by the Director is unacceptable, or if there is no request for reconsideration and the original ruling is unacceptable, the person requesting reconsideration may file an appeal to the City Manager under section 1.12.010.

(Ord. 1111 § 4 Exh. A (part), 2007: prior code § 5-6.610; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 7. - Severability
5.24.820 - Severability.

If any provision of this chapter or the application to any person or circumstances is held invalid, the remainder of the chapter or the application of such provisions to other persons or other circumstances shall not be affected.

(Prior code § 5-6.701; Ord. No. 1237, § 1(Att. A), 8-15-2017)

Article 8. – Requirements for dental dischargers

5.24.830 – Pretreatment standards for dental dischargers

Immediately, for any dental discharger whose first discharge to the POTW occurs after July 14, 2017 (new source) or no later than July 14, 2020, for any dental discharger whose first discharge to the POTW occurs on or before July 14, 2017 (existing source) is subject to this article and must achieve the following pretreatment standards:

(a) Removal of dental amalgam solids from all amalgam process wastewater by one of the following methods:

(1) Installation, operation, and maintenance of one or more amalgam separators that meet the following requirements:

(i) Compliant with either the American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions so long as that version requires amalgam separators to achieve at least a 95% removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108-2009 or ISO 11143.

(ii) The amalgam separator(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.

(iii) A dental discharger subject to this part that operates an amalgam separator that was installed at a dental facility prior to June 14, 2017, satisfies the requirements of paragraphs (a)(1)(i) and (ii) of this section until the existing separator is replaced as described in paragraph (a)(1)(v) of this section or until June 14, 2027, whichever is sooner.

(iv) The amalgam separator(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator(s) and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the amalgam separator(s).

(v) In the event that an amalgam separator is not functioning properly, the amalgam separator must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of paragraphs (a)(i) and (ii) of this section as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

(vi) The amalgam retaining units must be replaced in accordance with the manufacturer's schedule as specified in the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.

(2) Installation, operation, and maintenance of one or more amalgam removal device(s) other than an amalgam separator. The amalgam removal device must meet the following requirements:

(i) Removal efficiency of at least 95 percent of the mass of solids from all amalgam process wastewater. The removal efficiency must be calculated in grams recorded to three decimal places, on a dry weight basis. The removal efficiency must be demonstrated at the maximum water flow rate through the device as established by the device manufacturer's instructions for use.

(ii) The removal efficiency must be determined using the average performance of three samples. The removal efficiency must be demonstrated using a test sample of dental amalgam that meets the following particle size distribution specifications: 60 percent by mass of particles that pass through a 3150 µm sieve but which do not pass through a 500 µm sieve, 10 percent by mass of particles that pass through a 500 µm sieve but which do not pass

through a 100 µm sieve, and 30 percent by mass of particles that pass through a 100 µm sieve. Each of these three specified particle size distributions must contain a representative distribution of particle sizes.

(iii) The device(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.

(iv) The device(s) must be accompanied by the manufacturer's manual providing instructions for use including the frequency for inspection and collecting container replacement such that the unit is replaced once it has reached the maximum filling level at which the device can perform to the specified efficiency.

(v) The device(s) must be inspected in accordance with the manufacturer's operation manual to ensure proper operation and maintenance, including confirmation that amalgam process wastewater is flowing through the amalgam separating portion of the device(s).

(vi) In the event that a device is not functioning properly, it must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of paragraphs (a)(2)(i) through (iii) of this section as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

(vii) The amalgam retaining unit(s) of the device(s) must be replaced as specified in the manufacturer's operating manual, or when the collecting container has reached the maximum filling level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.

(viii) The demonstration of the device(s) under paragraphs (a)(2)(i) through (iii) of this section must be documented in the One-Time Compliance Report.

5.24.840 – Best management practices for dental dischargers

(a) Waste amalgam including, but not limited to, dental amalgam from chair-side traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices, must not be discharged to the POTW.

(b) Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to the POTW must not be cleaned with oxidizing or acidic cleaners, including but not limited to bleach, chlorine, iodine and peroxide that have a pH lower than 6 or greater than 8.

(c) Owners and operators of dental dischargers shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions, and shall maintain training records that shall be available for inspection by the Utilities Director and/or designee during normal business hours.

(d) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(e) The use of bulk mercury is prohibited. Only precapsulated dental amalgam is permitted.

5.24.850 – Exemptions

The following types of dental practices are exempt from all parts of this article except the One Time Compliance Report:

(a) Dental dischargers that exclusively practice one or more of the following dental specialties: Oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics;

(b) Wastewater discharges from a mobile unit operated by a dental discharger;

(c) Dental dischargers that do not discharge any amalgam process wastewater to the POTW, such as dental dischargers that collect all dental amalgam process wastewater for transfer to a Centralized Waste Treatment facility; or

(d) Dental Dischargers that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, and that certify such to the City of Tracy Utilities Director as required in

5.24.860 are exempt from any further requirements of this part.

5.24.860 – Reporting and recordkeeping requirements

(a) All dental dischargers located within the tributary to the City's sewerage facilities must submit a One Time Compliance Report complying with the following requirements:

(1) Deadlines. For existing sources, a One-Time Compliance Report must be submitted to the Utilities Director or designee no later than October 12, 2020, or 90 days after a transfer of ownership. For new sources, a One-Time Compliance Report must be submitted to the Director or designee no later than 90 days following the introduction of wastewater into the POTW.

(2) Signature and certification. The One-Time Compliance Report must be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of section 5.24.560(a).

(3) Contents. The One-Time Compliance Report form for dental dischargers shall be obtained from the Utilities Director or designee and shall contain all standards required by 40 CFR 441.50(3).

(4) Transfer of ownership notification. If a dental discharger transfers ownership of the facility, the new owner must submit a new One-Time Compliance Report to the Utilities Director no later than 90 days after the transfer.

(5) Retention period. As long as a Dental Discharger subject to this part is in operation, or until ownership is transferred, the Dental Discharger or an agent or representative of the dental discharger must maintain the One-Time Compliance Report required at paragraph (a) of this section and make it available for inspection in either physical or electronic form.

(b) Dental Dischargers or an agent or representative of the dental discharger subject to the requirements of 5.24.830 must maintain and make available for inspection in either physical or electronic form, for a minimum of three years:

(1) Documentation of the date, person(s) conducting the inspection, and results of each inspection of the amalgam separator(s) or equivalent device(s), and a summary of follow-up actions, if needed.

(2) Documentation of amalgam retaining container or equivalent container replacement (including the date, as applicable).

(3) Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with 40 CFR 261.5(g)(3), and the name of the permitted or licensed treatment, storage or disposal facility receiving the amalgam retaining containers.

(4) Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement, and a description of the repair or replacement (including make and model).

(5) Dischargers or an agent or representative of the dental discharger must maintain and make available for inspection in either physical or electronic form the manufacturers operating manual for the current device.

Title 5- SANITATION AND HEALTH

Chapter 5.26 – DISCHARGES OF FATS, OILS, AND GREASE

Article 1. - General Provisions

5.26.010 - Purpose and policy.

(a) The purpose of this chapter is to facilitate the maximum beneficial use of the City's sewer system while preventing blockages of the sewer lines resulting from discharges of fats, oils and grease (FOG) into the public sewer, and to specify appropriate FOG discharge requirements for food service establishments as defined herein.

(b) This chapter shall be known as the FOG control program.

(c) The provisions set forth in this chapter are designed to ensure compliance with Federal, State and local laws and regulations, and to allow the City to meet applicable standards.

(d) This chapter also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of sanitary sewer overflows.

5.26.020 – Applicability.

This chapter shall apply to discharges of wastewater containing FOG conveyed to the public sewer from any commercial or institutional food service establishment, including Significant Industrial users, unless their wastewater discharge permit states otherwise. All industrial users, as defined in 5.24.020, are subject to local, state, and/or Federal pretreatment regulations and shall be regulated under Chapter 5.24 as well.

5.26.030 - Definitions used in the article.

(a) Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).

(b) Other terms not herein defined are defined as being the same as set forth in 5.24.040 of the Tracy Municipal Code and the latest adopted applicable editions of the California Codes applicable to building construction adopted pursuant to the California Building Standards Law.

(c) Subject to the foregoing provisions, the following definitions shall apply in this chapter:

“Best management practices” or “BMPs” mean activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the introduction of FOG into the public sewer.

“Blockage” means a partial or complete obstruction of wastewater flowing through a sewer pipeline.

“Brown grease” means floatable FOG, settled solids and associated wastewater retained by grease interceptors and grease traps.

“Change in law” means a change to any State or Federal law, permit or regulation; changes to the City Code; changes to any City NPDES permit or waste discharge requirement; or the subsequent existence of any court order, consent decree, injunction or other regulatory or legal imposition that affects the use and/or operation of the City’s sanitary sewer system and any other public or private sanitary sewer systems, lines or other public or private infrastructure that connects to the City’s sanitary sewer system.

“Change in operations” means any change in the ownership, food types, or operational procedures that have the potential to change the amount of FOG discharged by an FSE to the City’s wastewater collection and treatment system.

“City” means the City of Tracy, a municipal corporation.

“Collection system” means the public sewer system consisting of all pipes and conveyance system components conveying wastewater to the City’s wastewater treatment plant.

“Compliance schedule agreement” means an agreement between the city and a FSE when the FSE is in noncompliance with the requirements of the applicable FOG wastewater discharge permit.

“Composite sample” means a collection of individual samples obtained at intervals during a specified period of time. Flow-proportioned composite samples are obtained by collecting incremental samples with volumes proportional to flow. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.

“Design hydraulic depth” means total operating depth of interceptor contents at which interceptor is designed to operate.

“Director” means the City of Tracy Director of Utilities or authorized representative.

“Enforcement officer” means any City employee or agent of the City with authority to enforce the provisions of this chapter and the authority to make any decision, on behalf of the Director, required or called for by this chapter.

“Fats, oils and grease” or “FOG” means any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that becomes or may become viscous, or solidifies or may solidify, with a change in temperature or other conditions.

“FOG control program” means the FOG control program identified in and developed pursuant to this chapter.

"Food grinder" means any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by products for the purpose of disposing it in the sewer system.

"Food service establishment (FSE)" means food facilities defined in California Uniform Retail Food Facilities Law (CURFFL) Section 113789 of the Health and Safety Code, and any commercial or industrial entity within the boundaries of the sanitary sewer service area of the regional wastewater control facility, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by mechanical ventilation as required by Health and Safety Code Section 114149. An establishment that limits its food preparation activities to those defined as "limited food preparation" in Health and Safety Code Section 113818 is not considered a FSE when engaged only in reheating, hot holding or assembly of ready to eat food products, provided that the establishment has no wastewater discharge containing a significant amount of FOG.

"Grab sample" means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

"Grease control device" means any grease interceptor, grease trap or other mechanism, device or process which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap, collect and/or treat FOG prior to it being discharged into the public sewer.

"Grease interceptor" means a multicompartment device that primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. The design, construction, sizing and installation of grease interceptors shall conform to this chapter and the most current edition of the [California Plumbing Code](#). In the event of conflict, this chapter will control.

"Grease trap" means a grease control device that is used to serve individual plumbing fixtures. A grease trap is typically installed indoors, under or near a dishwashing sink.

"Hot spots" mean sewer lines that have experienced grease related blockages or SSOs and that must be cleaned or maintained frequently to avoid blockages of the public sewer.

"Inspector" means a person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, processing and/or disposal facilities.

"Institution" means a school, church, hospital, lodge, club, convalescent home or other similar entity.

"Interceptor" means a "grease interceptor."

"Manifest" means that receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the city.

"New construction" means any structure planned or under construction for which a connection permit has not been issued.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or

their legal representative, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"Public sewer" means a sewer owned and operated by the City. All public sewers must be constructed in accordance with Tracy's regulations and specifications for construction of sanitary sewers.

"Remodel" or "remodeling" means any physical and/or operational change to an FSE that involves any one or a combination of the following:

- (1) Under-slab plumbing in the food processing area;
- (2) A 30 percent or greater increase in the net public seating area;
- (3) A 30 percent or greater increase in the size of the kitchen area;
- (4) Any change in the size or type of food preparation equipment;
- (5) Any remodel, addition, alteration or repair valued greater than \$75,000.00.

"Sanitary sewer" means a sewer to which storm, surface and ground waters are not intentionally admitted.

"Sanitary waste" means domestic wastewater.

"Sanitary sewer overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

"Sewage facilities" means any and all facilities used for collecting, conveying, pumping, treating and disposing of wastewater.

"Sewer lateral" means the pipe between the City's sewer main line and the customer's service connection.

"Sludge" means any solid, semi-solid and/or liquid decant, sediment or supernatant from a manufacturing process, utility service, tank, vault or FOG control facility.

"Storm sewers or storm drains" means a sewer which carries storm and/or surface run-off water but excludes domestic sewage and polluted industrial wastes.

"Variance" means an approval granted to a permittee to vary from a specific requirement or requirements of this chapter when it can be demonstrated that the requirement(s) can be met with an equal or better process, technology or method.

"Waste" means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

"Waste hauler" means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for the purpose of discharging said waste into the City's system.

"Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

"Yellow grease" means spent cooking oil and other fats and oils collected from commercial or industrial cooking operations. Yellow grease is typically collected in bins outside of the FSE for recycling.

Article 2. - Regulations and Requirements

5.26.040 - Prohibitions.

The following prohibitions shall apply to all FSEs:

(a) Installation of food grinders in the plumbing system of new construction of FSEs shall be prohibited. Furthermore, all food grinders shall be removed from all existing FSEs within one hundred eighty (180) working days of the effective date of this chapter, except when expressly allowed, in writing, by the Director.

(b) Introduction of any additives into a FSE's wastewater system for the purpose of emulsifying FOG or biologically/chemically treating FOG for grease remediation or as a supplement to interceptor maintenance, unless a specific written authorization or FOG wastewater disposal permit from the Director is obtained.

(c) Disposal of waste cooking oil into the public sewer or storm drain is prohibited.

(d) Discharge of water or wastewater with temperatures in excess of 140° Fahrenheit into any grease interceptor or grease control device is prohibited.

(e) Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.

(f) Discharge of any waste including FOG and solid materials removed from a grease control device to the public sewer is prohibited. Grease removed from grease interceptors shall be transported to an approved disposal or recycling facility.

(g) Operation of grease interceptors with FOG and solids accumulation exceeding 25 percent of the design hydraulic depth of the grease interceptor is prohibited. The grease and solids layers combined shall not exceed 25 percent of the total interceptor liquid depth.

(h) Increasing the use of water or in any other manner attempting to dilute a discharge as a way of achieving compliance with these regulations is prohibited.

5.26.050 – FOG discharge limitation.

No FSE shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the council or that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer lateral which connects the FSE to the sewer system.

5.26.060 – Requirements for best management practices.

(a) All FSEs shall implement best management practices in accordance with the requirements and guidelines established by the city under its FOG control program in an effort to minimize the discharge of FOG to the sewer system.

(b) All FSEs shall be required, at a minimum, to comply with the following best management practices, when applicable:

(1) Installation of drain screens. Drain screens shall be installed on all drainage pipes, including floor drains, in food preparation, dishwashing, and mop sink areas.

(2) Segregation and collection of yellow grease. All yellow grease shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do no leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil and all manifests and paperwork shall be available for inspection by the city.

(3) Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not into sinks. Double-bagging food wastes that have the potential to leak in trash bins is highly recommended.

(4) Maintenance of kitchen exhaust filters. Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning kitchen exhaust filters, floor mats and kitchen equipment shall be disposed of in compliance with these regulations.

(5) Employee training. At the time of hiring and at least annually employees of the FSE shall be trained by ownership/management or permittee on the following subjects:

(i) How to “dry wipe/scrape” pots, pans, dishware, utensils, equipment and work areas into containers, such as trash cans or bins, before washing to remove FOG;

(ii) How to properly dispose of garbage, food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors;

(iii) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped;

(iv) How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling/splashing.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by the Director or designee. Training records shall be retained for a minimum of three (3) years.

5.26.070 – FOG pretreatment requirements.

Every FSE is required at the time of construction, remodel, and/or change in operations to install, operate and maintain a grease interceptor necessary to maintain compliance with the objectives of this chapter, subject to the waiver provisions of Section 5.26.080. The grease

interceptor installed shall be adequate to separate and remove FOG contained in wastewater from the FSE prior to discharge to the public sewer as determined by the most current edition of the [California Plumbing Code](#). Fixtures, equipment and drain lines located in the food preparation and clean-up areas of an FSE shall be connected to the grease interceptor. Dishwashers shall not be connected to the grease interceptor. Compliance shall be established as follows:

(a) New Construction of Food Service Establishments. New construction of FSEs shall include installation of grease interceptor(s) prior to commencing discharges of wastewater to the sewer system.

(b) Existing Food Service Establishments:

(1) Existing FSEs, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the Director based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within one hundred eighty (180) working days upon notification by the Director.

(2) Existing FSEs or FSEs that change ownership, that undergo remodeling or a change in operations as defined in Section 5.26.030 of this chapter, shall be required to install a grease interceptor.

5.26.080 – Grease interceptor requirements.

(a) All FSEs shall provide wastewater acceptable to the city under the requirements and standards established herein before discharging to any city sewer. Any FSE required to provide FOG pretreatment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this chapter.

(b) Grease interceptor design, construction, sizing and installation shall conform to the most current edition of the [California Plumbing Code](#). Grease interceptors shall have a minimum of two (2) compartments.

(c) The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.

(d) An access manhole, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and each sanitary tee within the interceptor. The access manholes shall extend at least to finished grade and be designed and maintained to prevent the entry of groundwater or stormwater runoff. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(e) All grease interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have grease retention fittings shall be repaired and/or retrofitted with appropriate grease retention fittings.

5.26.090 – Grease interceptor maintenance requirements.

(a) Grease interceptors shall be maintained in efficient operating condition by periodic inspection and removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.

(b) All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the Director pursuant to this section.

(c) No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.

(d) FSEs with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency of the grease interceptors.

(e) The maintenance frequency for all FSEs with a grease interceptor shall be determined in one of the following methods:

(1) Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed twenty-five (25) percent of the total design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.

(2) All FSEs with a grease interceptor shall maintain their grease interceptor not less than every six months.

(3) Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in subsection (e)(1) has not been established. The maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in subsection (e)(1) and guidelines adopted pursuant to the FOG control program. The city may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG control program. Based on the actual generation of FOG from the food service establishment, the maintenance frequency may increase or decrease.

(4) The owner/operator of a FSE may submit a request to the Director requesting a change in the maintenance frequency at any time. The FSE has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in 1., and that it is in full compliance with the conditions of its permit and this chapter. Upon determination by the Director that the requested revision is justified, the permit shall be revised accordingly to reflect the change in maintenance frequency.

(5) If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in subsection (e)(1), the FSE shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the Director may also increase the maintenance frequency of the grease interceptor from the current frequency. Notice of any change to the maintenance frequency shall be given by written notice by the Director.

(f) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed of off-site properly by wastehaulers in accordance with federal, state and/or local laws.

5.26.100 – Waiver of grease interceptor requirements.

(a) Subject to the limitations contained in subsections b, c, and d of this section, the Director may grant a conditional waiver of the requirement to install a grease interceptor.

(b) An existing FSE may obtain a variance from the grease interceptor requirement to allow alternate pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, if the FSE demonstrates that it is impossible or impracticable to install, operate or maintain a grease interceptor. The Director's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:

(1) There is no adequate space for installation and/or maintenance of a grease interceptor.

(2) There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the city sewer.

(3) The FSE can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the FSE must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three months (with a minimum of two visual inspections; one at the beginning and one at the end of the three-month period), at its own expense. A variance may be granted if the results, as determined by the Director, show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

(c) The Director may grant for new construction, including remodels, a conditional waiver to any FSE and/or property owner that the Director determines to have negligible FOG discharge and insignificant impact to the public sewer. Notwithstanding the granting of a conditional waiver however, the FSE or property owner may nonetheless be required to provide space and plumbing segregation for future installation of a grease interceptor. In making the determination as to whether to grant the conditional waiver, the Director shall make all of the following findings:

(1) The quantity of FOG discharge as measured or indicated by the size of the FSE based on kitchen ventilation requirements, water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions does not indicate that the FSE will materially contribute to existing or potential FOG discharges.

(2) The FSE does not appear to be a significant contributor of FOG into the sewer system, which is based on an inspection of the property or sampling of FOG discharged from the FSE to the sewer system.

(3) The FSE has adopted and implemented adequate BMPs and has no recent history of non-compliance with the City's FOG related regulations and requirements.

(4) The size, grade and condition of the sewer lines serving the FSE do not indicate that the FSE has discharged an excessive amount of FOG in the sewer, and the history of maintenance, blockages and SSOs in the public sewer lines receiving flow from the FSE do not deviate substantially from those experienced in other adjacent sewer lines.

(5) There is no reason to believe that the operations of the FSE will change in the foreseeable future in a manner that may significantly increase the amount of FOG the FSE will discharge.

(6) There is no other condition reasonably related to the generation of FOG discharges into the sewer by the FSE that will, in the sound judgment of the Director, warrant the denial of the conditional waiver in the interest of protecting the public health, safety and welfare.

(d) Where the installation of a grease interceptor in an existing structure is not feasible, an FSE and/or property owner may be granted a conditional waiver of the grease interceptor requirement upon the payment of a grease disposal mitigation fee as described in Section 5.26.190. Additional requirements may also be imposed to mitigate the discharge of FOG into the public sewer. The Director's determination to grant the waiver upon the payment of a grease disposal mitigation fee will be based upon one or more of the following findings:

(1) There is inadequate space for installation and/or maintenance of a grease interceptor;

(2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the proposed grease interceptor and/or between the proposed grease interceptor and the upper lateral, the lower lateral, or the public sewer;

(3) Any other condition reasonably related to the installation, operation, maintenance and/or inspection of a grease interceptor, which makes installation and/or maintenance of a grease interceptor infeasible.

(e) Application for Conditional Waiver of Requirement for Grease Interceptor. An FSE or property owner may submit to the Director an application for conditional waiver from the grease interceptor requirement. The party applying for the conditional waiver bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver, as provided in subsections b, c, and d of this section.

(f) Terms and Conditions of Waiver. The conditional waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance have not been satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE remains in compliance with the terms and conditions, until the expiration date specified in the waiver, or until the conditional waiver is revoked.

(g) Revocation of Conditional Waiver of the Requirement to Install a Grease Interceptor. The Director may revoke any conditional waiver of the requirement to install a grease interceptor granted pursuant to this section, subject to the procedures and limitations provided in this subsection.

(1) Should the Director determine that, due to changed circumstances or failure to comply with the terms or conditions imposed upon the issuance of the conditional waiver, a conditional waiver that was previously issued and remains valid should be revoked, the Director shall provide notice by regular mail to the owner of the affected FSE and the property owner no less than 30 days prior to the proposed effective date of the revocation. The notice shall provide an explanation of the facts and circumstances that the Director has determined warrant revocation of the conditional waiver and an opportunity to respond in writing to the Director with information and

evidence to justify the continuation of the conditional waiver in accordance with its terms and conditions.

(2) Prior to making the final determination to revoke a conditional waiver the Director shall review and consider the written information provided pursuant to subsection (g)(1) of this section.

(3) The determination of the Director to revoke a conditional waiver granted pursuant to this section shall be set forth in a writing provided to the owner of the affected FSE and the property owner by regular mail, and shall be based on the Director's reasonable determination that one or more of the following circumstances exists or has occurred:

(i) The owner of the affected FSE and/or the property owner has failed to abide by any term or condition imposed upon the conditional waiver;

(ii) One or more of the findings made by the Director pursuant to subsection b, c, or d of this section, due to changes in the operation of the FSE, changes in the condition, use or available capacity of the sewers serving the FSE or other changed circumstances, are no longer true; or

(iii) A change in law bearing upon the use or operation of the City's sanitary sewer system requires the revocation of the conditional waiver.

5.26.110 – Commercial and institutional properties.

Any owner, or official designee, of a commercial and/or institutional property where one (1) or more FSEs are located shall be responsible for the installation and maintenance of the grease interceptor(s) serving the FSEs that are located on that property, as required by this chapter.

5.26.120 – Facilities and drawing submittal requirements.

Upon request by the Director:

(a) Any FSE and/or property owner may be required to submit to the City two (2) copies of facility site plans, floor plans, mechanical and plumbing plans, detail drawings showing all sewer locations and connections, and schematic drawings of grease interceptors, FOG control devices or other FOG control equipment and appurtenances by size, location and elevation. The submittal shall be in a form and content acceptable to the Director for review of the existing or proposed grease control device, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the FSE of the responsibility of modifying the facilities or procedures in the future as necessary to produce an acceptable discharge, and to meet the requirements of this chapter or the requirements of any other regulatory agency.

(b) The Director may require the drawings be prepared by a California registered civil, chemical, mechanical, or electrical engineer.

5.26.130 – Facilities monitoring and right of entry requirements.

(a) The Director may require the FSE or property owner to construct and maintain in proper operating condition at their sole expense, flow monitoring, water quality monitoring and/or sampling facilities.

(b) The location of the monitoring facilities shall be representative of actual discharge conditions.

(c) FSEs and/or owners of premises where wastewater is generated and discharged to the sewer system shall allow the Director and designees immediate and safe access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the FSE is open, operating, or any other reasonable time.

(d) The FSE or property owner shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.

(e) Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

(f) In the event of an emergency involving an actual or imminent SSO, the Director and designees may access adjoining businesses or properties that share a public sewer with an FSE in order to prevent or remediate the actual or imminent SSO.

5.26.140 – Monitoring and reporting conditions.

(a) The Director may require periodic reporting of the status of implementation of kitchen BMPs, in accordance with the FOG control program.

(b) If, following an inspection of the FSE, it is apparent that the FSE has not used or maintained its grease interceptor or grease removal device, has failed to properly implement kitchen BMPs, or has failed to abide by any condition imposed upon a conditional waiver granted pursuant to Section 5.26.080 of this chapter, the Director may require visual closed circuit television inspection at the sole expense of the FSE or property owner to observe the actual conditions of the sewer lateral serving the property and sewer lines downstream.

(c) The Director may require reports for self-monitoring of wastewater constituents and FOG characteristics from the FSE or property owner needed for determining compliance with any conditions or requirements as specified in this chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the Director and shall be submitted upon request of the Director. Failure by the FSE or property owner to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of this chapter and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in this chapter. The FSE and property owner shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports and such costs and expenses are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.

(d) Other reports may be required by the Director, such as compliance schedule progress reports, FOG control monitoring reports, grease interceptor and grease removal device operation and maintenance reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with this chapter

5.26.150 – Inspections and sampling conditions.

(a) The Director may inspect and sample or order the inspection and sampling of the wastewater discharges of any FSE to ascertain whether the intent of these regulations is being met and the FSE is complying with all requirements. The FSE shall allow access to the FSE premises, during normal business hours, for purposes of inspecting the FSE's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.

(b) The Director shall have the right to place or order the placement on the FSE's property, or other locations as determined by the Director, such devices as are necessary to conduct sampling or metering operations. Where an FSE or property owner has security measures in force, the FSE or property owner shall make necessary arrangements so that the Director and/or an inspector shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

(c) In order for the Director to determine the wastewater characteristics of the FSE for purposes of determining compliance with this chapter, the FSE shall make available for inspection and copying by the Director, an inspector, an enforcement officer and/or service personnel, all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation and wastewater disposal. All such records shall be kept by the FSE a minimum of three (3) years.

5.26.160 – Recordkeeping requirements.

The FSE and property owner shall be required to maintain on the FSE premises copies of all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, disposal carrier and disposal site location for no less than three (3) years. The FSE and property owner shall, upon request, make the manifests, receipts and invoices available to the Director, any inspector and/or enforcement officer, and the public. These records shall be kept in the binder provided by the city and include but are not limited to:

(a) A record of grease interceptor, grease trap or grease control device cleaning and maintenance practices.

(b) A record of best management practices being implemented including employee training.

(c) Copies of records and manifests of wastehauling interceptor contents.

(d) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.

(e) Records of any spills and/or cleaning by the FSE or FSE's contractor of private lateral or private sewer system.

(f) Any other information deemed appropriate by the Director to ensure compliance with this chapter.

5.26.170 – Sewer system overflows, public nuisance, abatement orders and cleanup costs.

(a) FSEs found to have contributed to a sewer blockage, SSOs or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor, and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences.

(b) SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by FSEs alone or collectively, are the responsibility of the private property owner or FSE, and individual(s) as a responsible officer or owner of the FSE.

(c) If the city must act immediately to contain and/or clean up an SSO caused by blockage of a private sewer lateral or private sewer system of a FSE, or because of the failure of the property owner or FSE to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the city costs for such abatement may be entirely borne by the property owner or operator of the FSE, and individual(s) as responsible officer(s) or owner(s) of the FSE(s) and may constitute a debt to the city and become due and payable upon the city's request for reimbursement of such costs.

Article 3. – Fees and charges

5.26.180 – Purpose of charges and fees.

It is the purpose of Section 5.26.190 to provide for the recovery of costs from FSEs and owners of property containing FSEs for the implementation of the program established in this chapter

5.26.190 – Fees and charges.

In order to recover from the users of the City's wastewater disposal system the cost of implementing the program established by this chapter, the City Council may adopt by resolution fees and charges which may include:

(a) Fees for reimbursement of the costs to set-up, implement and operate the City's FOG program;

(b) Other fees as the City may deem necessary to carry out the requirements contained herein;

(c) Costs incurred by the City for, or as a result of, any and all required on-site sampling and analysis are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(d) Costs incurred by the City for closed circuit television inspection to observe the actual conditions of an FSE's sewer lateral and sewer lines downstream are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(e) Noncompliance Charge. Any FSE and/or property owner determined to be in noncompliance with the terms and conditions specified in any provision of this chapter may be required to pay a noncompliance charge. The purpose of the noncompliance charge is to reimburse the City for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Section 5.26.260. Noncompliance charges shall be in the amount reasonably determined by the Director;

(f) Grease Disposal Mitigation Fee:

(1) Any FSE and/or property owner subject to the provisions of subsection d of Section 5.26.080 of this chapter shall be required to pay an annual grease disposal mitigation fee to reimburse the City for the costs of increased maintenance of the public sewer as a result of the FSE's inability to adequately remove FOG from its wastewater discharge. This section shall not be interpreted to allow a new FSE or an existing FSE undergoing remodeling and/or a change in operations to operate without an approved grease interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a grease interceptor for the subject facility pursuant to the provisions of Section 5.26.080 of this chapter;

(2) The grease disposal mitigation fee for each FSE shall be based on the estimated annual increased cost of maintaining the public sewer for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a grease interceptor.

Article 4. – Administration

5.26.200 – Falsifying information or tampering with process.

It is unlawful to make any false statement, representation; record; report; plan or other document that is filed with the City and/or the Director, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this chapter.

5.26.210 – Notification of spill.

(a) In the event an FSE or property owner is unable to comply with any provision of this chapter due to a breakdown of equipment, accidents, or human error or the FSE or property owner has reasonable opportunity to know that their discharge will exceed the discharge provisions of this chapter, the FSE and property owner shall immediately notify the Utilities Department by telephone. If material is discharged by an FSE to the public sewer that the owner of the FSE and/or the property owner believes or reasonably should believe has the potential to cause or result in an

imminent sewer blockage or SSO, the FSE and property owner shall immediately notify the Utilities Department.

(b) Confirmation of this notification shall be made in writing to the Director postmarked no later than five (5) calendar days from the date of the incident. The written notification shall state the date of the incident, to whom the FSE and/or property owner provided notification, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(c) Such notification shall not relieve the FSE or the property owner of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to persons or property; nor shall such notification relieve the FSE or the property owner of any fees, charges or other liability which may be imposed by these regulations or other applicable law.

5.26.220 – Notification of planned changes.

The FSE and the property owner shall notify the Utilities Department at least 60 days prior to any facility expansion or remodeling, process modifications that may result in new or substantially increased FOG discharges, or a change in the nature of the discharge. The FSE and the property owner shall notify the Utilities Department in writing of the proposed expansion or remodeling and shall submit any information requested by the Utilities Department for evaluation of the effect of such expansion or remodeling on the FSE's FOG discharge to the public sewer.

Article 5. – Enforcement

5.26.230 – Harmful discharge—Immediate suspension or termination of wastewater service.

(a) The City may immediately, without prior written notification, suspend sewerage service of an FSE and property owner when such suspension is necessary, in order to stop an actual or imminently threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, or cause the City to violate any State or federal law or regulation.

(b) Any person notified of a suspension or termination of wastewater service shall immediately stop or eliminate all discharges to the public sewer. In the event of a failure of the person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the environment, collection system and/or the regional wastewater control facility. The Director may reinstate the wastewater service only upon proof that the circumstance that caused the suspension or termination of wastewater service has been adequately addressed and the circumstance no longer presents a danger to the environment or to the City's wastewater system.

5.26.240 – Failure to comply with FOG regulations—Suspension and/or termination of wastewater service.

(a) In accordance with the procedures and limitations provided in subsection (b) of Section 5.26.230, the Director may suspend and/or terminate wastewater service to an FSE and property owner when the Director determines that the FSE has failed to comply with the requirements of this chapter, with respect to any of the following particulars.

- (1) Failed to comply with the terms and conditions of a compliance schedule order;
- (2) Knowingly provided a false statement, representation, record, report, or other document to the City and/or the Director;
- (3) Refused to provide records, reports, plans, or other documents required by the City and/or the Director to determine compliance with this chapter;
- (4) Falsified, tampered with or knowingly rendered inaccurate any monitoring device or sample collection method;
- (5) Refused reasonable access to the FSE for the purpose of inspection and monitoring;
- (6) Failed to make timely payment of all amounts owed to the City imposed pursuant to this chapter;
- (7) Discharged FOG that caused an obstruction or sewer blockage in the public sewer or an SSO;
- (8) Violated grease interceptor maintenance requirements or any provision of this chapter pertaining to maintenance and operation of any grease interceptor or grease control device;
- (9) Failed to report significant changes in operations, or wastewater constituents and characteristics.

(b) For the purpose of making the determination of noncompliance pursuant to subsection a of this section, the Director may rely upon any evidence or information available and may gather other necessary information as needed through imposition of reasonable sampling and inspection requirements conducted at a time, location, manner, and frequency determined at the reasonable discretion of the Director. The inspections may include, but are not limited to, inspection of the grease control device, grease interceptor and associated manifests and documentation, or analysis of a grab or composite sample of the wastewater discharged from the FSE.

5.26.250 – Compliance time schedule in lieu of suspension or termination of wastewater service.

(a) Upon determination that a FSE is in noncompliance with the terms and conditions specified in any provision of this chapter, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director may require the FSE to enter into a compliance time schedule on terms and conditions specified by the Director.

(b) The compliance time schedule may contain terms and conditions including, but not limited to, requirements for installation of a grease control device, submittal of drawings or reports,

audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with this chapter.

(c) If compliance is not achieved in accordance with the terms and conditions of a compliance time schedule during its term, the Director may issue an order suspending or terminating wastewater service pursuant to Section 5.26.240 of this chapter.

5.26.260 – Violations and penalties.

Any FSE or property owner in violation of this chapter, or the rules and regulations issued under this chapter, or who discharges or causes the discharge of prohibited wastewaters which cause damages to the City's facility, detrimental effects on treatment processes, or other damages resulting in costs to the City shall be liable to the City for all damages occasioned thereby. Any violation of this chapter is considered a public nuisance.

(a) Injunction. Whenever a violation of the provisions of this chapter or a Federal or State pretreatment standard or requirement occurs, the City may, in addition to any other action provided herein, petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation.

(b) Civil Penalties. Any person who violates any provision of this chapter or who violates any cease and desist order, prohibition or effluent limitation, may be liable civilly for a minimum penalty of One Thousand and no/100ths (\$1,000.00) dollars per day for each day such violation occurs. The City Attorney, at their discretion, shall petition the Superior Court to impose, assess and recover such penalties.

(c) Criminal Penalties. Violations of this chapter may be charged as infractions or misdemeanors, at the discretion of the City Attorney, in accordance with section 1.04.030.

(d) To remedy violations of this chapter, the Director is authorized to issue notices of violation, administrative citations and impose administrative civil penalties pursuant to chapter 1.04 of this Code.

(e) The remedies and provisions of this section are cumulative, and are in addition to any other remedy or provision of law.

5.26.270 - Appeals.

The City costs incurred by reason of appeals by a FSE or property owner, which result in additional sampling and study, will be charged directly to the FSE or property owner.

Any FSE or property owner affected by any decision, action or determination made by the Director interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Director written request for reconsideration within ten (10) days setting forth in detail the facts supporting the user's request for reconsideration. Such facts must include a statement listing newly discovered relevant facts that were not known or available to the user at

the date of the hearing. The Director shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing within fifteen (15) days of receipt of request. If the ruling on the request for reconsideration made by the Director is unacceptable, or if there is no request for reconsideration and the original ruling is unacceptable, the person requesting reconsideration may file an appeal to the City Manager under section 1.12.010.

Article 6. - Severability

5.26.280 - Severability.

If any provision of this chapter or the application to any person or circumstances is held invalid, the remainder of the chapter or the application of such provisions to other persons or other circumstances shall not be affected.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING PROVISIONS OF CHAPTER 5.24
(WASTE DISPOSAL) OF TITLE 5 (SANITATION AND HEALTH) OF THE TRACY MUNICIPAL
CODE

WHEREAS, The City of Tracy is subject to state and federal regulations regarding the disposal of waste that protect the health and safety of the public; and

WHEREAS, The City's current waste disposal regulations must be updated to ensure consistency with these regulations and reflect changes in departmental responsibilities.

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

SECTION 1: Chapter 5.24, Waste Disposal, of the Tracy Municipal Code is hereby amended to read as set forth in Attachment A and incorporated by reference herein.

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of November 2019, and finally adopted on the _____ day of _____, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 5.26 (DISCHARGE OF FATS, OILS, AND GREASE) OF TITLE 5 (SANITATION AND HEALTH) OF THE TRACY MUNICIPAL CODE

WHEREAS, The City of Tracy is subject to state and federal regulations regarding the disposal of fats, oils, and grease that protect the health and safety of the public; and

WHEREAS, The City's current waste disposal regulations do not include regulations regarding fats, oils, and grease and thus must be updated to ensure consistency with state regulations and reflect changes in departmental responsibilities.

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

SECTION 1: A new Chapter 5.26, Discharges of Fats, Oils, and Grease, is hereby added to the Tracy Municipal Code and shall read as set forth in Attachment A and incorporated by reference herein.

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of November 2019, and finally adopted on the _____ day of _____, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

Title 5- SANITATION AND HEALTH

Chapter 5.26 – DISCHARGES OF FATS, OILS, AND GREASE

Article 1. - General Provisions

5.26.010 - Purpose and policy.

(a) The purpose of this chapter is to facilitate the maximum beneficial use of the City's sewer system while preventing blockages of the sewer lines resulting from discharges of fats, oils and grease (FOG) into the public sewer, and to specify appropriate FOG discharge requirements for food service establishments as defined herein.

(b) This chapter shall be known as the FOG control program.

(c) The provisions set forth in this chapter are designed to ensure compliance with Federal, State and local laws and regulations, and to allow the City to meet applicable standards.

(d) This chapter also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of sanitary sewer overflows.

5.26.020 – Applicability.

This chapter shall apply to discharges of wastewater containing FOG conveyed to the public sewer from any commercial or institutional food service establishment, including Significant Industrial users, unless their wastewater discharge permit states otherwise. All industrial users, as defined in 5.24.020, are subject to local, state, and/or Federal pretreatment regulations and shall be regulated under Chapter 5.24 as well.

5.26.030 - Definitions used in the article.

(a) Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).

(b) Other terms not herein defined are defined as being the same as set forth in 5.24.040 of the Tracy Municipal Code and the latest adopted applicable editions of the California Codes applicable to building construction adopted pursuant to the California Building Standards Law.

(c) Subject to the foregoing provisions, the following definitions shall apply in this chapter:

“Best management practices” or “BMPs” mean activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the introduction of FOG into the public sewer.

“Blockage” means a partial or complete obstruction of wastewater flowing through a sewer pipeline.

“Brown grease” means floatable FOG, settled solids and associated wastewater retained by grease interceptors and grease traps.

“Change in law” means a change to any State or Federal law, permit or regulation; changes to the City Code; changes to any City NPDES permit or waste discharge requirement; or the subsequent existence of any court order, consent decree, injunction or other regulatory or legal imposition that affects the use and/or operation of the City’s sanitary sewer system and any other public or private sanitary sewer systems, lines or other public or private infrastructure that connects to the City’s sanitary sewer system.

“Change in operations” means any change in the ownership, food types, or operational procedures that have the potential to change the amount of FOG discharged by an FSE to the City’s wastewater collection and treatment system.

“City” means the City of Tracy, a municipal corporation.

“Collection system” means the public sewer system consisting of all pipes and conveyance system components conveying wastewater to the City’s wastewater treatment plant.

“Compliance schedule agreement” means an agreement between the city and a FSE when the FSE is in noncompliance with the requirements of the applicable FOG wastewater discharge permit.

“Composite sample” means a collection of individual samples obtained at intervals during a specified period of time. Flow-proportioned composite samples are obtained by collecting incremental samples with volumes proportional to flow. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.

“Design hydraulic depth” means total operating depth of interceptor contents at which interceptor is designed to operate.

“Director” means the City of Tracy Director of Utilities or authorized representative.

“Enforcement officer” means any City employee or agent of the City with authority to enforce the provisions of this chapter and the authority to make any decision, on behalf of the Director, required or called for by this chapter.

“Fats, oils and grease” or “FOG” means any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that becomes or may become viscous, or solidifies or may solidify, with a change in temperature or other conditions.

“FOG control program” means the FOG control program identified in and developed pursuant to this chapter.

"Food grinder" means any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by products for the purpose of disposing it in the sewer system.

"Food service establishment (FSE)" means food facilities defined in California Uniform Retail Food Facilities Law (CURFFL) Section 113789 of the Health and Safety Code, and any commercial or industrial entity within the boundaries of the sanitary sewer service area of the regional wastewater control facility, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by mechanical ventilation as required by Health and Safety Code Section 114149. An establishment that limits its food preparation activities to those defined as "limited food preparation" in Health and Safety Code Section 113818 is not considered a FSE when engaged only in reheating, hot holding or assembly of ready to eat food products, provided that the establishment has no wastewater discharge containing a significant amount of FOG.

"Grab sample" means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

"Grease control device" means any grease interceptor, grease trap or other mechanism, device or process which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap, collect and/or treat FOG prior to it being discharged into the public sewer.

"Grease interceptor" means a multicompartment device that primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. The design, construction, sizing and installation of grease interceptors shall conform to this chapter and the most current edition of the [California Plumbing Code](#). In the event of conflict, this chapter will control.

"Grease trap" means a grease control device that is used to serve individual plumbing fixtures. A grease trap is typically installed indoors, under or near a dishwashing sink.

"Hot spots" mean sewer lines that have experienced grease related blockages or SSOs and that must be cleaned or maintained frequently to avoid blockages of the public sewer.

"Inspector" means a person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, processing and/or disposal facilities.

"Institution" means a school, church, hospital, lodge, club, convalescent home or other similar entity.

"Interceptor" means a "grease interceptor."

"Manifest" means that receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the city.

"New construction" means any structure planned or under construction for which a connection permit has not been issued.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or

their legal representative, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"Public sewer" means a sewer owned and operated by the City. All public sewers must be constructed in accordance with Tracy's regulations and specifications for construction of sanitary sewers.

"Remodel" or "remodeling" means any physical and/or operational change to an FSE that involves any one or a combination of the following:

- (1) Under-slab plumbing in the food processing area;
- (2) A 30 percent or greater increase in the net public seating area;
- (3) A 30 percent or greater increase in the size of the kitchen area;
- (4) Any change in the size or type of food preparation equipment;
- (5) Any remodel, addition, alteration or repair valued greater than \$75,000.00.

"Sanitary sewer" means a sewer to which storm, surface and ground waters are not intentionally admitted.

"Sanitary waste" means domestic wastewater.

"Sanitary sewer overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

"Sewage facilities" means any and all facilities used for collecting, conveying, pumping, treating and disposing of wastewater.

"Sewer lateral" means the pipe between the City's sewer main line and the customer's service connection.

"Sludge" means any solid, semi-solid and/or liquid decant, sediment or supernatant from a manufacturing process, utility service, tank, vault or FOG control facility.

"Storm sewers or storm drains" means a sewer which carries storm and/or surface run-off water but excludes domestic sewage and polluted industrial wastes.

"Variance" means an approval granted to a permittee to vary from a specific requirement or requirements of this chapter when it can be demonstrated that the requirement(s) can be met with an equal or better process, technology or method.

"Waste" means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

"Waste hauler" means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for the purpose of discharging said waste into the City's system.

"Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

"Yellow grease" means spent cooking oil and other fats and oils collected from commercial or industrial cooking operations. Yellow grease is typically collected in bins outside of the FSE for recycling.

Article 2. - Regulations and Requirements

5.26.040 - Prohibitions.

The following prohibitions shall apply to all FSEs:

(a) Installation of food grinders in the plumbing system of new construction of FSEs shall be prohibited. Furthermore, all food grinders shall be removed from all existing FSEs within one hundred eighty (180) working days of the effective date of this chapter, except when expressly allowed, in writing, by the Director.

(b) Introduction of any additives into a FSE's wastewater system for the purpose of emulsifying FOG or biologically/chemically treating FOG for grease remediation or as a supplement to interceptor maintenance, unless a specific written authorization or FOG wastewater disposal permit from the Director is obtained.

(c) Disposal of waste cooking oil into the public sewer or storm drain is prohibited.

(d) Discharge of water or wastewater with temperatures in excess of 140° Fahrenheit into any grease interceptor or grease control device is prohibited.

(e) Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.

(f) Discharge of any waste including FOG and solid materials removed from a grease control device to the public sewer is prohibited. Grease removed from grease interceptors shall be transported to an approved disposal or recycling facility.

(g) Operation of grease interceptors with FOG and solids accumulation exceeding 25 percent of the design hydraulic depth of the grease interceptor is prohibited. The grease and solids layers combined shall not exceed 25 percent of the total interceptor liquid depth.

(h) Increasing the use of water or in any other manner attempting to dilute a discharge as a way of achieving compliance with these regulations is prohibited.

5.26.050 – FOG discharge limitation.

No FSE shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the council or that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer lateral which connects the FSE to the sewer system.

5.26.060 – Requirements for best management practices.

(a) All FSEs shall implement best management practices in accordance with the requirements and guidelines established by the city under its FOG control program in an effort to minimize the discharge of FOG to the sewer system.

(b) All FSEs shall be required, at a minimum, to comply with the following best management practices, when applicable:

(1) Installation of drain screens. Drain screens shall be installed on all drainage pipes, including floor drains, in food preparation, dishwashing, and mop sink areas.

(2) Segregation and collection of yellow grease. All yellow grease shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do no leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil and all manifests and paperwork shall be available for inspection by the city.

(3) Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not into sinks. Double-bagging food wastes that have the potential to leak in trash bins is highly recommended.

(4) Maintenance of kitchen exhaust filters. Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning kitchen exhaust filters, floor mats and kitchen equipment shall be disposed of in compliance with these regulations.

(5) Employee training. At the time of hiring and at least annually employees of the FSE shall be trained by ownership/management or permittee on the following subjects:

(i) How to “dry wipe/scrape” pots, pans, dishware, utensils, equipment and work areas into containers, such as trash cans or bins, before washing to remove FOG;

(ii) How to properly dispose of garbage, food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors;

(iii) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped;

(iv) How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling/splashing.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by the Director or designee. Training records shall be retained for a minimum of three (3) years.

5.26.070 – FOG pretreatment requirements.

Every FSE is required at the time of construction, remodel, and/or change in operations to install, operate and maintain a grease interceptor necessary to maintain compliance with the objectives of this chapter, subject to the waiver provisions of Section 5.26.080. The grease

interceptor installed shall be adequate to separate and remove FOG contained in wastewater from the FSE prior to discharge to the public sewer as determined by the most current edition of the [California Plumbing Code](#). Fixtures, equipment and drain lines located in the food preparation and clean-up areas of an FSE shall be connected to the grease interceptor. Dishwashers shall not be connected to the grease interceptor. Compliance shall be established as follows:

(a) New Construction of Food Service Establishments. New construction of FSEs shall include installation of grease interceptor(s) prior to commencing discharges of wastewater to the sewer system.

(b) Existing Food Service Establishments:

(1) Existing FSEs, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the Director based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within one hundred eighty (180) working days upon notification by the Director.

(2) Existing FSEs or FSEs that change ownership, that undergo remodeling or a change in operations as defined in Section 5.26.030 of this chapter, shall be required to install a grease interceptor.

5.26.080 – Grease interceptor requirements.

(a) All FSEs shall provide wastewater acceptable to the city under the requirements and standards established herein before discharging to any city sewer. Any FSE required to provide FOG pretreatment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this chapter.

(b) Grease interceptor design, construction, sizing and installation shall conform to the most current edition of the [California Plumbing Code](#). Grease interceptors shall have a minimum of two (2) compartments.

(c) The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.

(d) An access manhole, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and each sanitary tee within the interceptor. The access manholes shall extend at least to finished grade and be designed and maintained to prevent the entry of groundwater or stormwater runoff. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(e) All grease interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have grease retention fittings shall be repaired and/or retrofitted with appropriate grease retention fittings.

5.26.090 – Grease interceptor maintenance requirements.

(a) Grease interceptors shall be maintained in efficient operating condition by periodic inspection and removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.

(b) All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the Director pursuant to this section.

(c) No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.

(d) FSEs with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency of the grease interceptors.

(e) The maintenance frequency for all FSEs with a grease interceptor shall be determined in one of the following methods:

(1) Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed twenty-five (25) percent of the total design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.

(2) All FSEs with a grease interceptor shall maintain their grease interceptor not less than every six months.

(3) Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in subsection (e)(1) has not been established. The maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in subsection (e)(1) and guidelines adopted pursuant to the FOG control program. The city may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG control program. Based on the actual generation of FOG from the food service establishment, the maintenance frequency may increase or decrease.

(4) The owner/operator of a FSE may submit a request to the Director requesting a change in the maintenance frequency at any time. The FSE has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in 1., and that it is in full compliance with the conditions of its permit and this chapter. Upon determination by the Director that the requested revision is justified, the permit shall be revised accordingly to reflect the change in maintenance frequency.

(5) If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in subsection (e)(1), the FSE shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the Director may also increase the maintenance frequency of the grease interceptor from the current frequency. Notice of any change to the maintenance frequency shall be given by written notice by the Director.

(f) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed of off-site properly by wastehaulers in accordance with federal, state and/or local laws.

5.26.100 – Waiver of grease interceptor requirements.

(a) Subject to the limitations contained in subsections b, c, and d of this section, the Director may grant a conditional waiver of the requirement to install a grease interceptor.

(b) An existing FSE may obtain a variance from the grease interceptor requirement to allow alternate pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, if the FSE demonstrates that it is impossible or impracticable to install, operate or maintain a grease interceptor. The Director's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:

(1) There is no adequate space for installation and/or maintenance of a grease interceptor.

(2) There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the city sewer.

(3) The FSE can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the FSE must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three months (with a minimum of two visual inspections; one at the beginning and one at the end of the three-month period), at its own expense. A variance may be granted if the results, as determined by the Director, show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

(c) The Director may grant for new construction, including remodels, a conditional waiver to any FSE and/or property owner that the Director determines to have negligible FOG discharge and insignificant impact to the public sewer. Notwithstanding the granting of a conditional waiver however, the FSE or property owner may nonetheless be required to provide space and plumbing segregation for future installation of a grease interceptor. In making the determination as to whether to grant the conditional waiver, the Director shall make all of the following findings:

(1) The quantity of FOG discharge as measured or indicated by the size of the FSE based on kitchen ventilation requirements, water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions does not indicate that the FSE will materially contribute to existing or potential FOG discharges.

(2) The FSE does not appear to be a significant contributor of FOG into the sewer system, which is based on an inspection of the property or sampling of FOG discharged from the FSE to the sewer system.

(3) The FSE has adopted and implemented adequate BMPs and has no recent history of non-compliance with the City's FOG related regulations and requirements.

(4) The size, grade and condition of the sewer lines serving the FSE do not indicate that the FSE has discharged an excessive amount of FOG in the sewer, and the history of maintenance, blockages and SSOs in the public sewer lines receiving flow from the FSE do not deviate substantially from those experienced in other adjacent sewer lines.

(5) There is no reason to believe that the operations of the FSE will change in the foreseeable future in a manner that may significantly increase the amount of FOG the FSE will discharge.

(6) There is no other condition reasonably related to the generation of FOG discharges into the sewer by the FSE that will, in the sound judgment of the Director, warrant the denial of the conditional waiver in the interest of protecting the public health, safety and welfare.

(d) Where the installation of a grease interceptor in an existing structure is not feasible, an FSE and/or property owner may be granted a conditional waiver of the grease interceptor requirement upon the payment of a grease disposal mitigation fee as described in Section 5.26.190. Additional requirements may also be imposed to mitigate the discharge of FOG into the public sewer. The Director's determination to grant the waiver upon the payment of a grease disposal mitigation fee will be based upon one or more of the following findings:

(1) There is inadequate space for installation and/or maintenance of a grease interceptor;

(2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the proposed grease interceptor and/or between the proposed grease interceptor and the upper lateral, the lower lateral, or the public sewer;

(3) Any other condition reasonably related to the installation, operation, maintenance and/or inspection of a grease interceptor, which makes installation and/or maintenance of a grease interceptor infeasible.

(e) Application for Conditional Waiver of Requirement for Grease Interceptor. An FSE or property owner may submit to the Director an application for conditional waiver from the grease interceptor requirement. The party applying for the conditional waiver bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver, as provided in subsections b, c, and d of this section.

(f) Terms and Conditions of Waiver. The conditional waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance have not been satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE remains in compliance with the terms and conditions, until the expiration date specified in the waiver, or until the conditional waiver is revoked.

(g) Revocation of Conditional Waiver of the Requirement to Install a Grease Interceptor. The Director may revoke any conditional waiver of the requirement to install a grease interceptor granted pursuant to this section, subject to the procedures and limitations provided in this subsection.

(1) Should the Director determine that, due to changed circumstances or failure to comply with the terms or conditions imposed upon the issuance of the conditional waiver, a conditional waiver that was previously issued and remains valid should be revoked, the Director shall provide notice by regular mail to the owner of the affected FSE and the property owner no less than 30 days prior to the proposed effective date of the revocation. The notice shall provide an explanation of the facts and circumstances that the Director has determined warrant revocation of the conditional waiver and an opportunity to respond in writing to the Director with information and

evidence to justify the continuation of the conditional waiver in accordance with its terms and conditions.

(2) Prior to making the final determination to revoke a conditional waiver the Director shall review and consider the written information provided pursuant to subsection (g)(1) of this section.

(3) The determination of the Director to revoke a conditional waiver granted pursuant to this section shall be set forth in a writing provided to the owner of the affected FSE and the property owner by regular mail, and shall be based on the Director's reasonable determination that one or more of the following circumstances exists or has occurred:

(i) The owner of the affected FSE and/or the property owner has failed to abide by any term or condition imposed upon the conditional waiver;

(ii) One or more of the findings made by the Director pursuant to subsection b, c, or d of this section, due to changes in the operation of the FSE, changes in the condition, use or available capacity of the sewers serving the FSE or other changed circumstances, are no longer true; or

(iii) A change in law bearing upon the use or operation of the City's sanitary sewer system requires the revocation of the conditional waiver.

5.26.110 – Commercial and institutional properties.

Any owner, or official designee, of a commercial and/or institutional property where one (1) or more FSEs are located shall be responsible for the installation and maintenance of the grease interceptor(s) serving the FSEs that are located on that property, as required by this chapter.

5.26.120 – Facilities and drawing submittal requirements.

Upon request by the Director:

(a) Any FSE and/or property owner may be required to submit to the City two (2) copies of facility site plans, floor plans, mechanical and plumbing plans, detail drawings showing all sewer locations and connections, and schematic drawings of grease interceptors, FOG control devices or other FOG control equipment and appurtenances by size, location and elevation. The submittal shall be in a form and content acceptable to the Director for review of the existing or proposed grease control device, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the FSE of the responsibility of modifying the facilities or procedures in the future as necessary to produce an acceptable discharge, and to meet the requirements of this chapter or the requirements of any other regulatory agency.

(b) The Director may require the drawings be prepared by a California registered civil, chemical, mechanical, or electrical engineer.

5.26.130 – Facilities monitoring and right of entry requirements.

(a) The Director may require the FSE or property owner to construct and maintain in proper operating condition at their sole expense, flow monitoring, water quality monitoring and/or sampling facilities.

(b) The location of the monitoring facilities shall be representative of actual discharge conditions.

(c) FSEs and/or owners of premises where wastewater is generated and discharged to the sewer system shall allow the Director and designees immediate and safe access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the FSE is open, operating, or any other reasonable time.

(d) The FSE or property owner shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.

(e) Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

(f) In the event of an emergency involving an actual or imminent SSO, the Director and designees may access adjoining businesses or properties that share a public sewer with an FSE in order to prevent or remediate the actual or imminent SSO.

5.26.140 – Monitoring and reporting conditions.

(a) The Director may require periodic reporting of the status of implementation of kitchen BMPs, in accordance with the FOG control program.

(b) If, following an inspection of the FSE, it is apparent that the FSE has not used or maintained its grease interceptor or grease removal device, has failed to properly implement kitchen BMPs, or has failed to abide by any condition imposed upon a conditional waiver granted pursuant to Section 5.26.080 of this chapter, the Director may require visual closed circuit television inspection at the sole expense of the FSE or property owner to observe the actual conditions of the sewer lateral serving the property and sewer lines downstream.

(c) The Director may require reports for self-monitoring of wastewater constituents and FOG characteristics from the FSE or property owner needed for determining compliance with any conditions or requirements as specified in this chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the Director and shall be submitted upon request of the Director. Failure by the FSE or property owner to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of this chapter and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in this chapter. The FSE and property owner shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports and such costs and expenses are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.

(d) Other reports may be required by the Director, such as compliance schedule progress reports, FOG control monitoring reports, grease interceptor and grease removal device operation and maintenance reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with this chapter

5.26.150 – Inspections and sampling conditions.

(a) The Director may inspect and sample or order the inspection and sampling of the wastewater discharges of any FSE to ascertain whether the intent of these regulations is being met and the FSE is complying with all requirements. The FSE shall allow access to the FSE premises, during normal business hours, for purposes of inspecting the FSE's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.

(b) The Director shall have the right to place or order the placement on the FSE's property, or other locations as determined by the Director, such devices as are necessary to conduct sampling or metering operations. Where an FSE or property owner has security measures in force, the FSE or property owner shall make necessary arrangements so that the Director and/or an inspector shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

(c) In order for the Director to determine the wastewater characteristics of the FSE for purposes of determining compliance with this chapter, the FSE shall make available for inspection and copying by the Director, an inspector, an enforcement officer and/or service personnel, all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation and wastewater disposal. All such records shall be kept by the FSE a minimum of three (3) years.

5.26.160 – Recordkeeping requirements.

The FSE and property owner shall be required to maintain on the FSE premises copies of all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, disposal carrier and disposal site location for no less than three (3) years. The FSE and property owner shall, upon request, make the manifests, receipts and invoices available to the Director, any inspector and/or enforcement officer, and the public. These records shall be kept in the binder provided by the city and include but are not limited to:

(a) A record of grease interceptor, grease trap or grease control device cleaning and maintenance practices.

(b) A record of best management practices being implemented including employee training.

(c) Copies of records and manifests of wastehauling interceptor contents.

(d) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.

(e) Records of any spills and/or cleaning by the FSE or FSE's contractor of private lateral or private sewer system.

(f) Any other information deemed appropriate by the Director to ensure compliance with this chapter.

5.26.170 – Sewer system overflows, public nuisance, abatement orders and cleanup costs.

(a) FSEs found to have contributed to a sewer blockage, SSOs or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor, and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences.

(b) SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by FSEs alone or collectively, are the responsibility of the private property owner or FSE, and individual(s) as a responsible officer or owner of the FSE.

(c) If the city must act immediately to contain and/or clean up an SSO caused by blockage of a private sewer lateral or private sewer system of a FSE, or because of the failure of the property owner or FSE to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the city costs for such abatement may be entirely borne by the property owner or operator of the FSE, and individual(s) as responsible officer(s) or owner(s) of the FSE(s) and may constitute a debt to the city and become due and payable upon the city's request for reimbursement of such costs.

Article 3. – Fees and charges

5.26.180 – Purpose of charges and fees.

It is the purpose of Section 5.26.190 to provide for the recovery of costs from FSEs and owners of property containing FSEs for the implementation of the program established in this chapter

5.26.190 – Fees and charges.

In order to recover from the users of the City's wastewater disposal system the cost of implementing the program established by this chapter, the City Council may adopt by resolution fees and charges which may include:

(a) Fees for reimbursement of the costs to set-up, implement and operate the City's FOG program;

(b) Other fees as the City may deem necessary to carry out the requirements contained herein;

(c) Costs incurred by the City for, or as a result of, any and all required on-site sampling and analysis are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(d) Costs incurred by the City for closed circuit television inspection to observe the actual conditions of an FSE's sewer lateral and sewer lines downstream are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(e) Noncompliance Charge. Any FSE and/or property owner determined to be in noncompliance with the terms and conditions specified in any provision of this chapter may be required to pay a noncompliance charge. The purpose of the noncompliance charge is to reimburse the City for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Section 5.26.260. Noncompliance charges shall be in the amount reasonably determined by the Director;

(f) Grease Disposal Mitigation Fee:

(1) Any FSE and/or property owner subject to the provisions of subsection d of Section 5.26.080 of this chapter shall be required to pay an annual grease disposal mitigation fee to reimburse the City for the costs of increased maintenance of the public sewer as a result of the FSE's inability to adequately remove FOG from its wastewater discharge. This section shall not be interpreted to allow a new FSE or an existing FSE undergoing remodeling and/or a change in operations to operate without an approved grease interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a grease interceptor for the subject facility pursuant to the provisions of Section 5.26.080 of this chapter;

(2) The grease disposal mitigation fee for each FSE shall be based on the estimated annual increased cost of maintaining the public sewer for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a grease interceptor.

Article 4. – Administration

5.26.200 – Falsifying information or tampering with process.

It is unlawful to make any false statement, representation; record; report; plan or other document that is filed with the City and/or the Director, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this chapter.

5.26.210 – Notification of spill.

(a) In the event an FSE or property owner is unable to comply with any provision of this chapter due to a breakdown of equipment, accidents, or human error or the FSE or property owner has reasonable opportunity to know that their discharge will exceed the discharge provisions of this chapter, the FSE and property owner shall immediately notify the Utilities Department by telephone. If material is discharged by an FSE to the public sewer that the owner of the FSE and/or the property owner believes or reasonably should believe has the potential to cause or result in an

imminent sewer blockage or SSO, the FSE and property owner shall immediately notify the Utilities Department.

(b) Confirmation of this notification shall be made in writing to the Director postmarked no later than five (5) calendar days from the date of the incident. The written notification shall state the date of the incident, to whom the FSE and/or property owner provided notification, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(c) Such notification shall not relieve the FSE or the property owner of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to persons or property; nor shall such notification relieve the FSE or the property owner of any fees, charges or other liability which may be imposed by these regulations or other applicable law.

5.26.220 – Notification of planned changes.

The FSE and the property owner shall notify the Utilities Department at least 60 days prior to any facility expansion or remodeling, process modifications that may result in new or substantially increased FOG discharges, or a change in the nature of the discharge. The FSE and the property owner shall notify the Utilities Department in writing of the proposed expansion or remodeling and shall submit any information requested by the Utilities Department for evaluation of the effect of such expansion or remodeling on the FSE's FOG discharge to the public sewer.

Article 5. – Enforcement

5.26.230 – Harmful discharge—Immediate suspension or termination of wastewater service.

(a) The City may immediately, without prior written notification, suspend sewerage service of an FSE and property owner when such suspension is necessary, in order to stop an actual or imminently threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, or cause the City to violate any State or federal law or regulation.

(b) Any person notified of a suspension or termination of wastewater service shall immediately stop or eliminate all discharges to the public sewer. In the event of a failure of the person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the environment, collection system and/or the regional wastewater control facility. The Director may reinstate the wastewater service only upon proof that the circumstance that caused the suspension or termination of wastewater service has been adequately addressed and the circumstance no longer presents a danger to the environment or to the City's wastewater system.

5.26.240 – Failure to comply with FOG regulations—Suspension and/or termination of wastewater service.

(a) In accordance with the procedures and limitations provided in subsection (b) of Section 5.26.230, the Director may suspend and/or terminate wastewater service to an FSE and property owner when the Director determines that the FSE has failed to comply with the requirements of this chapter, with respect to any of the following particulars.

- (1) Failed to comply with the terms and conditions of a compliance schedule order;
- (2) Knowingly provided a false statement, representation, record, report, or other document to the City and/or the Director;
- (3) Refused to provide records, reports, plans, or other documents required by the City and/or the Director to determine compliance with this chapter;
- (4) Falsified, tampered with or knowingly rendered inaccurate any monitoring device or sample collection method;
- (5) Refused reasonable access to the FSE for the purpose of inspection and monitoring;
- (6) Failed to make timely payment of all amounts owed to the City imposed pursuant to this chapter;
- (7) Discharged FOG that caused an obstruction or sewer blockage in the public sewer or an SSO;
- (8) Violated grease interceptor maintenance requirements or any provision of this chapter pertaining to maintenance and operation of any grease interceptor or grease control device;
- (9) Failed to report significant changes in operations, or wastewater constituents and characteristics.

(b) For the purpose of making the determination of noncompliance pursuant to subsection a of this section, the Director may rely upon any evidence or information available and may gather other necessary information as needed through imposition of reasonable sampling and inspection requirements conducted at a time, location, manner, and frequency determined at the reasonable discretion of the Director. The inspections may include, but are not limited to, inspection of the grease control device, grease interceptor and associated manifests and documentation, or analysis of a grab or composite sample of the wastewater discharged from the FSE.

5.26.250 – Compliance time schedule in lieu of suspension or termination of wastewater service.

(a) Upon determination that a FSE is in noncompliance with the terms and conditions specified in any provision of this chapter, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director may require the FSE to enter into a compliance time schedule on terms and conditions specified by the Director.

(b) The compliance time schedule may contain terms and conditions including, but not limited to, requirements for installation of a grease control device, submittal of drawings or reports,

audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with this chapter.

(c) If compliance is not achieved in accordance with the terms and conditions of a compliance time schedule during its term, the Director may issue an order suspending or terminating wastewater service pursuant to Section 5.26.240 of this chapter.

5.26.260 – Violations and penalties.

Any FSE or property owner in violation of this chapter, or the rules and regulations issued under this chapter, or who discharges or causes the discharge of prohibited wastewaters which cause damages to the City's facility, detrimental effects on treatment processes, or other damages resulting in costs to the City shall be liable to the City for all damages occasioned thereby. Any violation of this chapter is considered a public nuisance.

(a) Injunction. Whenever a violation of the provisions of this chapter or a Federal or State pretreatment standard or requirement occurs, the City may, in addition to any other action provided herein, petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation.

(b) Civil Penalties. Any person who violates any provision of this chapter or who violates any cease and desist order, prohibition or effluent limitation, may be liable civilly for a minimum penalty of One Thousand and no/100ths (\$1,000.00) dollars per day for each day such violation occurs. The City Attorney, at their discretion, shall petition the Superior Court to impose, assess and recover such penalties.

(c) Criminal Penalties. Violations of this chapter may be charged as infractions or misdemeanors, at the discretion of the City Attorney, in accordance with section 1.04.030.

(d) To remedy violations of this chapter, the Director is authorized to issue notices of violation, administrative citations and impose administrative civil penalties pursuant to chapter 1.04 of this Code.

(e) The remedies and provisions of this section are cumulative, and are in addition to any other remedy or provision of law.

5.26.270 - Appeals.

The City costs incurred by reason of appeals by a FSE or property owner, which result in additional sampling and study, will be charged directly to the FSE or property owner.

Any FSE or property owner affected by any decision, action or determination made by the Director interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Director written request for reconsideration within ten (10) days setting forth in detail the facts supporting the user's request for reconsideration. Such facts must include a statement listing newly discovered relevant facts that were not known or available to the user at

the date of the hearing. The Director shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing within fifteen (15) days of receipt of request. If the ruling on the request for reconsideration made by the Director is unacceptable, or if there is no request for reconsideration and the original ruling is unacceptable, the person requesting reconsideration may file an appeal to the City Manager under section 1.12.010.

Article 6. - Severability

5.26.280 - Severability.

If any provision of this chapter or the application to any person or circumstances is held invalid, the remainder of the chapter or the application of such provisions to other persons or other circumstances shall not be affected.

AGENDA ITEM 3.E

REQUEST

**PUBLIC HEARING TO ADOPT THE AMENDED SAN JOAQUIN COUNTY
MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN
DEVELOPMENT FEE FOR 2020**

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. Pursuant to the land sales comparables and the Consumer Price Index, the fees are proposed to be updated for collection in calendar year 2020. The revised fees represent an overall 4.3 percent decrease from the fees collected in 2019.

DISCUSSION

Background

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 (procure easements, maintain preserves) enables the developer 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.

Every year, SJCOG, Inc. updates the development fee for the following year using the adopted Financial Analysis Model. Each participating local agency must adopt the updated fees to continue participation in the SJMSCP. The development fees for year 2020 (Table 1, below) represent an overall 4.3 percent decrease from the fees established for 2019.

Table 1 – SJMSCP Development Fees to be Adopted for 2020

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
Other Open Space	\$4,072.00	\$1,916.00	\$424.16	\$6,412.16	\$6,412
Natural/Ag Lands	\$8,144.00	\$3,831.00	\$847.22	\$12,822.22	\$12,822
Vernal Pool Grasslands	\$34,978.00	\$15,274.00	\$2,580.93	\$52,832.93	\$52,833
Vernal Pool Wetted	\$34,339.00	\$63,915.00	\$2,533.80	\$100,787.80	\$100,788

*rounded to the nearest dollar to be adopted for calendar year 2020

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. For comparison, the current (2019) per-acre fees in the relevant categories are \$6,700 per acre for Open Space, and \$13,399 for AG/Natural.

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/SW Transition Zone and Delta Zone) over an established 2-year period. Valuation for this category are evaluated on a yearly basis by taking all qualified comparable sales in each zone, including SJCOG, Inc. easements, to set a weighted cost per acre using the same methodology adopted in 2016 but with a small adjustment to the easement to fee title percentage in 2019 moving forward.

The criteria to determine valid comparable sales in the weighted calculation are:

1. All SJCOG, Inc. transactions (fee title and appraised value of unencumbered property)
2. Sales not less than 40 acres
3. Sales not greater than 640 acres
4. No parcels with vineyard or orchard (except SJCOG, Inc. transactions for special needs)
5. Must be land which would fulfill mitigation under the plan
6. Not greater than 2 years old from the date of June 30th of each year with all acceptable comparable sales included (criteria 1-5). A minimum of 10 acceptable comparable sales are required for analysis. If the minimum of 10 transactions are not available, the time period will extend at 3-month intervals prior to the beginning date until 10 comparable sales are gathered.

Based on the current model and including the adjustment to the easement to fee title percentage from 2019, the Agricultural/Natural Habitat type fee in Category A results in an 8% decrease from \$8,850 to \$8,144. The primary reasons for the decrease in the Category A component was land sale prices dipping.

Category B (assessment & enhancement) - Consumer Price Index w/ Model Data Update

This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12-month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The CPI has been deemed appropriate regarding the cost of inflation for this category. The California CPI calculation increased 3.1%. The total cost for Category B fees is also a function of the SJMSCP annual report data, which includes the acres remaining to be acquired and the number of years remaining in the permit term. With these factors calculated into the fee, the result is a 2.8% increase in this category.

The changes in this category include refined cost factors for biological site assessment and preserve enhancement and management planning.

1. Refined costs to better reflect the enhancement and restoration requirements of the SJMSCP.
2. The updated analysis redistributes preserve acres across the habitat types to more accurately reflect the range and types of natural lands preserves described in the adopted SJMSCP rather than all in riparian habitat classification.

The calculation results in an increase in Agricultural/Natural Habitat types of the Category B component to be \$3,831, up from last year's fee of \$3,727.

Category C (management & administration) - Consumer Price Index

The changes to this category include refined monitoring costs and updated management and administration costs that are based on actual SJCOG, Inc. expenditures incurred in these categories.

1. The update includes refinement to costs anticipated to be incurred once the term of the permit expires and assumes that the post permit costs will be lower than costs incurred during the permit term as many of the monitoring, reporting, and administrative compliance costs are not required post-permit.
2. Updates annual management, administrative, legal and other consultant costs associated with administration of the SJMSCP.
3. This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12-month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The CPI has been deemed an appropriate measure to adjust the cost of inflation for this category. The California CPI calculation increased 3.1%.

The calculation results in a 3.1% increase in Agricultural/Natural Habitat types of the Category C component to be \$847.22, up from \$821.75.

Monitoring Plan Funding:

Along with the annual index adjustment, the SJMSCP is required to monitor the plan to address funding shortfalls as stated in Section 7.5.2.1 of the plan. SJCOG, Inc. shall undertake an internal review of the SJMSCP funding plan every three years to evaluate the adequacy of each funding source identified in the plan, identify existing or potential funding problems, and identify corrective measures, should they be needed in the event of actual or potential funding shortfalls. This will be reported to the permitting agencies for review in Annual Reports. A review of the Financial Analysis Plan, similar to the process undertaken in the 2006, 2011 and 2016 reviews, will occur every five years to ensure the adopted methodology is fulfilling the goals of the plan.

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 adopt, by 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 November 5, 2019.

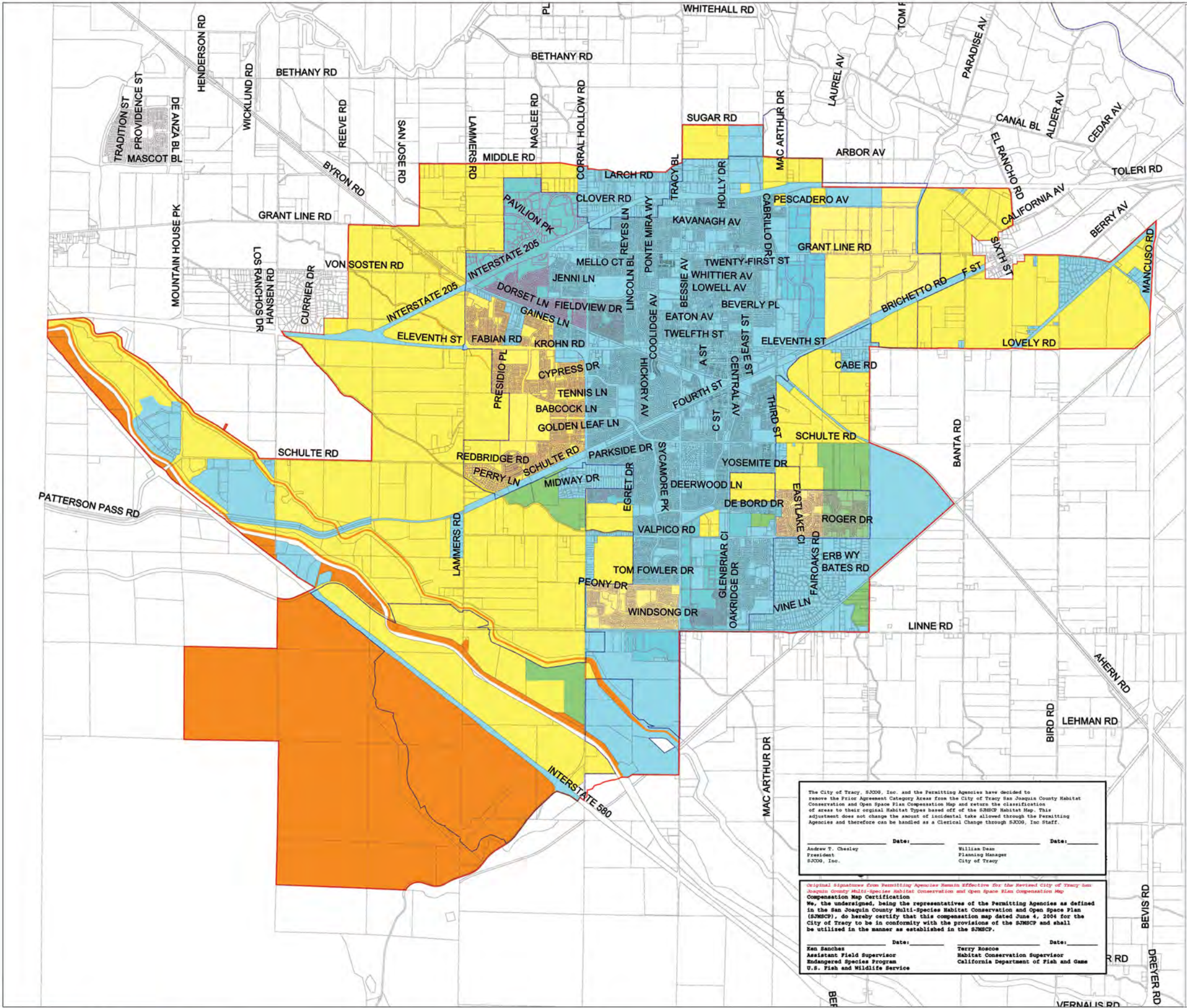
Prepared by: Kimberly Matlock, Associate Planner, City of Tracy
Steve Mayo, Senior Regional Planner, SJCOG, Inc.

Reviewed by: Bill Dean, Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

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.

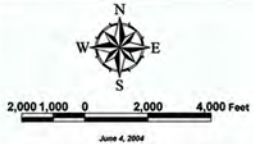
Date: _____
Ken Sanchez
Assistant Field Supervisor
Endangered Species Program
U.S. Fish and Wildlife Service

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 2019-_____

ADOPTING AMENDED DEVELOPMENT FEES FOR THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN

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, Updated Fee Studies which analyzed and identified the costs and funding of the SJMSCP were adopted in 2011 and 2016, and the Tracy City Council approved updated SJMSCP Development Fees annually since 2006, and

WHEREAS, The current SJMSCP Development Fee for open space lands is \$6,700 an acre for the year 2019 due to annual adjustments consistent with the SJMSCP, and

WHEREAS, The current SJMSCP Development Fee for natural lands and agricultural lands is \$13,399 an acre for the year 2019 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 2020 is \$6,412, 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 2020 is \$12,822, 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 Updated Fee Study with the SJMSCP and the fee amendment 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 Development Fee for open space in the amount of \$6,412 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 Development Fee for natural lands and agricultural land in the amount of \$12,822 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 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 5, 2020, which is at least sixty days after the adoption of this resolution.

* * * * *

The foregoing Resolution 2019-_____ was adopted by the City Council on the 5th day of November 2019, 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)

Doug Kuehne
CHAIR

Jesus Andrade
VICE CHAIR

Andrew T. Chesley
PRESIDENT

Member Agencies
CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

2020 Updated Habitat Fees*

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$6,412
Natural	\$12,822
Agriculture	\$12,822
Vernal Pool - uplands	\$52,833
Vernal Pool - wetted	\$100,788

* Effective January 1, 2020 – December 31, 2020

2020 Endowment Fees with In-lieu Land**

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$3,831.00	\$847.22	\$4,678.22
Natural Lands	\$3,831.00	\$847.22	\$4,678.22
Vernal Pool Habitat			
Vernal Pool Grasslands	\$15,274.00	\$2,580.93	\$17,854.93
Vernal Pool Wetted	\$63,915.00	\$2,533.80	\$66,448.80

** Effective January 1, 2020 – December 31, 2020 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.F

REQUEST

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

EXECUTIVE SUMMARY

Per City Council direction, staff drafted two amendments to the Tracy Municipal Code: (1) an amendment to Chapter 6.36 of the TMC to allow for certain commercial cannabis activities ("Regulatory Ordinance") and (2) an amendment to Section 10.08.3196 of the TMC that would establish zoning and location requirements for commercial cannabis activities ("Zoning Ordinance"). Also in response to City Council direction, staff has modified provisions within the proposed Regulatory Ordinance regarding cannabis business employee background checks and badge requirements. These modified provisions are provided for Council's consideration.

Following Council discussion of the proposed ordinances and modifications, staff requests the Council introduce the ordinances with amendments as necessary.

DISCUSSION

Currently, all commercial cannabis activity is prohibited in Tracy. The City Council provided direction to staff on February 5, 2019 to draft regulatory and zoning ordinances to permit commercial cannabis. Over three workshops (August 13, September 3, and October 1), the City Council provided direction that has been considered in the development of the two ordinances. At the August 13th workshop, the City Council provided direction related to what types of cannabis business activities to allow in Tracy and the zoning and locational requirements for these business types. During the September 3rd workshop, the City Council provided further direction on types of business activities, including outdoor cultivation and non-volatile manufacturing. In addition, the Council discussed and provided direction for specific regulations that are above the minimum requirements established by State cannabis regulations which include Proposition 64 and implementing laws and regulations such as MAUCRSA. At the October 1st workshop, staff highlighted the sections of the ordinance that incorporated the Council's prior direction.

Staff was directed to return with a follow up discussion on two issues in Chapter 6.36: 1) Background checks requirement for Employees and 2) Badge requirements for Employees. Below is a discussion on these issues with alternative language provided depending on the direction from the City Council.

1. **Recommended:** Background check required for all employees performed by the City. (See language in Attachment A).

- As a best practice, staff recommended background checks on employees similar to the current practice under massage business employees and card room employees. Staff spoke to several jurisdictions that implemented a similar regulation to provide additional oversight of the emerging industry and those engaged in the business. The City's procedure for evaluation is based upon the same standard applied by the State to the owners of cannabis businesses. Both prospective employees and employers may ask for a waiver of denial of employment due to having evidence of a prospective employee's rehabilitation, or may proceed with the appeal process should their applications be denied.
 - Staff made a statement at the last meeting that employee background checks have helped reduce crime related to bad actors entering this businesses. This was a statement heard from other agencies, but it is better phrased as a potential deterrent to employee theft/diversion from commercial cannabis businesses. To the degree the City has an interest in avoiding the problem of employee theft/diversion from commercial cannabis businesses, employee background checks are a rapidly evolving best practice. Commercial cannabis businesses themselves recognize the value of employee background checks, for they are very much aware that the bulk of instances of missing product in the industry are the result of employee theft. This cheats the business out of revenue and public agencies out of related sales tax revenue. The key value of the background checks, from the viewpoint of the industry, is to avoid problem employees by not hiring them in the first place, by screening for persons with a track record not of drug offenses necessarily, but of theft or dishonesty. This is not a subjective standard but in the ordinance, it is specifically linked to offenses of theft, embezzlement, or fraud, as those offenses are defined by the California Penal Code.
 - In addition, having the Police already having knowledge of the employees, it could potentially expedite the solving of crimes that may occur.
- **Alternative:** Background check required for all employees performed by the employer. (See language in Attachment C).
- **Alternative:** No background requirement for employees. If Council selects this option, the provision regarding employee background checks will be deleted from the proposed regulatory ordinance in Attachment A.
2. **Recommended:** Require employer to issue an employee identification badge as required by State law and City to issue a cannabis employee permit in a non-badge form (i.e. sticker or physical permit). (See language in Attachment A).
- At the October 1st meeting, Council discussed the number of badges an employee would be required to wear. As of January 2019, the State regulations were updated to require employers to issue employee badges. Staff concurs that the issuance of a second City-

issued badge should not be required. However, staff continues to recommend a City issued employee permit referred to as a cannabis employee permit similar to massage business and card room businesses that signifies that the employee has registered with the City. The permit would take the form of either a sticker to be placed on the employer-provided badge or a physical permit.

- **Alternative:** City does not issue cannabis employee permits. If Council selects this option, the provision regarding permits will be deleted from the proposed regulatory ordinance in Attachment A.

The Regulatory Ordinance (Chapter 6.36) in Attachment A is written as recommended above. After a discussion by the City Council, staff will prepare the second reading to reflect the language approved by the consensus of the Council.

STRATEGIC PLAN

This agenda item supports Goal 2 and Objective 2.C of the Governance strategic priority:

Goal 2.Ensure Continued Fiscal Sustainability through Financial and Budgetary Stewardship

FISCAL IMPACT

The City Council has previously directed staff to establish fees related to the recovery of costs of the application and permit process. These fees will return to the City Council for consideration at a future meeting. The City Council may consider placing cannabis general tax measure on the November 2020 ballot. This item will return to the City Council in Spring 2020.

RECOMMENDATION

That City Council introduce and waive the full reading of ordinances amending Chapter 6.36 of the Tracy Municipal Code regarding commercial cannabis activity and amending Section 10.08.3196 of the TMC regarding establishing zoning and location requirements for commercial cannabis activity.

Prepared by: Karin Schnaider, Finance Director,
Bill Dean, Assistant Development Services Director

Reviewed by: Alex Neicu, Interim Police Chief
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Proposed Ordinance Amending Chapter 6.36 of the Tracy Municipal Code Regarding Commercial Cannabis Activity (Regulatory Ordinance)

Attachment B – Proposed Ordinance Amending Section 10.08.3196 of the Tracy Municipal Code Regarding Zoning and Location Requirements for Commercial Cannabis Activity (including Planning Commission meeting staff report for 10/23/2019)

Attachment C – Alternative Language for Regulatory Ordinance for Background for Employees

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADES" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health, safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss commercial cannabis activity, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity.

WHEREAS, The City Council considered this ordinance at a duly noticed public hearing held on November 5, 2019.

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 amends Chapter 6.36 as shown in Exhibit "A".

SECTION 3. 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 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

SECTION 6. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of November 2019, and finally adopted on the ____ day of _____, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Chapter 6.36 COMMERCIAL CANNABIS ACTIVITY.

Article 1. – General Provisions.

- Section 6.36.010 Purpose and Intent.
- Section 6.36.011 Legal Authority.
- Section 6.36.012 Definitions.
- Section 6.36.013 Compliance with State and Local Laws.

Article 2. – Cannabis Business Permits.

- Section 6.36.020 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
- Section 6.36.030 Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.
- Section 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
- Section 6.36.050 Application Procedure for a Cannabis Business Permit.
- Section 6.36.060 Selection of Cannabis Business Permittee(s).
- Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.
- Section 6.36.080 Expiration of Cannabis Business Permits.
- Section 6.36.090 Suspension, Modification or Revocation of Cannabis Business Permits.
- Section 6.36.100 Renewal Applications.
- Section 6.36.110 Effect of State License Suspension, Revocation, or Termination.
- Section 6.36.120 Change in Contact Information; Updated Registration Form.
- Section 6.36.130 Transfer of Cannabis Business Permit.
- Section 6.36.140 Limitations on City's Liability.
- Section 6.36.150 Cannabis Employee Permit Required.

Article 3. – General Operating Procedures for all Cannabis Business Permittees.

- Section 6.36.160 City Business License.
- Section 6.36.170 Records and Recordkeeping.
- Section 6.36.180 Security Measures.
- Section 6.36.190 Restriction on Alcohol & Tobacco Sales.
- Section 6.36.200 Fees and Charges.
- Section 6.36.210 Packaging and Labeling.
- Section 6.36.220 Diversion Prohibited.
- Section 6.36.230 Emergency Contact.
- Section 6.36.240 Community Relations Manager.
- Section 6.36.250 Payment of Taxes.
- Section 6.36.260 Employee Permit Requirement.
- Section 6.36.270 Cannabis Consumption Prohibited.
- Section 6.36.280 Persons Under 21 Years of Age Prohibited.
- Section 6.36.290 Site Management.
- Section 6.36.300 Reporting Criminal Activity.
- Section 6.36.310 Display of Permit and City Business License.
- Section 6.36.320 Miscellaneous Operating Requirements.

Article 4. – Operating Procedures for Specific Cannabis Business Types.

- Section 6.36.330. Commercial Cannabis Cultivation Permit Requirements

Section 6.36.340 Cannabis Distribution Permit Requirements
Section 6.36.350 Cannabis Manufacturing Permit Requirements
Section 6.36.360 Cannabis Microbusiness Permit Requirements
Section 6.36.370 Cannabis Non-Storefront (Delivery) Retailer Permit Requirements.
Section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements
Section 6.36.390 Cannabis Testing Laboratory Requirements

Article 5. – Enforcement.

Section 6.36.390 Promulgation of Regulations, Standards and Other Legal Duties.
Section 6.36.400 Fees Deemed Debt to City of Tracy.
Section 6.36.410 Permit Holder Responsible for Violations.
Section 6.36.420 Inspection and Enforcement.
Section 6.36.430 Compliance with State Regulation.
Section 6.36.440 Violations Declared a Public Nuisance.
Section 6.36.450 Each Violation a Separate Offense.
Section 6.36.460 Criminal Penalties.
Section 6.36.470 Remedies Cumulative and not Exclusive.
Section 6.36.480 Service of Notices.

Article 1. General Provisions.

Section 6.36.010. Purpose and Intent

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes and implement the desire of California voters who approved the Adult Use of Marijuana Act (“AUMA”) by Proposition 64 in November 2016, while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Tracy and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators meeting the established requirements to obtain and renew annually a regulatory permit to operate a cannabis business in Tracy. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or local law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to operate a cannabis business in the City, such as a conditional use permit issued pursuant to Title 10 of this Code, and are in addition to any permits, licenses and approval required under state, county, or other law.

Section 6.36.011. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Tracy is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the

State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Tracy to all commercial cannabis activity.

Section 6.36.012. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

“A-license” means a State License issued for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“A-licensee” means any person holding a license under California Business and Professions Code Section 26000 et seq. for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“Applicant” means an owner applying for a cannabis business permit or a person applying for a cannabis employee permit pursuant to this Chapter.

“Bureau” means the California Bureau of Cannabis Control within the California Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis accessories” has the same meaning as in Section 11018.2 of the California Health and Safety Code.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis employee permit” means a regulatory permit issued by the City pursuant to

this Chapter to persons working, volunteering, interning, or apprenticing at any cannabis business operating in the City.

“Cannabis product” means cannabis or a product containing cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the California Health and Safety Code. For purposes of this Chapter, “cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Canopy” shall have the same meaning as that appearing in Title 3, Section 8000(f) of the California Code of Regulations.

“Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

“City” or “City of Tracy” means the City of Tracy, a California general law City.

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

“Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter and in MAUCRSA. This definition shall have the same meaning as set forth in California Business and Professions Code Section 26001(k) as the same may be amended from time to time.

“Commercial cannabis business” or “Cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

“Commercial cannabis business permit” or “City cannabis business permit” means a regulatory permit issued by the City pursuant to this Chapter to a person operating a cannabis business in the City. This permit is required before any commercial cannabis activity may be conducted in the City and does not constitute a land use entitlement nor a conditional use permit. The issuance of a cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted or imposed by the City governing the commercial cannabis activity at issue.

“Cultivation” or “cultivate” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Cultivation site” means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.

“Cultivation area” means the area in which cannabis is cultivated.

“Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products by a retailer directly to a customer off the premises of a cannabis retail facility, in the customer’s home or other

locations authorized by this chapter. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. This definition shall have the same meaning as Section 26001(p) of the California Business and Professions Code, as may be amended from time to time.

"Dispensary" or "Dispensary site" means a state-licensed, locally permitted business selling cannabis, cannabis products or cannabis accessories from a building or structure that is open to customers. For the purposes of this Chapter, the term "Dispensary" is synonymous with a storefront retailer.

"Dispensing" means any activity involving the licensed retail sale of cannabis or cannabis products from a retailer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between Licensees.

"Distributor" means a person holding a valid commercial cannabis state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer.

"Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

"Licensee" means any person holding a State License under this Chapter, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

"Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the Licensee.

"M-license" means a State License issued for commercial cannabis activity involving medicinal cannabis.

"M-licensee" means any person holding a State License for commercial cannabis activity involving medicinal cannabis.

"Manufacturing" or "manufacturing operation" means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

"Manufacturing site" means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods,

independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Tracy and, a valid State License as required for manufacturing of cannabis products.

“Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation. For the purposes of this Chapter, the term “medicinal cannabis” is synonymous with medical cannabis.

“Microbusiness” means a business that engages in at least three of the following commercial activities: cultivation (provided that the cultivation area is less than 10,000 square feet); distribution; manufacturing (Level 1), storefront retailer (dispensary), or non-storefront retailer (delivery-only). This definition shall have the same meaning as Section 26001.1 of the California Business and Professions Code, as may be amended from time to time.

“Natural person” is an individual human being as opposed to an artificial or legal person like a company which may be a private entity or non-governmental organization or public government organization.

“Non-Storefront retailer” or “Retailer Non-Storefront” means a cannabis business that conducts sales of cannabis or cannabis products to customers exclusively by delivery and whose premises are closed to the public. The term “Non-Storefront retailer” is synonymous with the terms “delivery only” or “delivery service.”

“Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent. For purposes of this Chapter, a nonvolatile solvent includes ethanol and carbon dioxide used for extraction, or as it may be defined and amended by the state.

“Operation” means any act for which licensure is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.

“Owner” means any of the following:

- (1) A person with an aggregate ownership interest of five (5) percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer and the members of the board of directors of the entity engaging in the cannabis business.
- (3) An individual who will be participating in the direction, control, or management of the person applying for a City cannabis business permit.

“Package” means any container or receptacle used for holding cannabis or cannabis products.

“Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health and Safety Code Section 11362.5.

“Permit Holder” means person to whom a permit under this Chapter has been issued,

including but not limited to a cannabis business permit and cannabis employee permit. For purposes of this Chapter, the term “Permit Holder” is synonymous with “Permittee.”

“Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Person with an identification card” shall have the meaning given that term by California Health and Safety Code Section 11362.7.

“Physician’s recommendation” means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. This definition shall have the same meaning as California Business and Professions Code Section 26001(ap), and as may be amended from time to time.

“Retailer” means a cannabis business issued a state license for the retail sale and delivery of cannabis or cannabis products to customers. This definition shall have the same meaning as California Business & Professions Code Section 26070 and as may be amended from time to time.

“Sell,” “sale,” “to sell” and “retail sale” include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

“State” means the State of California.

“State License” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

“Testing laboratory” means a laboratory, facility, or site that offers or performs tests of cannabis or cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- (2) Licensed by the State of California to engage in cannabis testing activities.

“Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by the MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

Section 6.36.13. Compliance with State and Local Laws.

It is the responsibility of the owners and operators of the cannabis business to ensure that it is always operating in a manner compliant with all applicable state and local laws, policies, rules, and regulations including, but not limited to, the California Health and Safety Code, the California Water Code, the City adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, Energy Code, Green Building Standards Code, Existing Building Code, Historical Building Code, the Tracy Municipal Code, the Tracy Zoning Code, all requirements and conditions related to the land use entitlement process, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, including for as long as applicable, the Compassionate Use Act ("Prop. 215") and the Medical Cannabis Program Act ("MMPA") (collectively "the Medical Cannabis Collective Laws"), the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business.

Article 2. – Cannabis Business Permits

Section 6.36.020. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacturing, processing, storing, laboratory testing, labeling, retail sale, delivery, distribution or transportation (other than as provided under California Business and Professions Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Tracy.

Section 6.36.030. Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.

No person may engage in any commercial cannabis activity within the City of Tracy unless the person (1) has a valid Cannabis Business Permit from the City of Tracy; (2) has a valid State License; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities and land use and zoning requirements, including obtaining a valid conditional use permit pursuant to Title 10 of this Code.

Section 6.36.040. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

(a) Maximum Number and Type of Authorized Cannabis Businesses Permitted. The number of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:

- i. Cultivation (Indoor Only) – no maximum number.
- ii. Distribution – no maximum number.
- iii. Manufacturing – no maximum number.
- iv. Microbusiness – no maximum number.
- v. Retailer - Non-Storefront (Delivery Only) – no maximum number.
- vi. Retailer - Storefront (Dispensary) – a maximum of four (4) storefront retailers.
- vii. Testing Laboratory – no maximum number.

This Section is only intended to create a maximum number of cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

(b) Each year following the Police Chief's initial award of cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change.

Section 6.36.050. Application Procedure for a Cannabis Business Permit.

(a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision to issue a cannabis business permit(s) is made. Said resolution shall authorize City staff and/or consultants to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria ("Review Criteria") and to prepare the necessary forms, solicit applications, and review and evaluate the applicants. Applications for a cannabis business permit shall include, but not be limited to, the following information:

- i. Applicant Background Information.
 - A. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
 - B. The phone number and address to which any notices and correspondence regarding the application is to be mailed.
 - C. Owners. The name, address, telephone number, title, respective percentage of ownership, and function of each of the owners.
 - D. Background checks. For each of the interested parties:
 - 1. A legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
 - 2. A list of their misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the sentence, the jurisdiction of the

court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.

3. Consent to fingerprinting and a criminal background investigation.

ii. Business operations.

- A. Business plan. A plan describing how the cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include proof of sufficient capital to start the business and sustain it through the first three months of operation, plans for handling cash and transporting cannabis and cannabis products to and from the site.
- B. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
- C. Document(s) demonstrating property owner acknowledgement. Document(s) demonstrating that the property owner is fully aware that the applicant intends to use the property for cannabis business purposes. Document(s) must include name, address, and contact information for the property owner.
- D. State licenses. Copies of any state licenses relating to cannabis that the applicant holds.
- E. Tax compliance. A current copy of the applicant's city business operations tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns.
- F. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
- G. Budget. A copy of the applicant's most recent annual budget for operations.
- H. Price list. A list of the most recent prices for all products and services provided by the applicant.

- iii. City authorization. Authorization and consent for the City to seek verification of the information contained within the application.
- iv. Applicant's certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.
- v. Indemnification. An agreement, in a form approved by the City Attorney, whereby the applicant: (1) releases the City, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (a) any repeal or amendment of this Chapter or any provision of Title 10 of the Zoning Code relating to cannabis, and (b) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and (2) defends, indemnifies, and holds harmless the City and its agents, officers, elected officials, and employees from and against any and all claims or actions: (a) brought by adjacent or nearby property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from operations at the commercial cannabis business, and (b) brought by any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis produced or processed at the site or by the business.

(b) Non-Refundable Application Fee. At the time of filing, each applicant shall pay a non-refundable application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.

(c) Review of Applications. The Development Services Director or designee, Finance Director or designee, and Fire Chief or designee ("Review Committee") shall conduct an initial review of the applications and rank and score the applications utilizing the Review Criteria. The Review Committee shall then make a recommendation to the Police Chief or designee, who shall make a final selection in accordance with Section 6.36.060.

(d) THE CITY'S RESERVATION OF RIGHTS:

The City reserves the right to reject any or all applications. Prior to cannabis business permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to cannabis business permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

Section 6.36.060. Selection of Cannabis Business Permittee(s).

(a) The Police Chief or designee shall determine which applicants will be granted a cannabis business permit in accordance with the procedures established referenced in Section 6.36.050, subsection (a). The Police Chief's or designee's decision as to the selection of permittees shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

(b) Upon issuance of a conditional use permit, a cannabis business permit is valid at only the location granted under the conditional use permit and State License.

(c) Issuance of a cannabis business permit does not constitute a land use entitlement nor does it constitute a land use permit. Following the Police Chief's selection, the prevailing candidates(s) shall apply to the City's Development Services Department to obtain a conditional use permit pursuant to Section 10.08.4250 and any other required land use approvals or entitlements for the permittee's premises. Land use approvals shall include compliance with all applicable provisions of California Environmental Quality Act.

(d) Conditions placed on the conditional use permit issued under Title 10 of this Code are also conditions of the cannabis business permit. Any violation of the conditional use permit's conditions is grounds for suspending or revoking the cannabis business permit.

(e) Furthermore, no permittee shall begin operations, notwithstanding the issuance of a cannabis business permit, unless all of the state and local laws and regulations have been complied with, including but not limited to the requirements of this Chapter and Section 10.08.3196 of this Code.

(g) Notwithstanding anything in this Chapter to the contrary, the City reserves the right to

reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is issued, and then only for the duration of the term specified in the permit. Each applicant assumes the risk that, at any time prior to the issuance of a cannabis business permit, the City Council may terminate or delay the program created under this Chapter.

(h) If an application is denied for a cannabis business permit, a new application may not be filed for one (1) year from the date of the denial.

(i) Permit Fee. Each person granted a Cannabis Business Permit shall pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis business permit regulatory program created in this Chapter.

Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.

(a) The City may deny a cannabis business permit if the Police Chief or designee(s) determines that one or more of the following circumstances exist:

- i. The application received is incomplete, filed late, or not responsive to the requirements of this article;
- ii. The application contains a false or misleading statement or omission of a material fact;
- iii. The operation of a cannabis business described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
- iv. The applicant or any of its owners has any unpaid and overdue administrative penalties imposed for violations of this chapter;
- v. The applicant has not paid the applicable business operations tax pursuant to Chapter 6.04 or subsequent Chapter(s) or taxes which may be amended from time to time by the voters.
- vi. Within 12 months of the date of application, either the applicant has had its cannabis business permit revoked; or any of its owners were associated with another business that had its cannabis business permit revoked; or
- vii. Operation of the cannabis business is a threat to the public health, safety, or welfare.

Section 6.36.080. Expiration of Cannabis Business Permits.

Each cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis business permits may be renewed as provided in Section 6.36.100.

Section 6.36.090. Suspension, Modification, or Revocation of Cannabis Business Permits.

(a) The Police Chief or designee may suspend, modify, or revoke a cannabis business permit issued pursuant to the provisions of this Chapter for any of the following reasons:

- i. One or more of the circumstances upon which a cannabis business permit could be denied, as described in Section 6.36.070, exists or has occurred;

- ii. One or more conditions of the cannabis business permit has been violated; or
 - iii. The Permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this Chapter.
- (b) The Police Chief's or designee's decision as to the suspension, modification, or revocation of a cannabis business permit shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

Section 6.36.100. Renewal Applications.

- (a) An application for renewal of a cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications.
- (c) The applicant shall pay a fee in an amount set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (d) An application for renewal of a cannabis business permit shall be denied if any of the following exists:
- i. One or more of the circumstances upon which a cannabis business permit could be denied, as described in Section 6.36.070, exists or has occurred;
 - ii. The application is filed less than sixty (60) days before its expiration.
 - iii. The cannabis business permit is suspended or revoked at the time of the application.
 - iv. The cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application, unless the applicant has been granted a conditional use permit for a vacant site and is subject to discretionary permit processing and construction.
 - v. The permittee fails to or is unable to renew its State License.
- (e) The Police Chief or designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Police Chief or designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Police Chief or designee(s) shall be directed to the City Manager and shall be handled pursuant to Chapter 1.12.
- (f) If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.
- (g) If an existing cannabis business permit holder fails to renew their permit, the City may, in its discretion, solicit and consider permit applications from other applicants pursuant to Sections 6.36.050 and 6.36.060.

Section 6.36.110. Effect of State License Suspension, Revocation, or Termination.

- (a) Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall constitute grounds for revoking a City cannabis business permit.
- (b) Permittee shall inform the Police Chief or designee of any suspension, revocation or termination of their State license within one business day of receiving notice from the State. Failure to do so shall constitute grounds for revoking a City cannabis business permit.

Section 6.36.120. Change in Contact Information; Updated Registration Form.

- (a) Any time the contact information listed on a cannabis business permit has changed, the business shall re-register with the Police Chief or designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth in Section 6.36.100.
- (b) Within fifteen (15) calendar days of any other change in the information provided in the application or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated registration form with the Police Chief or designee(s) for review along with a registration amendment fee, as set forth in Section 6.36.100.

Section 6.36.130. Transfer of Cannabis Business Permit.

- (a) The holder of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to their State License, if required, and an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief or designee(s) in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council, and the Police Chief or designee(s) determines that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- (b) Cannabis business permits issued through the grant of a transfer by the Police Chief shall be valid for a period of one year beginning on the day the Police Chief approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.
- (c) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the Police Chief or designee(s) through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for revocation.
- (d) A permittee may change the form of business entity without applying to the Police Chief or designee(s) for a transfer of permit, provided that either:

- i. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
- ii. If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and to comply with Section 6.36.130, subsection (b), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.

Although a transfer is not required in these two circumstances, the permit holder is required to notify the Police Chief or designee(s) in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

(e) No cannabis business permit may be transferred when the Police Chief or designee has notified the permittee that the permit has been or may be suspended or revoked.

(f) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 6.36.140. Limitations on City's Liability.

To the fullest extent permitted by law, the City of Tracy shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all of the following conditions before receipt of the permit:

(a) The applicant must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Tracy, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any state or local laws by the cannabis business or any of its officers, employees or agents.

(b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney and/or Risk Manager.

(c) Reimburse the City of Tracy for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Tracy may be required to pay as a result of any legal challenge related to the City's approval of the applicant's cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Tracy may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 6.36.150. Cannabis Employee Permit Required.

(a) Any person who is an employee or who otherwise works within a cannabis business must be legally authorized to do so under applicable state law.

(b) Any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business.

(c) Applications for a cannabis employee permit shall be developed, made available, and processed by the Police Chief or designee(s), and shall include, but not be limited to, the following information:

- i. Name, address, and phone number of the applicant;
- ii. Verification of the applicant's age and identity. A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at twenty-one (21) years of age must be submitted with the application;
- iii. Name, address of the cannabis business where the person will be employed, and the name and phone number of the primary manager of that business;
- iv. A list of any crimes enumerated in California Business and Professions Code Section 26057(b)(4) of which the applicant has been convicted;
- v. Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;
- vi. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Police Chief or designee(s).
- vii. A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the cannabis employee permit program. The fee is non-refundable and shall not be returned in the event the employee permit is denied or revoked.

(d) The Police Chief or designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

- i. Has ever been convicted of a violent felony as defined by California Penal Code Section 667.5, or equivalent offenses in other states;
- ii. Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or; equivalent offenses in other states; or
- iii. Has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- iv. Employers who wish to hire an individual notwithstanding this rule shall apply to the Police Chief, who at his/her sole discretion may issue a written waiver. The employer or employee shall submit a statement of rehabilitation for each conviction. The statement of rehabilitation may contain evidence that the employer or employee would like the Police Chief to consider that demonstrates the employee's fitness for a cannabis employee permit. Supporting evidence may be attached to the statement

of rehabilitation and may include, but is not limited to, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference. The Police Chief's or designee's decision as to the selection of an employee shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

Discovery of facts showing that the applicant has either failed to disclose or has been convicted of any of the above offenses are grounds for denial of the permit. Where the applicant's sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial cannabis employee permit.

(e) The Police Chief or designee shall implement the cannabis employee permit process in accordance with the procedures and rules established by resolution adopted by the City Council.

(f) A cannabis employee permit shall be valid for a twelve (12) month period from date of issuance and must be renewed on an annual basis. Renewal applications shall contain all the information required in Section 6.36.150, subsection (c) above including the payment of a renewal application fee in an amount to be set by resolution of the City Council.

(g) The City may immediately revoke the cannabis employee permit should the permit holder be convicted of a crime listed in subsection (d)(ii) above. The following are additional grounds for revoking a cannabis employee permit based on the specific role and function of that employee:

- i. A cannabis employee permit shall be revoked if the employee permit holder:
 - A. Sells or provides cannabis or cannabis products to a minor;
 - B. Attempts to give away cannabis or cannabis products;
 - C. Acts to illegally divert cannabis or cannabis products to the black market, including stealing cash; stealing the licensee's product for personal consumption; or selling the licensee's product and keeping the proceeds of the sale; or
 - D. Is cited for driving under the influence of alcohol, cannabis or another illicit drug while on- or off-duty.

(h) The applicant may appeal the denial or revocation of a cannabis employee permit to the City Manager by filing a notice of appeal with the City Clerk within ten (10) working days of the date the applicant received the notice of denial or revocation, which appeal shall be conducted as set forth in Chapter 1.12 of this Code.

Article 3. – General Operating Procedures for Cannabis Business Permittees

Section 6.36.160. City Business License.

Prior to commencing operations, a cannabis business shall obtain a City of Tracy business license.

Section 6.36.170. Records and Recordkeeping.

(a) Each owner and operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or designee(s).

(b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the Police Chief or designee(s) upon a reasonable request.

(c) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes in accordance with the MAUCRSA.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) and other applicable regulations, each cannabis business shall allow City of Tracy officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated in writing by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

Section 6.36.180. Security Measures.

(a) A permitted cannabis business shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the Police Chief or designee and Fire Chief or designee, these security measures shall include, but shall not be limited to, all of the following:

- i. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
- ii. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- iii. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, provided that such secured areas meet the emergency egress requirements in the Building Code. All cannabis and cannabis products that are

- being sold for retail purposes shall be kept in a manner as to prevent diversion, theft, and loss.
- iv. On-site security guard(s), licensed by the State of California Bureau of Security and Investigative Services, may be required as determined by the Police Chief or designee, and shall be subject to the prior review and approval of the Police Chief or his/her designee(s), with such approval not to be unreasonably withheld.
 - v. Installing security surveillance cameras of sufficient resolution to allow the identification of persons and objects to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City's software and hardware. In addition, remote access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request without unreasonable delay. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.
 - vi. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
 - vii. A commercial cannabis business shall notify the Police Chief or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 - (3) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
 - (4) Any other breach of security.

Section 6.36.190. Restriction on Alcohol and Tobacco Sales.

- (a) It shall be unlawful to cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.
- (b) It shall be unlawful to cause or permit the sale of tobacco products on or about the premises of the cannabis business.

Section 6.36.200. Fees and Charges.

No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis business. Fees and

charges associated with regulation of a cannabis business shall be established by resolution of the City Council which may be amended from time to time.

Section 6.36.210. Packaging and Labeling.

All cannabis, cannabis products, and cannabis accessories sold by a cannabis business shall be packaged, labeled and placed in tamper-evident packaging which at least meets the requirements of the MAUCRSA and all state implementing rules and regulations.

Section 6.36.220 Diversion Prohibited.

No person shall give, sell, distribute, or otherwise transfer any cannabis from a permitted cannabis business to any person in any manner that violates local or state law.

Section 6.36.230 Emergency Contact.

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one 24-hour on-call designated employee to serve as a liaison to resolve complaints, to respond to operating problems or concerns associated with the cannabis business, and to notify the Police Chief of any security issues arising per the terms of Section 6.36.180 (a) vii.

Section 6.36.240 Community Relations Manager.

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one employee to communicate with surrounding neighborhoods and businesses. The cannabis business shall make good faith efforts to encourage neighborhood residents to call this person to solve problems, if any, before any calls or complaints are made to the City.

Section 6.36.250 Payment of Taxes.

All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under state and local law. Each cannabis business shall cooperate with the City or designee(s) with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

Section 6.36.260 Employee Permit Requirement

- (a) It shall be unlawful for any cannabis business Permittee to employ any person or allow a person to volunteer who is not the holder of a valid City cannabis employee permit.
- (b) All managers and staff of a cannabis business permittee must retain a copy of the City-issued cannabis employee permit and make it available to City officials upon request.

Section 6.36.270 Cannabis Consumption Prohibited.

No cannabis business permittee shall allow any person to smoke, ingest, or otherwise consume cannabis or cannabis products in any form on, or within 20 feet of, the premises.

Section 6.36.280 Persons Under 21 years of Age Prohibited.

- (a) Persons under the age of twenty-one (21) years shall not be allowed on the premises of any cannabis business, unless otherwise provided in this Chapter. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
- (b) Notwithstanding subsection (a) above, a natural person 18 to 20 years of age who possesses a physician's recommendation for medical cannabis shall be allowed on the premises of any cannabis business, for the purpose of purchasing cannabis for medical use only consistent with his or her physician's recommendation.

Section 6.36.290 Site Management.

- (a) The cannabis business permittee shall prevent and eliminate conditions on the site that constitute a nuisance.
- (b) The cannabis business permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.
- (c) The cannabis business permittee shall implement measures that discourage loitering near the business and shall collaborate with the City Police Department to enforce related laws.
- (d) The permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.
- (e) Notwithstanding any provisions of this Code to the contrary, the permittee shall remove all graffiti from the site and parking lots under the control of the permittee within 72 hours of its application.

Section 6.36.300 Reporting Criminal Activity.

A cannabis business permittee shall immediately report to the City Police Department all criminal activity occurring on the cannabis business site.

Section 6.36.310 Display of Permit and City Business License.

The original copy of the City cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily-visible to all persons entering the premises.

Section 6.36.320 Miscellaneous Operating Requirements.

- (a) Cannabis businesses may operate only during the hours specified in the conditional use permit issued by the City. The hours of operation provided in the conditional use permit shall not exceed the hours of operation allowed under state law.
- (b) No cannabis, cannabis products, graphics depicting cannabis, or cannabis products shall be visible from the exterior of any property issued a cannabis business permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (c) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. Said tracking system must be in compliance with state's designated track-and-trace system. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Police Chief or designee(s) prior to being used by the permittee.
- (d) Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, cannabis businesses must install and take all measures, including installing equipment, to control odor as required by the Development Services Director or designee.

Article 4. – Operating Procedures for Specific Business Types

Section 6.36.330. Commercial Cannabis Cultivation Permit Requirements

- (a) No person shall operate a cannabis cultivation business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued. This section shall not apply to the cultivation of cannabis for personal use allowed under state law.
- (b) Permit Fee. A cannabis cultivation permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis cultivation businesses:
 - i. Specialty Cottage – Indoor cultivation up to 500 square feet of total canopy size on one cultivation site.
 - ii. Specialty - Indoor cultivation of less than or equal to 5,000 square feet of total canopy size on one cultivation site.

- iii. Small - Indoor cultivation between 5,001 and 10,000 square feet of total canopy size on one cultivation site.
- iv. Medium – Indoor cultivation between 10,001 and 22,000 square feet of total canopy size on one cultivation site.
- (d) Indoor Only. A cannabis cultivation permittee shall only cultivate cannabis in a fully enclosed building. Outdoor cultivation of commercial cannabis is expressly prohibited.
- (e) A cannabis cultivation permittee shall not allow cannabis or cannabis products on the cultivation site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis cultivation permittee may conduct all activities permitted by the State License.
- (g) Any cultivation activity that will be conducted by the permittee shall be included on the permit application. No additional cultivation activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis cultivation site shall be compliant with all state regulations for cannabis cultivation including Title 3 of the California Code of Regulations as may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) Site Requirements. A cannabis cultivation site shall comply with the following requirements:
 - i. Entrances. All entrances into the buildings on the cultivation site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - ii. Cultivation area. All cultivation areas in any building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area. As such, managers and staff of the permittee shall not be required to exit the building in an emergency through the cultivation area.
 - iii. Transport area. Each building with a cultivation area shall have an area designed for the secure transfer of cannabis from a vehicle to the cultivation area.
 - iv. Storage area. Each building with a cultivation area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (h) Signage. A cannabis cultivation permittee shall post in the lobby of the cultivation site signs that state the following:
 - i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."
 - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.

- vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) Restricted Site. No cannabis cultivation permittee shall open their cultivation site to the public.
- i. No cannabis cultivation permittee shall allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
 - ii. A manager must be on the cultivation site at all times that any other person, except for security guards, is on the site.
 - iii. While on the cultivation site, managers and staff of the cannabis cultivation business must maintain evidence of their cannabis employee permit, issued by the City, at all times.
 - iv. Any person other than managers or staff who are on the cultivation site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
 - v. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis cultivation site.
 - vi. Cannabis cultivation sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
 - vii. Location Requirements. Cannabis cultivation permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.340. Cannabis Distribution Permit Requirements

- (a) Permit Required. No person shall operate a cannabis distribution business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis distribution permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis distribution businesses:
- i. Distributor (Type 11): Purchases, sells, arranges for testing, conducts quality assurance review of packaging and labeling, transports cannabis goods between licensees, and collects state cultivation tax from licensed cultivators.
 - ii. Distributor- Self-Distribution Only (Type 13): Transports only its own cannabis goods that it has cultivated or manufactured to testing facilities and retailers.
 - iii. Distributor- Transport Only (Type 13): Transports cannabis goods between licensees, but may not transport any cannabis goods, except for immature cannabis plants and/or seeds, to a retailer or to the retailer portion of a microbusiness.
- (d) The buildings on the sites of a Type-11 or Type-13 cannabis distribution permittee must comply with the following requirements:
- i. Entrances. All entrances into the buildings on the distribution site must be locked at all times with entry controlled by the cannabis distribution permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

- ii. Main entrance and lobby. The distribution site must have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance must be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there must be a lobby to receive persons into the site and to verify whether they are allowed in the areas where cannabis or cannabis products are stored.
- iii. Storage area. The distribution site must have adequate storage space for cannabis and cannabis products being distributed. All storage areas in any building on the distribution site must be separated from the main entrance and lobby and must be secured by a lock accessible only to managers and employees from the lobby area.
- iv. Transport area. Each building with a storage area must have an area designed for the secure transfer of cannabis between a vehicle and the distribution site.

(e) Storage of cannabis and cannabis products.

- i. Type-11 and Type-13 (Self-Distribution Only) cannabis distribution permittees shall only store cannabis or cannabis products in a secured room within a limited access area that is covered by video cameras, in a fully enclosed building on the distribution site. No cannabis or cannabis products in possession of the cannabis distribution business may be stored in any other facility, such as a separate storage facility or a cannabis product manufacturing facility.
- ii. Type-11 and Type-13 (Self Distribution Only) cannabis distribution permittees shall not allow cannabis or cannabis products on the distribution site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- iii. Type-13 (Transport Only) cannabis distribution permittees shall not store cannabis or cannabis products on the distribution site.

(f) Transportation. The cannabis distribution business shall use and maintain computer software to record the following information relating to the transportation of cannabis and cannabis products:

- i. A shipping manifest that includes a specific description of the items being transported, whether each item is a medical cannabis or adult-use cannabis product, and the name, address, and license number of the cannabis business to which the items are to be transported;
- ii. The name of the person who transported the items;
- iii. The date and time of the transport; and
- iv. The name of the manager of the cannabis business who confirmed receipt of the items.
- v. A person transporting cannabis or cannabis products on behalf of a cannabis distribution business shall carry the following items:
 - A. A copy of the distributor's current cannabis distribution business permit;
 - B. The person's government-issued identification;
 - C. Evidence of the person's City-issued cannabis employee permit; and
 - D. A copy of the shipping manifest as described in subsection (f) i.
- vi. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person transporting cannabis or cannabis products pursuant to this section shall present the items listed in subsection (f) v. for examination.
- vii. No person shall transport cannabis or cannabis products to anyone except a lawfully operated cannabis business. The person transporting the cannabis or cannabis

- products shall obtain a signature from a manager of the cannabis business confirming receipt of the items listed in the shipping manifest, before leaving the items.
- viii. A cannabis business shall maintain the information described in subsection (f) v. for at least three years on the site and shall produce the information upon request by the City.
- (g) **Restricted Site.** No cannabis distribution permittee shall open their distribution site to the public.
- i. No cannabis distribution permittee shall allow anyone on the distribution site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
 - ii. A manager must be on the distribution site at all times that any other person, except for security guards, is on the site.
 - iii. While on the distribution site, managers and staff of the cannabis distribution business must maintain evidence their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the distribution site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (h) **Signage.** A cannabis distribution permittee shall post in the lobby of the distribution site signs that state the following:
- i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."
 - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the distribution site.
 - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis distribution site.
- (j) **Location Requirements.** Cannabis distribution permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.350 Cannabis Manufacturing Permit Requirements.

- (a) No person shall operate a cannabis manufacturing business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) **Permit Fee.** A cannabis manufacturing permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis manufacturing businesses:

- i. Type 6 (non-volatile), for a business involving all aspects of a cannabis manufacturing business, including the extraction of substances from a cannabis plant and the activities allowed with a Type N and Type P permit as described below.
 - ii. Type N, for a business involving the production and preparation of cannabis products (such as infusing cannabis extracts or concentrates into edibles and topicals) and the activities allowed with a Type P permit as described below. A business holding a Type N permit cannot engage in the extraction of substances from a cannabis plant.
 - iii. Type P, for a business involving only the packaging and labeling of cannabis or cannabis products. A business holding a Type P permit cannot engage in the extraction of substances from a cannabis plant, or the production and preparation of cannabis products.
- (d) Indoor Only. A cannabis manufacturing permittee shall only manufacture cannabis in a fully enclosed building. Outdoor manufacturing of cannabis is expressly prohibited.
- (e) A cannabis manufacturing permittee shall not allow cannabis or cannabis products on the manufacturing site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis manufacturing permittee may conduct all activities permitted by the State License. This includes, but is not limited to, non-volatile extractions, repackaging and relabeling, and infusions.
- (g) Any manufacturing activity that will be conducted by the permittee shall be included on the permit application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis manufacturing facility will be compliant with all state regulations for cannabis manufacturing including California Health and Safety Code 11362.775 and as it may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) Site Requirements. A cannabis manufacturing site shall comply with the following requirements:
- v. Entrances. All entrances into the buildings on the manufacturing site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - vi. Manufacturing area. All manufacturing areas in any building on the manufacturing site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area.
 - vii. Transport area. Each building with a manufacturing area shall have an area designed for the secure transfer of cannabis from a vehicle to the manufacturing area.
 - viii. Storage area. Each building with a manufacturing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

- (h) **Signage.** A cannabis manufacturing permittee shall post in the lobby of the manufacturing site signs that state the following:
- vii. "This site is not open to the public."
 - viii. "Retail sales of any goods and services is prohibited."
 - ix. "Persons under 21 years of age are prohibited from entering this site."
 - x. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - xi. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the manufacturing site.
 - xii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) **Restricted Site.** No cannabis manufacturing permittee shall open their manufacturing site to the public.
- i. No cannabis manufacturing permittee shall allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
 - ii. A manager must be on the manufacturing site at all times that any other person, except for security guards, is on the site.
 - iii. While on the manufacturing site, managers and staff of the cannabis manufacturing business must maintain evidence of their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the manufacturing site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
 - vi. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis manufacturing site.
 - vii. Cannabis manufacturing sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
- (j) **Location Requirements.** Cannabis manufacturing permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.360 Cannabis Microbusiness Permit Requirements

- (a) No person shall operate a cannabis microbusiness in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) **Permit Fee.** A cannabis microbusiness permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) All cannabis commercial activity that will be conducted by the permittee shall be included on the permit application. No additional cannabis activity can be conducted without applying for and receiving written permission from the City for that additional activity. Microbusinesses will count towards dispensary limit unless otherwise directed by the City Council.
- (d) **Location Requirements.** Cannabis microbusiness permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.370 Cannabis Non-Storefront (Delivery Only) Retailer Permit Requirements.

(a) Permit Required. No person shall operate a cannabis delivery only business in the City (without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) Permit Fee. A cannabis delivery-only permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) Permissible Delivery Locations and Customers. Cannabis delivery-only retailers are subject to the following requirements:

- i. Cannabis, cannabis products and cannabis accessories shall only be delivered to customers located at a residential address including a nursing or assisted living facility;
- ii. The delivery of Cannabis, cannabis products and cannabis accessories to any location or facility owned, leased or occupied by a public agency, including but not limited to, a public school, library, and community center, is expressly prohibited;
- iii. No deliveries shall be conducted on private property open to the public, including but not limited to, business and professional offices, retail stores and their adjoining parking lots, places of assembly, eating and drinking establishments.

(d) All cannabis and cannabis products being delivered shall be obtained from the site of the cannabis business that is authorized to deliver cannabis. No cannabis or cannabis products may be delivered from any other facility, such as a separate storage facility or a cannabis product manufacturing facility.

(e) No person delivering cannabis, cannabis products and cannabis accessories shall possess more than \$3,000 worth of cannabis and cannabis products at any time.

(f) The cannabis delivery only business shall use and maintain computer software to record the following information relating to each delivery:

- i. A delivery request that includes the date of the request, the full name of the person requesting the delivery, a specific description of the items requested, whether each item is a medical cannabis or adult-use cannabis product, and the address to which the items are to be delivered;
- ii. The name of the person who delivered the items; and
- iii. The date and time of the delivery.

(g) A person delivering cannabis or cannabis products on behalf of a cannabis non-storefront retailer shall carry the following items:

- i. A copy of the dispensary's current dispensary permit;
- ii. The person's government-issued identification;
- iii. Evidence of the person's City-issued cannabis employee permit; and
- iv. A copy of the delivery request as described in subsection (f).

(h) Upon demand of a peace officer or City employee authorized to enforce this chapter, a

person delivering cannabis or cannabis products pursuant to this section shall present the items listed in subsection (g) for examination.

(i) No person shall deliver cannabis to anyone except the person who requested the delivery. The person delivering the cannabis shall confirm compliance with sections 6.36.370 (g) (medical cannabis dispensing operations) and 6.36.370(f) (adult-use cannabis dispensing operations), as applicable, by inspecting the relevant identification and documentation before handing the cannabis or cannabis product to the customer.

(j) A cannabis delivery-only retailer shall maintain the information described in subsection (f) for at least three years on the site and shall produce the information to the city upon request.

(k) **Delivery-Only Vehicle Requirements.** Prior to commencing operations, a Cannabis Non-Storefront Retailer shall provide the City with all information requested by the Police Chief or designee(s) regarding the vehicles used to deliver cannabis to customers. Such information shall include, but not be limited to the following:

- i. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- ii. Proof of insurance as required in section 6.36.140 (b) for any and all vehicles being used to deliver cannabis or cannabis products.
- iii. The make, model, color, and license number of all vehicles owned or leased by the commercial cannabis retailer and used to deliver cannabis or cannabis products.

(l) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis delivery-only retailer site.

(m) **Location Requirements.** Cannabis non-storefront retail permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements.

(a) **Permit Required.** No person shall operate a cannabis storefront retailer in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) **Permit Fee.** A cannabis storefront retailer permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a storefront retailer and any related penalties.

(c) **Operating Hours.** The maximum hours of operation for a cannabis storefront retailer shall be established by the conditional use permit issued by the City, provided that the hours shall not exceed the maximum hours of operation allowed under state law.

(d) **Indoor Operations Only.** A cannabis storefront retailer permittee shall not allow cannabis, cannabis products, or cannabis accessories on the dispensary site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.

(e) **Restricted Access to Minors.** No person under 21 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver or in possession of a physician's recommendation in their name, for the use of cannabis for a specific ailment. No person under 18 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver, and they are accompanied by their parent or legal guardian.

(f) **Adult Use Only.** A cannabis storefront retailer with an A-license from the State shall only sell adult-use cannabis to persons who are 21 years of age or older, and who are in possession of a valid government-issued identification card.

(g) **Medical Cannabis Dispensing Operations.** A cannabis retailer that is expressly authorized to sell medical cannabis pursuant to this Chapter shall sell medical cannabis only to:

- i. Qualified patients with a currently valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid government-issued identification such as a Department of Motor Vehicles driver's license or State Identification Card; or
- ii. Primary caregivers with a verified primary caregiver designation by their qualified patients, a copy of their qualified patient's valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card.
- iii. No cannabis business that is expressly authorized to sell medical cannabis pursuant to this chapter shall have a physician on the dispensary site to evaluate patients or provide a recommendation for medical cannabis.

(h) **Maintenance of Medical Cannabis Records.** A cannabis retailer shall maintain records of the following information for each member and customer of the dispensary that purchases medical cannabis:

- i. The name, date of birth, physical address, and telephone number; and their status as a qualified patient or primary caregiver.
- ii. A copy of each qualified patient's written physician recommendation and their designation of a primary caregiver.
- iii. These records shall be maintained by the cannabis retailer for a period of not less than three years and shall be produced to the city within 24 hours after receipt of the City's request.
- iv. The storefront cannabis dispensary shall report any loss, damage or destruction of these records to the Police Chief within 24 hours of the loss, damage or destruction.

(i) **Cannabis Accessories.** A cannabis dispensary that is expressly authorized to sell cannabis pursuant to this chapter, whether medical cannabis or adult-use cannabis, may also sell cannabis accessories and display cannabis accessories.

(j) **Restrictions on Alcoholic Beverages.** No storefront cannabis dispensary or manager shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages; or operate a business on or adjacent to the dispensary site that sells alcoholic beverages.

(k) Site Requirements.

- i. Floor Plan. A cannabis storefront retailer must have a lobby waiting area at the entrance to receive persons to verify that they are members of that dispensary or are otherwise allowed to be on the dispensary site. A dispensary must also have a separate and secure area designated for selling cannabis, cannabis products, and cannabis accessories to its customers, provided that such secured areas do not violate the emergency egress requirements in the Building Code. The main entrance must be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets or sidewalks.
- ii. Storage. A cannabis storefront retailer must have adequate locked storage on the dispensary site, identified and approved as a part of the security plan, for after-hours storage of cannabis and cannabis products. Cannabis and cannabis products must be stored at the dispensary site in secured rooms that are completely enclosed and do not violate the emergency egress requirements in the Building Code or in a safe that is bolted to the floor.

(l) Signage. A cannabis storefront retailer shall post in the lobby of the dispensary site signs that state the following:

- i. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
- ii. A cannabis storefront retailer that is only authorized to sell medical cannabis must have a sign stating, "Medical cannabis sales only. Only qualified patients and primary caregivers may enter. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian."
- iii. A cannabis storefront retailer that is only authorized to sell adult-use cannabis must have a sign stating, "Adult-use cannabis sales only. Persons under 21 years of age are prohibited from entering."
- iv. A cannabis storefront dispensary that is authorized to sell both medical and adult-use cannabis must have a sign stating, "Medical and adult-use cannabis for sale. Persons under 21 years of age are prohibited from entering this property unless they are a qualified patient or a primary caregiver. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian." If separate rooms are provided for medical cannabis and adult-use cannabis, the signs may be posted next to each room as appropriate.
- v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons in the normal course of a transaction.
- vi. The signs must not obstruct the entrance or windows of the dispensary.
- vii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.

(m) Restricted Site.

- i. All entrances into a storefront cannabis dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- ii. A manager must be on the dispensary site at all times that any other person, except for security guards, is on the site.

- iii. While on the dispensary site, managers and staff of the cannabis dispensary permittee must maintain evidence of their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the dispensary site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (n) Cannabis Cultivation Prohibited. No cannabis storefront dispensary shall grow or cultivate cannabis, except for immature nursery stock cannabis plants, on the dispensary site.
- (o) Location Requirements. Cannabis storefront retail permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.390 Cannabis Testing Laboratory Requirements.

- (a) Permit Required. No person shall operate a cannabis testing laboratory business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis testing laboratory permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a cannabis testing laboratory and any related penalties.
- (c) Indoor Testing Only. A cannabis testing laboratory permittee shall only test cannabis in a fully enclosed building.
- (d) Site Requirements. A cannabis testing laboratory site shall comply with the following requirements:
- i. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times with entry controlled by the cannabis testing laboratory permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - ii. Testing area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - iii. Transport area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
 - iv. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (e) Signage. A cannabis testing laboratory permittee shall post in the lobby of the laboratory site signs that state the following:
- i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."

- iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - v. Each sign must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the testing site.
 - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (f) Restricted Site. No cannabis testing laboratory permittee shall open their laboratory site to the public.
- i. No cannabis testing laboratory permittee shall allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
 - ii. A manager must be on the laboratory site at all times that any other person, except for security guards, is on the site.
 - iii. While on the laboratory site, managers and staff of the cannabis testing laboratory permittee must maintain evidence of their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the laboratory site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- (g) Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis testing laboratory site.
- (h) Location Requirements. Cannabis testing laboratory permittees shall locate in a site consistent with Section 10.08.3196.

Article 5. – Enforcement.

Section 6.36.390. Promulgation of Regulations, Requirements, Standards and Other Legal Duties.

- (a) In addition to any regulations adopted by the City Council, the City Manager or designee is authorized to establish any additional regulations, requirements, and standards governing the issuance, denial or renewal of cannabis business permits; the operation of cannabis businesses that are necessary to protect the public health, safety and welfare; and the City's oversight of cannabis businesses, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter. Such regulations, requirements or standards shall take effect as determined by the City Manager or designee, and existing cannabis business permit holders shall comply as amended.
- (b) Regulations shall be published on the City's website.
- (c) Regulations promulgated by the City Manager or designee shall become effective as determined therein. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee.

Section 6.36.400. Fees Deemed Debt to City of Tracy.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Tracy that is recoverable via an authorized administrative process as set forth in the Tracy Municipal Code, or in any court of competent jurisdiction.

Section 6.36.410. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Tracy, whether committed by the permittee or any employee, volunteer, or agent of the permittee, which violations occur in or about the premises of the cannabis business, and violations which occur during deliveries to off-site locations, whether or not said violations occur within the permit holder's presence.

Section 6.36.420. Inspection and Enforcement.

(a) The City Manager or designee(s), Chief of Police or designee(s), and Fire Chief or designee(s) charged with enforcing the provisions of the Tracy Municipal Code, or any provision thereof, may enter the location of a cannabis business during normal business hours, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law.

Section 6.36.430. Compliance with State Regulations.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Tracy in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 6.36.440. Violations Declared a Public Nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

Section 6.36.450. Each Violation a Separate Offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Tracy Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, and any permit issued pursuant to this Chapter shall be deemed null and void, entitling

the City to disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity, including the imposition of a civil penalty not to exceed one thousand dollars (\$1000) for each day, or part thereof, such violation or failure to comply occurs. The City of Tracy may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Police Chief or designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Manager.

Section 6.36.460. Criminal Penalties.

Each and every violation of the provisions of this Chapter may be prosecuted as a misdemeanor at the discretion of the City Attorney and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 6.36.470. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

Section 6.36.480 Service of Notices.

All notices required by this chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the City Manager's office, or the mailing address on the appeal form; or the date upon which personal service of the notice is provided to the applicant or a manager identified on the application or appeal form.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3196 OF CHAPTER 10.08 "ZONING REGULATIONS" OF TITLE 10 "PLANNING AND ZONING" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LAND USE RESTRICTIONS ON COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish land use regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity, and

WHEREAS, This amendment seeks to establish zoning and locational requirements on commercial cannabis activity to ensure that these uses are compatible with the City's General Plan and zoning restrictions.

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 23, 2019 and recommended that the City Council approve the proposed amendments to Section 10.08.3196, and

WHEREAS, The City Council considered this ordinance at a duly noticed public hearing held on November 5, 2019.

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 amends Section 10.08.3196 as shown in Exhibit “A”.

SECTION 3. 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 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

SECTION 6. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov’t. Code §36933.)

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of November 2019, and finally adopted on the ____ day of _____, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Chapter 10.08 - Zoning Regulations

10.08.3196 – Cannabis Uses.

- (a) **Purpose and Intent.** The purpose of this section is to impose zoning restrictions on commercial and personal cannabis activities or uses. This section is not intended to give any person or entity authority to conduct commercial cannabis activities in the City of Tracy. If a commercial cannabis use is not specifically permitted in this Chapter it is not allowed in any zoning district within the City.
- (b) **Definitions.** Unless otherwise provided in this section, the definitions set forth in Chapter 10.08 (Zoning Regulations) and Chapter 6.36 (Commercial Cannabis Activity) 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) “Fully enclosed and secure structure” means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.
 - (3) “Outdoors” means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.
 - (4) “Personal use” shall mean an individual’s personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with state law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, as may be amended from time to time. Personal use does not include any commercial activity.
 - (5) “School” means those sites upon which full-time instruction in any of the grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the Planning Commission. “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.
 - (6) “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) Commercial Cannabis Uses.

- (1) All commercial cannabis uses are prohibited from operating in all zoning districts in the City, except as expressly permitted in this section as well as Chapter 6.36.
- (2) All commercial cannabis uses permitted by this section must, prior to establishing and commencing operations, obtain and maintain a City cannabis business permit pursuant to Chapter 6.36 and any other state or local license or permit, as applicable.
- (3) The following commercial cannabis uses are permitted to establish as a conditional use on property in the following zoning districts, subject to the granting of and compliance with terms of a City cannabis business permit pursuant to Chapter 6.36 and a conditional use permit issued pursuant to Section 10.08.4250:

(i) Storefront Retailer (dispensary):

a. Commercial Zone Districts:

Tracy Hills Specific Plan – General Highway Commercial (GHC-TH)

Tracy Hills Specific Plan – Mixed Use Business Park (MUBP-TH)

Residential Areas Specific Plan – Neighborhood Shopping (NS)

Residential Areas Specific Plan - General Highway Commercial (GHC)

Industrial Areas Specific Plan – Neighborhood Shopping (NS)

Industrial Areas Specific Plan – Village Center (VC)

Industrial Areas Specific Plan – Flex Office (FO)

Ellis Specific Plan – Limited Use (LU)

Ellis Specific Plan – Village Center (VC)

Northeast Industrial Areas Specific Plan – General Commercial (GC)

I-205 Corridor Specific Plan – Commercial Center (CC)

I-205 Corridor Specific Plan – Freeway Commercial (FC)
I-205 Corridor Specific Plan – General Commercial (GC)
I-205 Corridor Specific Plan – General Commercial 2 (GC2)
I-205 Corridor Specific Plan –Service Commercial (SC)
Cordes Ranch Specific Plan – General Commercial (GC)
Community Shopping Center (CS)
Neighborhood Shopping Center (NS)
General Highway Commercial (GHC)
Highway Service (HS)
Central Business District (CBD)
Community Recreation Support Zone (CRS)
Planned Unit Development –West Clover Rd (City Council ordinance 789 c.s.)
Planned Unit Development - Southeast corner of Grantline Road and Corral Hollow Road (City Council ordinance 697 c.s.)
Planned Unit Development – Northwest corner of 6th Street and C Street (City Council Resolution 2012-053)
Planned Unit Development – northwest corner of 11th Street and East Street (City Council ordinance 742 c.s.)

b. Industrial Zone Districts:

Tracy Hills Specific Plan – Light Industrial (M1-TH)
Industrial Areas Specific Plan – General Industrial (GI)
Industrial Areas Specific Plan – Limited Industrial (LI)
Northeast Industrial Areas Specific Plan – Light Industrial (LI)
I-205 Corridor Specific Plan – Light Industrial (LI)
Cordes Ranch Specific Plan – Business Park Industrial (BPI)
Light Industrial – M1
Heavy Industrial – M2

Planned Unit Development – West Larch Road (City Council ordinance 1083)

- (ii) Non-storefront retailer (Delivery), distribution, manufacturing, microbusiness, testing laboratory, indoor cultivation:

- a. Industrial Zone Districts:

- Tracy Hills Specific Plan – Light Industrial (M1-TH)

- Industrial Areas Specific Plan – General Industrial (GI)

- Industrial Areas Specific Plan – Limited Industrial (LI)

- Northeast Industrial Areas Specific Plan – Light Industrial (LI)

- I-205 Corridor Specific Plan – Light Industrial (LI)

- Cordes Ranch Specific Plan – Business Park Industrial (BPI)

- Light Industrial – M1

- Heavy Industrial – M2

- Planned Unit Development – 450 West Larch Road (City Council resolution)

- (d) **Location Requirements.**

- (1) Any commercial cannabis use shall be located at least 600 feet from any parcel containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care center, or youth center; and
 - (2) If located on separate parcels, the distance between the commercial cannabis use and the sensitive use property shall be measured from the outer boundaries of the sensitive use parcel to the closest structure containing a cannabis use, and
 - (3) If located on the same parcel, the distance between the structures containing the cannabis use and any sensitive use shall be at least 600 feet.

- (e) **Cultivation of Cannabis.**

- (1) All outdoor cultivation of cannabis within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.
 - (2) The indoor cultivation of cannabis shall comply with Chapter 6.36 and applicable state law. The cultivation of cannabis for personal use shall only be conducted indoor and in accordance with applicable state law.

(f) **Penalties.**

- (1) Violations of this chapter are hereby declared a public nuisance.
- (2) Violations of this section are punishable as misdemeanors and as otherwise set forth in Chapter 1.04 of this Code. Each day of operation of a commercial cannabis business or the outdoor cultivation of marijuana occurs, in violation of this section, constitutes a separate offense.

October 23, 2019

AGENDA ITEM 1.A

REQUEST

PUBLIC HEARING TO CONSIDER A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE AN AMENDMENT TO SECTION 10.08.3196 OF THE TRACY MUNICIPAL CODE REGARDING ESTABLISHING ZONING AND LOCATION REQUIREMENTS FOR COMMERCIAL CANNABIS BUSINESSES, APPLICATION NUMBER ZA19-0002

DISCUSSIONBackground

Currently, all commercial cannabis activity is prohibited in Tracy. The City Council provided direction to staff on February 5, 2019 to draft regulatory and zoning ordinances to permit commercial cannabis subject to certain limitations on cultivation and on the numbers of dispensaries, and further directed staff to research regulatory programs related to issuing permits to the industry. Through three separate workshops on August 13, September 3, and most recently on October 1, 2019, the City Council provided direction to staff to further develop cannabis regulatory and zoning requirements for its consideration.

City Council explored and provided feedback to staff regarding various locational considerations and cannabis business types and staff has prepared an amendment to the City's zoning ordinance responsive to that direction. An amendment to Section 10.08.3196 of the Tracy Municipal Code (TMC) would make certain cannabis business types conditionally permitted in various commercial and industrial areas, and would prohibit outdoor cultivation within the City limits. As conditionally permitted uses, operations of such businesses would only be allowed after Planning Commission issues a Conditional Use Permit, pursuant to TMC Section 10.08.4250.

Two-Track System of Regulations

The majority of the proposed regulations for commercial cannabis businesses will be established in amendments to Chapter 6.36 of the TMC. Together, the two ordinances (Chapter 6.36 and Chapter 10.08) would create a two-track system for addressing commercial cannabis. The first track (ordinance amending Chapter 6.36) addresses in the allowable cannabis business types, the operating procedures for the permitted cannabis businesses, the operating procedures specific to certain cannabis business types, and enforcement of those regulations. The second track (ordinance amending Chapter 10.08) involves where such dispensaries could be located and under what permit.

The first track, involving the cannabis regulatory requirements, would establish an application process to evaluate potential cannabis business operators. The proposed process would be managed and administered by the Tracy Police Department and involves review and permitting requirements in order for the City to select appropriate operators. The City has an interest in ensuring that the operators meet certain minimum criteria and that they and their employees undertake appropriate background checks before being able to operate in Tracy.

The second track would occur once an operator has successfully applied for and obtained approval by the Tracy Police Department. This second track is a proposed ordinance that establishes where cannabis dispensaries are permitted to be located

(allowable land uses) in the City.

The Planning Commission will only be making recommendations to Council regarding the proposed zoning amendment to Section 10.08.3196. However, for informational purposes the draft regulatory ordinance (Chapter 6.36) and the Council packet for the Council workshop on the draft regulatory ordinance has been included as Attachment A to this staff report.

Proposed Zoning Ordinance

The zoning ordinance establishes the following:

- Creates new definitions
- Allows retail storefront dispensaries in commercial and industrial zones
- Allows non-storefront retailer (delivery), distribution, manufacturing, microbusiness, testing laboratories, indoor cultivation of cannabis in industrial zones
- Prohibits outdoor cultivation of cannabis in all zones
- Maintains State law provisions that cannabis businesses must be 600 feet from day care centers, schools, and youth centers
- Establishes that the cultivation of cannabis for personal use shall only be conducted indoor and in accordance with State law
- Requires the approval of a Conditional Use Permit prior to establishing any cannabis business

CEQA Documentation

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Business and Professions Code Section 26055(h), which provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits or other authorizations to engage in commercial cannabis activity. This project is further exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As this is only a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council introduce an ordinance and approve the Tracy Municipal Code amendment regarding the proposed zoning amendment to Section 10.08.3196.

RECOMMENDED MOTION

Move that the Planning Commission recommend that the City Council approve the Tracy Municipal Code amendment regarding the proposed zoning amendment to Section 10.08.3196., as indicated in the Planning Commission Resolution dated October 23, 2019.

Prepared by: Bill Dean, Assistant Director of Development Services

Approved by: Andrew Malik, Assistant City Manager

ATTACHMENTS

- A – City Council workshop Packet from October 1, 2019 containing draft ordinance amending Chapter 6.36, Commercial Cannabis Activity

RESOLUTION 2019-018

RECOMMENDING THAT THE CITY COUNCIL
INTRODUCE AND ADOPT AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION
10.08.3196 REGARDING ESTABLISHING ZONING AND LOCATIONAL REQUIREMENTS FOR
COMMERCIAL CANNABIS,
APPLICATION NUMBER ZA19-0002

WHEREAS, On September 19, 2017, Tracy City Council adopted Ordinance 1240, prohibiting all commercial medicinal and adult-use cannabis activity in the city; thus, until further Council action via new or revised ordinances, all such activity, including the manufacturing, cultivation, distribution, testing, and any other cannabis activity licensed by the State of California is prohibited in Tracy, and

WHEREAS, On February 5, 2019, Tracy City Council directed staff to prepare an ordinance to allow commercial cannabis business to operate in the City's industrial locations, subject to a appropriate regulation and oversight by the City, and

WHEREAS, the City Council conducted workshops on August 13, 2019, September 3, 2019, and October 1, 2019 to establish appropriate regulations and procedures related to permitting commercial cannabis activities in the City

WHEREAS, The proposed amendments establish specific locational requirements and permit requirements for commercial cannabis activities, and

WHEREAS, The proposed ordinance is exempt from the California Environmental Quality ACT (CEQA) pursuant to Business and Professions Code Section 26055(h), which provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits or other authorizations to engage in commercial cannabis activity, and

WHEREAS, This project is further exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As this is only a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment, and

WHEREAS, On October 23, 2019, the Planning Commission conducted a public hearing to consider the ordinance;

NOW, THEREFORE, BE IT RESOLVED, That the Planning Commission hereby recommends the City Council introduce and adopt an ordinance to amend Tracy Municipal Code Section 10.08.3196 regarding establishing zoning and locational requirements for commercial cannabis activities as indicated in Exhibit 1, attached.

The foregoing Resolution 2019-018 was adopted by the Planning Commission on the 23rd day of October, 2019, by the following vote:

AYES:	COMMISSION MEMBERS: ATWAL, FRANCIS, WOOD, HUDSON
NOES:	COMMISSION MEMBERS: NONE
ABSENT:	COMMISSION MEMBERS: ORCUTT
ABSTAIN:	COMMISSION MEMBERS: NONE


CHAIR

ATTEST:


STAFF LIAISON

Proposed New Section 6.36.065 “Evidence of Cannabis Employee Background Check Required”

Section 6.36.065. Evidence of Cannabis Employee Background Check Required.

- (a) Any person who is an employee or who otherwise works within a commercial cannabis business must be legally authorized to do so under applicable state law.
- (b) Commercial cannabis business owners and operators shall be required to have all prospective employees submit to a criminal background check.
- (c) The criminal background checks completed by commercial cannabis business employers must at a minimum identify the following:
 - i. Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code 667.5, or equivalent offenses in other states;
 - ii. Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or;
 - iii. Whether the individual applying for employment has ever been convicted of a felony for the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, not including cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
 - iv. Whether the individual applying for employment has ever been convicted of a felony involving using a minor to transport or sell controlled substances, or furnishing same to a minor.
- (d) Evidence of a conviction of any the offenses enumerated in Section 6.36.065 (c) may be grounds for denial of employment. The City may reject an employee applicant based on the results of the criminal background check if the employee applicant has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. However, if the City determines that the employee applicant is otherwise suitable to be approved for employment, and granting the approval would not compromise public safety, the City shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the employee applicant to be approved for employment and issued a cannabis employee permit based on the evidence found through the review.
- (e) With the exception of Section 6.36.065(c) iii. and iv., a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, is not considered substantially related, and shall not be the sole ground for failure of an employee background check.

Attachment C

Alternative Language for Regulatory Ordinance for Background Checks for Employees
(Employer Conducts Background Check)

- (f) Employers who wish to hire an individual notwithstanding this rule shall apply to the Police Chief, who at his/her discretion may issue a written waiver. The employer or employee shall submit a statement of rehabilitation for each conviction. The statement of rehabilitation may contain evidence that the employer or employee would like the Police Chief to consider that demonstrates the employee's fitness for an employee work permit. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference. The Police Chief or designee's decision as to the selection of employee applicants shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.
- (f) Violation of this section shall be grounds for suspension of the business' operating permit.

AGENDA ITEM 3.G

REQUEST

ADOPT COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

EXECUTIVE SUMMARY

The City Council last adopted "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings" in April 2015 by Resolution No. 2015-052 (Attachment A). During Council's development of a Code of Ethics last fiscal year, Council expressed a desire to update these procedures to ensure Council meetings are conducted in an efficient and transparent manner.

On October 15, 2019, Council held a workshop to discuss the Council Meeting Protocols and Rules of Procedures ("Protocols") and provided direction to staff. Staff has revised the Protocols in accordance with that direction and now presents them to Council for further review and approval.

DISCUSSION

During Council's review of a Code of Ethics last fiscal year (FY 2018-2019), Council expressed a desire to update their Council meeting procedures to ensure Council meetings are conducted in an efficient and transparent manner. On July 16, 2019, the City Manager and City Attorney presented a proposed work plan to Council regarding various items relating to the Grand Jury's report, which included the presentation of these Protocols to Council on October 15, 2019.

Government Code section 36813 authorizes legislative bodies to establish rules for the conduct of their proceedings. These rules must comport with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950 et seq.) which applies to all meetings of "legislative bodies" within California, including the Tracy City Council and advisory boards and commissions.

A Council workshop was held on October 15, 2019 during which Council provided feedback and direction to staff about the proposed Protocols. The Protocols have been amended to be consistent with the direction given at that workshop. (Attachment B). The following sections were revised:

- Section 2.3: Re-ordered sentences.
- Section 3.4.2: Added citation to Government Code regarding remedies for violating the confidentiality of closed session discussions.
- Section 4.3.1: Added language about limiting discussions regarding placing items on the agenda to only two Council members if occurring outside of a Council meeting.
- Section 5.7.1: Changed maximum time limit for per speaker to five minutes and added a new Section 5.7.1.1 regarding the maximum time allowed per speaker being reduced to three minutes if there are more

than 15 people wishing to speak on any agenda item. Similar change made to Section 5.8.

- Section 5.14.1: Added clarifying language encouraging Council to disclose the reason for an abstention prior to Council engaging in discussion on that item.
- Section 6.1: Added clarifying language regarding items that are within the Council's subject matter jurisdiction.
- Section 6.4: Adding citation to Penal Code section 403 regarding disruptive conduct at a public meeting.

Other changes made by staff include removing the summary of motions under Rosenberg's Rules of Order as an appendix and fixing typographical errors. The summary of motions document ("cheat sheet") will be prepared after a training is held on Rosenberg's Rules. That training will be open to Council and all boards and commissions.

Staff requests that Council review and adopt the revised Protocols and also rescind Resolution No. 2015-052.

STRATEGIC PLAN

This is a routine operational item and is not related to any of the Council Strategic Plans.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That the City Council adopt, by resolution, the proposed Council Meeting Protocols and Rules of Procedure and rescind Resolution No. 2015-052.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Adrienne Richardson, City Clerk

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

A – Resolution No. 2015-052

B – Proposed Council Meeting Protocols and Rules of Procedure

C - Rosenberg's Rules of Order

RESOLUTION 2015-052

RESCINDING RESOLUTION 2015-012 AND
ESTABLISHING UPDATED COUNCIL POLICIES AND PROCEDURES

WHEREAS, On January 20, 2015, the Tracy City Council adopted Resolution 2015-012 which revised the City Council Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings ("City Council Policies and Procedures"), and

WHEREAS, On April 7, 2015, the City Council amended the City Council Policies and Procedures to establish a new policy for Council Member requests for matters to be discussed by Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council rescinds Resolution 2015-012 and adopts the Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings attached as Exhibit "A."

The foregoing Resolution 2015-052, was passed and adopted by the Tracy City Council on the 7th day of April, 2015, by the following vote:

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

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

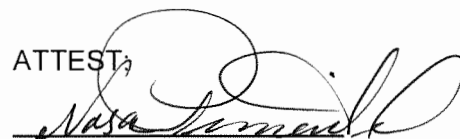
ATTEST:

CITY CLERK

EXHIBIT A

PROCEDURES FOR PREPARATION, POSTING AND DISTRIBUTION OF AGENDA AND THE CONDUCT OF PUBLIC MEETINGS (Exhibit "A" to Resolution No. 2015-052)

Applicability

The procedures outlined below relating to the preparation, posting and distribution of agendas apply to the City Council, the Successor Agency to the Community Development Agency, the South County Fire Authority, the Public Facilities Corporation, the Tracy Operating Partnership Joint Powers Authority, and all City Boards, Commissions, and Committees. The procedures outlined below relating to the conduct of Council meetings apply only to the City Council. All City Council meetings shall be open to the public; however, the City Council may hold closed sessions as authorized by state law.

A. Preparation, Posting and Distribution of Agenda

Purpose of Agenda

The agenda process serves four purposes:

- As a communication mechanism, the agenda informs City staff, City Council, the public and the press.
- As a compliance mechanism, the agenda process ensures compliance with mandated state laws.
- As a decision-making mechanism, the agenda process regularly brings City business to the City Council for consideration and action. Agenda items should contain enough background information so City Council can obtain a full understanding of the issues. The agenda item should conclude with a staff recommendation so City Council has the benefit of staff input prior to making a final decision.
- As a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

Agenda

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. Staff shall work within the policies established by Council and not place matters on the agenda that are outside the scope of existing work programs and priorities except as approved by a majority of the Council, or matters necessary to the proper operation and well-being of the City.

The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

Procedures for Preparation, Posting and Distribution of Agenda
and the Conduct of Public Meetings
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Distribution of Agenda

At a minimum the posting and distribution of all agendas shall be done in accordance with the Ralph M. Brown Act ("Brown Act") (California Government Code sections 54950 et seq.). Agendas for regular meetings shall be posted 72 hours prior to the meeting; special meeting agendas shall be posted not less than 24 hours prior to the meeting. All agendas shall be posted in the following locations: City Hall, the library, the City's website, and other locations as may be required by a particular Board or Commission's Bylaws. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

The agenda packets are provided to City Council Members on the Thursday (or Friday) prior to City Council meeting. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. The City will provide, by mail, a copy of the agenda cover sheet and the specific item relating to any individual and/or company which has an item on any given Council agenda.

Agenda subscriptions are available from the City Clerk's Office, 333 Civic Center Plaza, Tracy, (Tel: 209/831-6105). Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. Copies of the agenda are also available at the Library and the agenda is posted on the City's website www.ci.tracy.ca.us.

Public Access to Written Materials after the Agenda has been Posted or Distributed at Council Meetings

On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agendized item or handed out during Items from the Audience. Upon the Council receiving these written materials they become a public record. For materials related to an agendized item, a copy will be kept on file at the City Clerk's Office and will typically be posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

B. Conduct of Council Meetings

Council Meetings

Council meetings are held on the first and third Tuesdays of the month, unless the meeting date falls on a holiday as defined in California Government Code Section 6700. No meeting shall be held on such a holiday, but a regular meeting shall be held at 7:00 p.m. on the next business day thereafter, as required by California Government Code Section 54954. Special meetings are scheduled as necessary.

Council meetings are broadcast live on Channel 26. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m. and every Saturday at 9:00 a.m. on Channel 26. Videotapes and DVD recordings of City Council meetings are available at costs established in the City's Master Fee Schedule.

Order of Business

The suggested order of business of Council meetings shall be as follows. However, the City Manager may make exceptions to the order as needed.

1. Roll Call
2. Pledge of Allegiance
3. Invocation
4. Proclamations and Awards
5. Consent Calendar
6. Items from the Audience
7. Continued Public Hearings
8. New Public Hearings
9. Regular Items including Introduction and Second Readings of Ordinances
10. Items from the Audience
11. Staff Items
12. Council Items
13. Adjournment

The regular order of business may be changed or suspended for any purpose at any particular meeting by the Mayor.

The Council may determine whether it will consider any new items after 11:00 p.m. and shall determine which specific items will be considered. If an item is continued due to the lateness of the hour, the item shall be automatically placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.

Consent Calendar

All items listed on the Consent Calendar are considered to be routine matters 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 members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Public Access/Items from the Audience

It is the policy of the City Council that members of the public be allowed to address the Council on any agenda item or other matter within the Council's jurisdiction. Each member of the public will be allowed a maximum of five minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The Mayor shall request that individuals addressing the Council state their names and addresses for the record, to ensure accuracy in the minutes and for contact information. An individual's failure to state his or her name or address shall not preclude the individual from addressing the Council. The public shall be given an opportunity to speak on "Items of Interest to the Public." Agendas for regular meetings will have two opportunities for "Items from the Audience." The first opportunity will be limited to a 15-minute maximum period. The second opportunity will not have a maximum time limit. The five minute maximum time limit per speaker will apply to all "Items from the Audience." The City Clerk shall be the timekeeper.

Non-Agendized Items (Items from the Audience and Council Items)

No matters, other than those on the posted agenda, shall be acted upon by the Council. However, items may be added to the agenda (such as emergency matters) as permitted in the

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Brown Act. Brief announcements, brief responses or questions for clarification, may be made to statements or questions raised on items not on the agenda.

Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need if permitted under state law.

Council Member Request for Matters to be Discussed by Council

Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items," or by contacting the City Manager, or his/her designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations and the effect on City Council established priorities.

Members of the Public - Request for Agenda Items

When a member of the public raises an item at a Council meeting which requires attention, such items shall be referred to staff for follow-up. If the requesting member of the public is not satisfied with staff's response to his/her question, the member of the public may request a Council Member to sponsor his/her item for discussion at a future Council meeting. In such cases, the sponsoring Council Member shall follow those procedures described under "Council Member Request for Agenda Items." Placing an item from a member of the public on a Council agenda does not imply or guarantee a decision or action different from that taken by staff in the initial follow-up to the question or request.

Public Hearings

Public hearings are required for a variety of City Council actions such as most changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The City Clerk shall be the timekeeper.

Presentations to the Council

Letters and written communications: Speakers are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Letters submitted with a request that they be read into the record will be done so only upon a request of the majority of the Council.

PowerPoint (or similar): Staff and members of the public who wish to make PowerPoint, Video or similar presentations to the Council will utilize the City's audio/visual equipment. Staff and members of the public are required to provide the City Clerk's Office with the DVD/CD/Video (or email copy) of the presentation no later than 24 hours prior to the Council meeting.

Additionally, eight hard copies of the presentation material shall be provided to the City Clerk's Office for inclusion in the record of the meeting and for distribution to Council, City Attorney and City Manager.

Americans with Disabilities Act

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

Workshops

The purpose of a workshop is to inform the policy body on complex issues. Workshops provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items.

Procedure for Invocations

Any member of the public who wishes to offer an invocation prior to the opening of a regular City Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.

Minutes

The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.

No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Government Code Section 54957.1.

The City Clerk shall include a report on posting of the agenda in the minutes.

Rules of Decorum – Enforcement

While the Council is in session, all persons shall preserve the order and decorum of the session. The standards of order and decorum shall be governed by common sense. Any person who disrupts the orderly course of the meeting is guilty of an infraction and may be called out of order by the Mayor and barred from further participation during that session of the Council in accordance with the Brown Act and the California Penal Code.

(Exhibit "A" to Resolution No. 2015-052)



COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

Adopted by Resolution No. 2019-_____

City of Tracy – Council Meeting Protocols and Rules of Procedures

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City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 1 –Purpose and Applicability

1. Purpose and Applicability

- 1.1. The purpose of these Council Meeting Protocols and Rules of Procedures (“Protocols”) are to provide clear guidelines to assist the City Council, staff and the public to conduct meetings in an efficient and transparent manner and in accordance with the Ralph M. Brown Act (“Brown Act”; Government Code sections 54950-54963) and all applicable laws.¹ These Protocols are adopted pursuant to Section 36813. In the event of a conflict between the Brown Act and these Protocols, the Brown Act shall control.
- 1.2. These Protocols shall apply to the City Council, the Successor Agency to the Community Development Agency, the Tracy Public Facilities Corporation, the Tracy Industrial Development Authority, and all City Boards, Commissions, and Committees.
- 1.3. Suspension of Protocols. Any rule set forth herein may be suspended by a supermajority vote of Council.
- 1.4. Review and Changes to Protocols. These Protocols shall be reviewed by December 31st of every odd numbered year. A majority vote of the Council shall be necessary to amend these Protocols.
- 1.5. A copy of these Protocols shall be available for public review at the City Clerk’s Office and City’s website (www.cityoftracy.org).

¹ All references to statutes are to the California Government Code unless otherwise specified.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 2 –Duties (Roles and Responsibilities)

2. Roles and Responsibilities' at Council Meetings

- 2.1. Mayor. The Mayor is the Presiding Officer of all meetings of the Council. The Presiding Officer is the primary, but not the only, person responsible for ensuring that the Council, staff, and members of the public adhere to these Protocols during Council meetings. (Section 36802). The Chair of a City board or commission shall act as the Presiding Officer.
- 2.2. Mayor Pro Tem. The Mayor Pro Tem shall serve as the Presiding Officer in the absence of the Mayor. Upon arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the role of Presiding Officer at the conclusion of the business then before Council. (Section 36802) The Vice Chair of a City board or commission shall act as the Presiding Officer in the absence of the Chair.
- 2.3. Council. All members of Council shall comply with the Council Code of Conduct at meetings. Newly elected Council members shall be sworn in and seated at the first regular Council meeting after receipt of the certified election results from the County Registrar of Voters.
- 2.4. Sergeant-at-Arms. The Sergeant-at-arms is the law enforcement official charged with maintaining security during meetings of the Council. The Sergeant-at-arms of the Council shall be a police officer assigned by the Police Chief. There shall be at least one member so assigned and present at each meeting of the Council. The officer shall maintain order and enforce the orders of the Council and Presiding Officer.
- 2.5. City Manager. Pursuant to the Council-Manager form of government established by Chapter 2.08 of the Tracy Municipal Code, the City Manager sets the Council agenda and once published, may withdraw an item(s). The City Manager may consult with the Mayor regarding the development of the agenda.
- 2.6. City Clerk. The City Clerk shall attend all meetings of the Council unless excused. The Deputy City Clerk shall attend Council meetings in the City Clerk's absence. The City Clerk shall record, prepare, and maintain the official records of the Council and perform other duties as directed by the City Manager. (Section 36804)
 - 2.6.1. Minutes. The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.
 - 2.6.1.1. No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Section 54957.1.

City of Tracy – Council Meeting Protocols and Rules of Procedures

- 2.6.1.2. The City Clerk shall include a report on posting of the agenda in the minutes.
- 2.7. City Staff. City staff shall (a) prepare balanced staff reports and provide accompanying documents on all agenda items in accordance with the agenda preparation schedule; (b) be available for questions from Council in accordance with the Brown Act prior to and during meetings; and (c) respond to questions from the public during meetings only when requested to do so by the Council or the City Manager.
- 2.8. City Attorney. The City Attorney shall attend all meetings of the Council unless excused. The Assistant City Attorney shall attend Council meetings in the City Attorney's absence. The City Attorney shall give opinions upon request from Council, either in writing or verbally, on questions of law. The City Attorney shall advise the Council at meetings on legal issues, including these Protocols.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 3 – Meeting Types

3. Council Meeting Types

- 3.1. Regular Meetings. Regular Council meetings are held on the first and third Tuesdays of the month at 7:00 p.m. at City Hall Council Chambers, 333 Civic Center Plaza, Tracy, California 95376, unless otherwise noticed and as allowed under Section 54954. No meeting shall be held on a holiday as defined by Section 6700. (Section 36805)
- 3.2. Special Meetings. The City Manager, Mayor, or a majority of the members of Council may call a special meeting. (Section 54956). The City Attorney is also authorized to call a special meeting for the sole purpose of convening a closed session in accordance with the Brown Act. (Section 36807)
- 3.3. Workshops. The purpose of a workshop is to inform Council of complex issues and provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items. Workshops are open to the public and are meetings for the purpose of the Brown Act.
- 3.4. Closed Sessions.
 - 3.4.1. Closed sessions shall be held in accordance with the Brown Act. Non-agendized matters shall not be discussed in closed session. Closed sessions may precede or follow a Council meeting.
 - 3.4.2. All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at the closed session. Any member sharing information in violation of this rule may be subject to censure by the Council or other legal remedies as set forth in Section 54963.
 - 3.4.3. The public may speak regarding any closed session item prior to the closed session as required by the Brown Act.
 - 3.4.4. The Presiding Officer shall report out in public session any reportable actions there taken by Council and the vote on such actions in accordance with the Brown Act.
- 3.5. Teleconferenced Meetings. The City Council may hold a meeting by teleconference, meaning a meeting of the Council in which members are in different locations and connected by electronic means, through either audio or video, or both. Any teleconference meeting of the Council must be comply with the requirements under Section 54953, including but not limited to the requirement that all votes taken shall be by roll call.
- 3.6. Emergency Meetings. In the case of an emergency as defined by Section 54956.5, as may be amended from time to time, a majority of Council may call a meeting and dispense

City of Tracy – Council Meeting Protocols and Rules of Procedures

with the special meeting notice and posting requirements under the Brown Act. Any emergency meeting held shall comply with the applicable Brown Act provisions.

- 3.7. The City Clerk shall ensure that the applicable noticing and posting requirements under the Brown Act are followed for all meetings of the Council.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 4 – Meeting Agendas

4. Meetings Agendas

4.1. Purpose of Agenda. The Council meeting agenda documents serve four purposes:

- To communicate and inform City Council, City staff, the public and the press about City business.
- To comply with mandated state laws.
- To facilitate the decision-making process by including sufficient background information so that the City Council can obtain a full understanding of the issues and staff's analysis and recommendation prior to their consideration and action.
- To serve as a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

4.2. Posting and Distribution of Agendas. At a minimum the posting and distribution of all agendas shall be done in accordance with the Brown Act. Agendas for regular meetings shall be posted not less than 72 hours prior to the meeting (Section 54954.2(a)(1)); special meeting agendas shall be posted not less than 24 hours prior to the meeting (Section 54956).

4.2.1. All agendas shall be posted in the following locations: City Hall, the Tracy Library, the City's website, and other locations as may be required by the bylaws of a particular Board or Commission. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

4.2.2. Agenda packets are provided electronically to City Council Members on the Thursday prior to a City Council meeting unless technical difficulties occur. If technical difficulties occur, the City Clerk will endeavor to provide Council with hard copies of the agenda as soon as reasonably possible. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. Members of the public may sign up to receive notification that a Council meeting agenda has been posted on the City's website (www.cityoftracy.org). The City Clerk will mail copies of the agenda or particular agenda items to any person submitting a request. (Section 54954.1) Said requests will be valid for one year. Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. Copies of the agenda are also available for inspection at the Tracy Library and City Clerk's office. Agendas for Council meetings are posted on the City's website (www.cityoftracy.org).

City of Tracy – Council Meeting Protocols and Rules of Procedures

4.3. Agenda Item Submission

4.3.1. Council Member Request for Agenda Items. Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items and Comments," or by contacting the City Manager, or their designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. In the interest of transparency and Brown Act compliance, Council is encouraged to limit discussions outside of Council meetings about requests to support agenda items to a maximum of two Council Members.

4.3.1.1. The City Manager shall notify the rest of Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations.

4.3.2. Other Public Agencies. Agenda items such as presentations and proposals from other public entities must be sponsored for agenda placement by two Council members or the City Manager.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 5 –Conduct of Meetings

5. Conduct of Meetings

- 5.1. Order of Business. The suggested order of business of Council meetings shall be as follows. However, the Mayor may reorder the items unless a majority of Council members object.
1. Call to Order
 2. Roll Call
 3. Pledge of Allegiance
 4. Invocation
 5. Presentations/Proclamations and Awards
 6. Consent Calendar
 7. Items from the Audience/Public Comment
 8. Continued Public Hearings
 9. Public Hearings
 10. Regular Items
 11. Items from the Audience/Public Comment
 12. Staff Items
 13. Council Items and Comments
 14. Adjournment
- 5.2. Call to Order. The Presiding Officer shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
- 5.3. Roll Call. A majority of the members of the Council then in office shall constitute a quorum. (Section 36810)
- 5.4. Invocations. Any member of the public who wishes to offer an invocation prior to the opening of a regular Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.
- 5.5. Presentations/Proclamations and Awards. This portion of the Agenda is dedicated for presentations, such as proclamations and awards, employee of the month recognitions, board and commission recognitions, and employee swearing-ins, and shall be limited to a 15-minute maximum period.
- 5.6. Consent Calendar. All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction, such as resolutions confirming action from a previous meeting or the adoption of an ordinance previously introduced by Council. 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.
- 5.7. Items from the Audience/Public Comment. It is the policy of the City Council that members of the public be allowed to address the Council on any item of interest to the

City of Tracy – Council Meeting Protocols and Rules of Procedures

public, before or during its consideration of that item, that is within the Council's subject matter jurisdiction. (Section 54954.3(a)).

5.7.1. Agendas for regular meetings will have two opportunities for "Items from the Audience/Public Comment." (Section 54954.3(a)). In the interest of allowing Council to have adequate time to address the agenda items of business, the first public comment opportunity will be limited to a 15-minute maximum period. (Section 54954.3(b)). The second opportunity will not have a maximum time limit. **A five-minute maximum time limit per speaker will apply to all individuals speaking during the "Items from the Audience/Public Comment" portion of the agenda.** The City Clerk shall be the timekeeper. Speakers may not concede any part of their allotted time to another speaker.

5.7.1.1. **However, 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**

5.7.2. Each speaker shall avoid repetition of the remarks of the prior speakers, and when speaking under a specific agenda item, shall speak only to that agenda item. 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.

5.7.3. Speaker Cards. 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. (Section 54953.3)

5.8. Public Hearings. Public hearings are required for a variety of City Council actions such as changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five minutes for public input or testimony. **However, in the event there are 15 or more individuals wishing to speak regarding a public hearing item, the maximum amount of time allowed per speaker will be three minutes.** The City Clerk shall be the timekeeper.

5.8.1. Public Hearings for Land Use and Other Matters. The Presiding Officer may designate individuals as the "Proponent/Appellant" or "Opponent" and provide each with additional time for comments and the opportunity to present a rebuttal.

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- 5.9. Regular Items. This portion of the Agenda is for non-public hearing agenda items that require Council action or direction such as status or informational reports from staff and Council requests for agenda items.
- 5.10. Staff Items. This portion of the agenda provides an opportunity for the City Manager, City Attorney, and City staff to provide information of community interest to the City Council.
- 5.11. Council Items and Comments. This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended, as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during "Items from the Audience/Public Comment." Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.
- 5.12. Adjournment. If a Council meeting is still in session at 11:00 p.m., the Presiding Officer shall ask the question of whether Council desires to consider any new items after 11:00 p.m. Council shall determine, by motion, which specific items will be considered or continued. City Manager shall inform Council of any time sensitive items. Any item continued due to the lateness of the hour shall automatically be placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.
- 5.13. Non-Agendized Items. The Brown Act prohibits Council from discussing or acting upon any non-agendized matter, unless an exception under Section 54954.2 applies. For non-agendized items, Council members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff person; or request that the matter be placed on a future agenda or that staff provide additional information to Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses, or questions seeking clarifications, may be made to statements or questions raised on items not on the agenda (Section 54954.2(a)(3)). Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need if permitted under state law.

City of Tracy – Council Meeting Protocols and Rules of Procedures

- 5.14. Voting Requirements. All ordinances, resolutions, and orders for payment of money require a majority vote of the total membership of the Council in accordance with Section 36936, unless otherwise required by state law.
- 5.14.1. It is a best practice that all Council members vote on every item of business unless prevented from doing so by virtue of an actual or potential conflict of law or other valid abstention under applicable laws. **Council Members are encouraged to disclose the reason for that abstention prior to Council engaging in discussion on that item.**
- 5.15. Parliamentary Procedures. Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century unless otherwise specified herein. (Appendix A - Rosenberg's Rules of Order, Revised 2011, as may be amended).
- 5.15.1. Point of Order. Any Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on matter. Any member can move to appeal the Presiding Officer's ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote.
- 5.16. Written Communications from the City and the Public. The City Clerk shall manage communications to members regarding meeting topics to ensure compliance with the Brown Act.
- 5.16.1. Except for records exempt from disclosure under the California Public Records Act and otherwise by law, agendas or any other writings distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public, and shall be made available upon request without delay.
- 5.16.2. Materials distributed to the members during the meeting shall be available for viewing by the public during the meeting if the materials were prepared by the City or a Council member, or posted on the City's website within 48 hours the conclusion of the meeting if prepared by another person.
- 5.17. Written Materials after the Council Agenda has been Distributed. On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agenda item or handed out during "Items from the Audience/Public Comment." Upon the Council receiving these written materials they become a public record. For materials related to an agenda item, a copy will be kept on file at the City Clerk's Office and will typically be posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

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5.17.1. Any materials about an agenda item that are received less than 72 hours before a Council meeting that are distributed to a majority of Council will be made available at the Council meeting for the public to review.

5.17.2. Interested parties or their authorized representatives may address the Council by written communications regarding agenda items.

5.17.2.1. Documents (6 copies are recommended) that members of the public submit to the City Council at the meeting shall be given directly to the City Clerk for distribution and shall not be given directly to the Council. The documents will be available to the public on the City's website within 48 hours of the conclusion of the meeting.

5.18. Compliance with the Americans with Disabilities Act (ADA). The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Clerk's Office at (209) 831-6105 at least 24 hours prior to the meeting.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 6 – Conduct of the Public

6. Conduct of the Public

- 6.1. Purpose of Public Comment. The City, in accordance with the Brown Act, provides the public the opportunity to address the Council body as a whole and express their opinions regarding agenda items and non-agenda matters within the subject matter jurisdiction of the City Council. (Section 54954.3) **Items are generally considered to be within the Council's subject matter jurisdiction if they are within the City Council's purview.**
- 6.1.1. Nothing in these Protocols shall be construed as prohibiting public criticism of the City's policies, procedures, programs or services, or the acts or omissions of the Council. However, these Protocols are not intended to confer any privilege or protection for expression beyond that otherwise provided by law. (Section 54954.3(c)).
- 6.1.2. Public comments should not be addressed to individual Council members nor City staff, but rather to the Council as a whole.
- 6.1.3. While members of the public may speak their opinions on City business, personal attacks on members and City officials, use of swear words, and verbal or non-verbal signs or displays of disrespect for individuals are discouraged as they impede good communication with the Council.
- 6.1.4. Consistent with the Brown Act, the Council is limited in its ability to respond to public comments regarding non-agenda matters. The limited circumstances under which members may respond to public comments are set out in Rule 5.13.
- 6.2. In the interest of conducting an efficient meeting, the Presiding Officer may stop a member of the public whose comments are not confined to the agenda item being heard. In addition, during the "Items from the Audience/Public Comment" portion of the agenda, the Presiding Officer may stop a member of the public whose comments are not within the subject matter jurisdiction of the City.
- 6.3. Rules of Decorum. While the Council is in session, no person in the audience at a Council meeting shall engage in conduct that disrupts the orderly conduct of a Council meeting, including, but not limited to, the utterance of loud, threatening or abusive language, refusing to abide speaker time limits and leave the podium when directed; whistling, clapping, stamping of feet, yelling or shouting or interrupting a speaker who is addressing the Council; repeated waving of arms; or other disruptive acts.
- 6.4. Any person who disrupts the orderly course of the meeting may be issued a criminal citation **pursuant to Penal Code section 403 and/or** called out of order by the Presiding Officer and barred from further participation during that session of the Council in accordance with the Brown Act.

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- 6.4.1. All persons attending a Council meeting shall obey any lawful order or direction of the Presiding Officer or Sergeant-at-Arms.
- 6.4.2. The Sergeant-at-arms shall assist the Presiding Officer in enforcing these rules of decorum at Council meetings, including but not limited, removing disruptive audience members. Additionally, any Council member may at any time call for a point of order, to request the timely enforcement of these rules of decorum.
- 6.5. Location of Speaker. Members of the public wishing to address the Council must approach the podium when recognized by the Presiding Officer and shall speak only from the podium.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 7 – Miscellaneous

7. Miscellaneous

- 7.1. Conflicts of Interests. It is the responsibility of every Council member to disclose conflicts of interest in accordance with state and local conflict of interest laws.
- 7.2. Proclamations. The Mayor issues proclamations to provide special recognition by the City to an individual, event, issue etc. Proclamations are not statements of policy and do not require the official approval or action of Council.
- 7.3. Broadcasting of Council Meetings. Generally Council meetings are broadcast live on Channel 26 and the City's website (www.cityoftracy.org), unless technical difficulties make that infeasible. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m., every Thursday at 10:00 a.m., and every Saturday at 9:00 a.m. on Channel 26.
 - 7.3.1. Recordings of Council meetings shall be accessible on the City's website (www.cityoftracy.org) by the end of the following business day. DVD recordings of Council meetings are available at costs established in the City's Master Fee Schedule.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Appendices

A. Rosenberg's Rules of Order



Rosenberg's Rules of Order

REVISED 2011

Simple Rules of Parliamentary Procedure for the 21st Century

By Judge Dave Rosenberg



MISSION AND CORE BELIEFS

To expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

VISION

To be recognized and respected as the leading advocate for the common interests of California's cities.

About the League of California Cities

Established in 1898, the League of California Cities is a member organization that represents California's incorporated cities. The League strives to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. In addition to advocating on cities' behalf at the state capitol, the League provides its members with professional development programs and information resources, conducts education conferences and research, and publishes Western City magazine.

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ABOUT THE AUTHOR

Dave Rosenberg is a Superior Court Judge in Yolo County. He has served as presiding judge of his court, and as presiding judge of the Superior Court Appellate Division. He also has served as chair of the Trial Court Presiding Judges Advisory Committee (the committee composed of all 58 California presiding judges) and as an advisory member of the California Judicial Council. Prior to his appointment to the bench, Rosenberg was member of the Yolo County Board of Supervisors, where he served two terms as chair. Rosenberg also served on the Davis City Council, including two terms as mayor. He has served on the senior staff of two governors, and worked for 19 years in private law practice. Rosenberg has served as a member and chair of numerous state, regional and local boards. Rosenberg chaired the California State Lottery Commission, the California Victim Compensation and Government Claims Board, the Yolo-Solano Air Quality Management District, the Yolo County Economic Development Commission, and the Yolo County Criminal Justice Cabinet. For many years, he has taught classes on parliamentary procedure and has served as parliamentarian for large and small bodies.

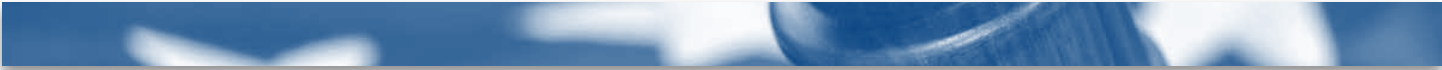


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INTRODUCTION

The rules of procedure at meetings should be simple enough for most people to understand. Unfortunately, that has not always been the case. Virtually all clubs, associations, boards, councils and bodies follow a set of rules — *Robert's Rules of Order* — which are embodied in a small, but complex, book. Virtually no one I know has actually read this book cover to cover. Worse yet, the book was written for another time and for another purpose. If one is chairing or running a parliament, then *Robert's Rules of Order* is a dandy and quite useful handbook for procedure in that complex setting. On the other hand, if one is running a meeting of say, a five-member body with a few members of the public in attendance, a simplified version of the rules of parliamentary procedure is in order.

Hence, the birth of *Rosenberg's Rules of Order*.

What follows is my version of the rules of parliamentary procedure, based on my decades of experience chairing meetings in state and local government. These rules have been simplified for the smaller bodies we chair or in which we participate, slimmed down for the 21st Century, yet retaining the basic tenets of order to which we have grown accustomed. Interestingly enough, *Rosenberg's Rules* has found a welcoming audience. Hundreds of cities, counties, special districts, committees, boards, commissions, neighborhood associations and private corporations and companies have adopted *Rosenberg's Rules* in lieu of *Robert's Rules* because they have found them practical, logical, simple, easy to learn and user friendly.

This treatise on modern parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Rules should establish order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Rules should be clear.** Simple rules lead to wider understanding and participation. Complex rules create two classes: those who understand and participate; and those who do not fully understand and do not fully participate.
3. **Rules should be user friendly.** That is, the rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Rules should enforce the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, majority rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

Establishing a Quorum

The starting point for a meeting is the establishment of a quorum. A quorum is defined as the minimum number of members of the body who must be present at a meeting for business to be legally transacted. The default rule is that a quorum is one more than half the body. For example, in a five-member body a quorum is three. When the body has three members present, it can legally transact business. If the body has less than a quorum of members present, it cannot legally transact business. And even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs (or even when a member leaves the dais). When that occurs the body loses its ability to transact business until and unless a quorum is reestablished.

The default rule, identified above, however, gives way to a specific rule of the body that establishes a quorum. For example, the rules of a particular five-member body may indicate that a quorum is four members for that particular body. The body must follow the rules it has established for its quorum. In the absence of such a specific rule, the quorum is one more than half the members of the body.

The Role of the Chair

While all members of the body should know and understand the rules of parliamentary procedure, it is the chair of the body who is charged with applying the rules of conduct of the meeting. The chair should be well versed in those rules. For all intents and purposes, the chair makes the final ruling on the rules every time the chair states an action. In fact, all decisions by the chair are final unless overruled by the body itself.

Since the chair runs the conduct of the meeting, it is usual courtesy for the chair to play a less active role in the debate and discussion than other members of the body. This does not mean that the chair should not participate in the debate or discussion. To the contrary, as a member of the body, the chair has the full right to participate in the debate, discussion and decision-making of the body. What the chair should do, however, is strive to be the last to speak at the discussion and debate stage. The chair should not make or second a motion unless the chair is convinced that no other member of the body will do so at that point in time.

The Basic Format for an Agenda Item Discussion

Formal meetings normally have a written, often published agenda. Informal meetings may have only an oral or understood agenda. In either case, the meeting is governed by the agenda and the agenda constitutes the body's agreed-upon roadmap for the meeting. Each agenda item can be handled by the chair in the following basic format:



First, the chair should clearly announce the agenda item number and should clearly state what the agenda item subject is. The chair should then announce the format (which follows) that will be followed in considering the agenda item.

Second, following that agenda format, the chair should invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.

Third, the chair should ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.

Fourth, the chair should invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input. If numerous members of the public indicate a desire to speak to the subject, the chair may limit the time of public speakers. At the conclusion of the public comments, the chair should announce that public input has concluded (or the public hearing, as the case may be, is closed).

Fifth, the chair should invite a motion. The chair should announce the name of the member of the body who makes the motion.

Sixth, the chair should determine if any member of the body wishes to second the motion. The chair should announce the name of the member of the body who seconds the motion. It is normally good practice for a motion to require a second before proceeding to ensure that it is not just one member of the body who is interested in a particular approach. However, a second is not an absolute requirement, and the chair can proceed with consideration and vote on a motion even when there is no second. This is a matter left to the discretion of the chair.

Seventh, if the motion is made and seconded, the chair should make sure everyone understands the motion.

This is done in one of three ways:

1. The chair can ask the maker of the motion to repeat it;
2. The chair can repeat the motion; or
3. The chair can ask the secretary or the clerk of the body to repeat the motion.

Eighth, the chair should now invite discussion of the motion by the body. If there is no desired discussion, or after the discussion has ended, the chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

Ninth, the chair takes a vote. Simply asking for the “ayes” and then asking for the “nays” normally does this. If members of the body do not vote, then they “abstain.” Unless the rules of the body provide otherwise (or unless a super majority is required as delineated later in these rules), then a simple majority (as defined in law or the rules of the body as delineated later in these rules) determines whether the motion passes or is defeated.

Tenth, the chair should announce the result of the vote and what action (if any) the body has taken. In announcing the result, the chair should indicate the names of the members of the body, if any, who voted in the minority on the motion. This announcement might take the following form: “The motion passes by a vote of 3-2, with Smith and Jones dissenting. We have passed the motion requiring a 10-day notice for all future meetings of this body.”

Motions in General

Motions are the vehicles for decision making by a body. It is usually best to have a motion before the body prior to commencing discussion of an agenda item. This helps the body focus.

Motions are made in a simple two-step process. First, the chair should recognize the member of the body. Second, the member of the body makes a motion by preceding the member’s desired approach with the words “I move ...”

A typical motion might be: “I move that we give a 10-day notice in the future for all our meetings.”

The chair usually initiates the motion in one of three ways:

1. **Inviting the members of the body to make a motion**, for example, “A motion at this time would be in order.”
2. **Suggesting a motion to the members of the body**, “A motion would be in order that we give a 10-day notice in the future for all our meetings.”
3. **Making the motion**. As noted, the chair has every right as a member of the body to make a motion, but should normally do so only if the chair wishes to make a motion on an item but is convinced that no other member of the body is willing to step forward to do so at a particular time.

The Three Basic Motions

There are three motions that are the most common and recur often at meetings:

The basic motion. The basic motion is the one that puts forward a decision for the body’s consideration. A basic motion might be: “I move that we create a five-member committee to plan and put on our annual fundraiser.”



The motion to amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: “I move that we amend the motion to have a 10-member committee.” A motion to amend takes the basic motion that is before the body and seeks to change it in some way.

The substitute motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: “I move a substitute motion that we cancel the annual fundraiser this year.”

“Motions to amend” and “substitute motions” are often confused, but they are quite different, and their effect (if passed) is quite different. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way. A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it. The decision as to whether a motion is really a “motion to amend” or a “substitute motion” is left to the chair. So if a member makes what that member calls a “motion to amend,” but the chair determines that it is really a “substitute motion,” then the chair’s designation governs.

A “friendly amendment” is a practical parliamentary tool that is simple, informal, saves time and avoids bogging a meeting down with numerous formal motions. It works in the following way: In the discussion on a pending motion, it may appear that a change to the motion is desirable or may win support for the motion from some members. When that happens, a member who has the floor may simply say, “I want to suggest a friendly amendment to the motion.” The member suggests the friendly amendment, and if the maker and the person who seconded the motion pending on the floor accepts the friendly amendment, that now becomes the pending motion on the floor. If either the maker or the person who seconded rejects the proposed friendly amendment, then the proposer can formally move to amend.

Multiple Motions Before the Body

There can be up to three motions on the floor at the same time. The chair can reject a fourth motion until the chair has dealt with the three that are on the floor and has resolved them. This rule has practical value. More than three motions on the floor at any given time is confusing and unwieldy for almost everyone, including the chair.

When there are two or three motions on the floor (after motions and seconds) at the same time, the vote should proceed *first* on the *last* motion that is made. For example, assume the first motion is a basic “motion to have a five-member committee to plan and put on our annual fundraiser.” During the discussion of this motion, a member might make a second motion to “amend the main motion to have a 10-member committee, not a five-member committee to plan and put on our annual fundraiser.” And perhaps, during that discussion, a member makes yet a third motion as a “substitute motion that we not have an annual fundraiser this year.” The proper procedure would be as follows:

First, the chair would deal with the *third* (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion *passed*, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions.

Second, if the substitute motion *failed*, the chair would then deal with the second (now the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five or 10 members). If the motion to amend *passed*, the chair would then move to consider the main motion (the first motion) as *amended*. If the motion to amend *failed*, the chair would then move to consider the main motion (the first motion) in its original format, not amended.

Third, the chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or if *amended*, would be in its amended format (10-member committee). The question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.

To Debate or Not to Debate

The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the chair that it is time to move on and take action.

There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the chair must immediately call for a vote of the body without debate on the motion):

Motion to adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.

Motion to recess. This motion, if passed, requires the body to immediately take a recess. Normally, the chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.

Motion to fix the time to adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: “I move we adjourn this meeting at midnight.” It requires a simple majority vote.



Motion to table. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on “hold.” The motion can contain a specific time in which the item can come back to the body. “I move we table this item until our regular meeting in October.” Or the motion can contain no specific time for the return of the item, in which case a motion to take the item off the table and bring it back to the body will have to be taken at a future meeting. A motion to table an item (or to bring it back to the body) requires a simple majority vote.

Motion to limit debate. The most common form of this motion is to say, “I move the previous question” or “I move the question” or “I call the question” or sometimes someone simply shouts out “question.” As a practical matter, when a member calls out one of these phrases, the chair can expedite matters by treating it as a “request” rather than as a formal motion. The chair can simply inquire of the body, “any further discussion?” If no one wishes to have further discussion, then the chair can go right to the pending motion that is on the floor. However, if even one person wishes to discuss the pending motion further, then at that point, the chair should treat the call for the “question” as a formal motion, and proceed to it.

When a member of the body makes such a motion (“I move the previous question”), the member is really saying: “I’ve had enough debate. Let’s get on with the vote.” When such a motion is made, the chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds vote of the body.

NOTE: A motion to limit debate could include a time limit. For example: “I move we limit debate on this agenda item to 15 minutes.” Even in this format, the motion to limit debate requires a two-thirds vote of the body. A similar motion is a *motion to object to consideration of an item*. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds vote.

Majority and Super Majority Votes

In a democracy, a simple majority vote determines a question. A tie vote means the motion fails. So in a seven-member body, a vote of 4-3 passes the motion. A vote of 3-3 with one abstention means the motion fails. If one member is absent and the vote is 3-3, the motion still fails.

All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which effectively cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds majority (a super majority) to pass:

Motion to limit debate. Whether a member says, “I move the previous question,” or “I move the question,” or “I call the question,” or “I move to limit debate,” it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds vote to pass.

Motion to close nominations. When choosing officers of the body (such as the chair), nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers and it requires a two-thirds vote to pass.

Motion to object to the consideration of a question. Normally, such a motion is unnecessary since the objectionable item can be tabled or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds vote to pass.

Motion to suspend the rules. This motion is debatable, but requires a two-thirds vote to pass. If the body has its own rules of order, conduct or procedure, this motion allows the body to suspend the rules for a particular purpose. For example, the body (a private club) might have a rule prohibiting the attendance at meetings by non-club members. A motion to suspend the rules would be in order to allow a non-club member to attend a meeting of the club on a particular date or on a particular agenda item.

Counting Votes

The matter of counting votes starts simple, but can become complicated.

Usually, it’s pretty easy to determine whether a particular motion passed or whether it was defeated. If a simple majority vote is needed to pass a motion, then one vote more than 50 percent of the body is required. For example, in a five-member body, if the vote is three in favor and two opposed, the motion passes. If it is two in favor and three opposed, the motion is defeated.

If a two-thirds majority vote is needed to pass a motion, then how many affirmative votes are required? The simple rule of thumb is to count the “no” votes and double that count to determine how many “yes” votes are needed to pass a particular motion. For example, in a seven-member body, if two members vote “no” then the “yes” vote of at least four members is required to achieve a two-thirds majority vote to pass the motion.

What about tie votes? In the event of a tie, the motion always fails since an affirmative vote is required to pass any motion. For example, in a five-member body, if the vote is two in favor and two opposed, with one member absent, the motion is defeated.

Vote counting starts to become complicated when members vote “abstain” or in the case of a written ballot, cast a blank (or unreadable) ballot. Do these votes count, and if so, how does one count them? The starting point is always to check the statutes.

In California, for example, for an action of a board of supervisors to be valid and binding, the action must be approved by a majority of the board. (California Government Code Section 25005.) Typically, this means three of the five members of the board must vote affirmatively in favor of the action. A vote of 2-1 would not be sufficient. A vote of 3-0 with two abstentions would be sufficient. In general law cities in



California, as another example, resolutions or orders for the payment of money and all ordinances require a recorded vote of the total members of the city council. (California Government Code Section 36936.) Cities with charters may prescribe their own vote requirements. Local elected officials are always well-advised to consult with their local agency counsel on how state law may affect the vote count.

After consulting state statutes, step number two is to check the rules of the body. If the rules of the body say that you count votes of “those present” then you treat abstentions one way. However, if the rules of the body say that you count the votes of those “present and voting,” then you treat abstentions a different way. And if the rules of the body are silent on the subject, then the general rule of thumb (and default rule) is that you count all votes that are “present and voting.”

Accordingly, under the “present and voting” system, you would **NOT** count abstention votes on the motion. Members who abstain are counted for purposes of determining quorum (they are “present”), but you treat the abstention votes on the motion as if they did not exist (they are not “voting”). On the other hand, if the rules of the body specifically say that you count votes of those “present” then you **DO** count abstention votes both in establishing the quorum and on the motion. In this event, the abstention votes act just like “no” votes.

How does this work in practice?

Here are a few examples.

Assume that a five-member city council is voting on a motion that requires a simple majority vote to pass, and assume further that the body has no specific rule on counting votes. Accordingly, the default rule kicks in and we count all votes of members that are “present and voting.” If the vote on the motion is 3-2, the motion passes. If the motion is 2-2 with one abstention, the motion fails.

Assume a five-member city council voting on a motion that requires a two-thirds majority vote to pass, and further assume that the body has no specific rule on counting votes. Again, the default rule applies. If the vote is 3-2, the motion fails for lack of a two-thirds majority. If the vote is 4-1, the motion passes with a clear two-thirds majority. A vote of three “yes,” one “no” and one “abstain” also results in passage of the motion. Once again, the abstention is counted only for the purpose of determining quorum, but on the actual vote on the motion, it is as if the abstention vote never existed — so an effective 3-1 vote is clearly a two-thirds majority vote.

Now, change the scenario slightly. Assume the same five-member city council voting on a motion that requires a two-thirds majority vote to pass, but now assume that the body **DOES** have a specific rule requiring a two-thirds vote of members “present.” Under this specific rule, we must count the members present not only for quorum but also for the motion. In this scenario, any abstention has the same force and effect as if it were a “no” vote. Accordingly, if the votes were three “yes,” one “no” and one “abstain,” then the motion fails. The abstention in this case is treated like a “no” vote and effective vote of 3-2 is not enough to pass two-thirds majority muster.

Now, exactly how does a member cast an “abstention” vote?

Any time a member votes “abstain” or says, “I abstain,” that is an abstention. However, if a member votes “present” that is also treated as an abstention (the member is essentially saying, “Count me for purposes of a quorum, but my vote on the issue is abstain.”) In fact, any manifestation of intention not to vote either “yes” or “no” on the pending motion may be treated by the chair as an abstention. If written ballots are cast, a blank or unreadable ballot is counted as an abstention as well.

Can a member vote “absent” or “count me as absent?” Interesting question. The ruling on this is up to the chair. The better approach is for the chair to count this as if the member had left his/her chair and is actually “absent.” That, of course, affects the quorum. However, the chair may also treat this as a vote to abstain, particularly if the person does not actually leave the dais.

The Motion to Reconsider

There is a special and unique motion that requires a bit of explanation all by itself; the motion to reconsider. A tenet of parliamentary procedure is finality. After vigorous discussion, debate and a vote, there must be some closure to the issue. And so, after a vote is taken, the matter is deemed closed, subject only to reopening if a proper motion to consider is made and passed.

A motion to reconsider requires a majority vote to pass like other garden-variety motions, but there are two special rules that apply only to the motion to reconsider.

First, is the matter of timing. A motion to reconsider must be made at the meeting where the item was first voted upon. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and, by a two-thirds majority, allow a motion to reconsider to be made at another time.)

Second, a motion to reconsider may be made only by certain members of the body. Accordingly, a motion to reconsider may be made only by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she may make the motion to reconsider (any other member of the body — including a member who voted in the minority on the original motion — may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of minority could make a motion to reconsider, then the item could be brought back to the body again and again, which would defeat the purpose of finality.

If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is in order. The matter may be discussed and debated as if it were on the floor for the first time.



Courtesy and Decorum

The rules of order are meant to create an atmosphere where the members of the body and the members of the public can attend to business efficiently, fairly and with full participation. At the same time, it is up to the chair and the members of the body to maintain common courtesy and decorum. Unless the setting is very informal, it is always best for only one person at a time to have the floor, and it is always best for every speaker to be first recognized by the chair before proceeding to speak.

The chair should always ensure that debate and discussion of an agenda item focuses on the item and the policy in question, not the personalities of the members of the body. Debate on policy is healthy, debate on personalities is not. The chair has the right to cut off discussion that is too personal, is too loud, or is too crude.

Debate and discussion should be focused, but free and open. In the interest of time, the chair may, however, limit the time allotted to speakers, including members of the body.

Can a member of the body interrupt the speaker? The general rule is “no.” There are, however, exceptions. A speaker may be interrupted for the following reasons:

Privilege. The proper interruption would be, “point of privilege.” The chair would then ask the interrupter to “state your point.” Appropriate points of privilege relate to anything that would interfere with the normal comfort of the meeting. For example, the room may be too hot or too cold, or a blowing fan might interfere with a person’s ability to hear.

Order. The proper interruption would be, “point of order.” Again, the chair would ask the interrupter to “state your point.” Appropriate points of order relate to anything that would not be considered appropriate conduct of the meeting. For example, if the chair moved on to a vote on a motion that permits debate without allowing that discussion or debate.

Appeal. If the chair makes a ruling that a member of the body disagrees with, that member may appeal the ruling of the chair. If the motion is seconded, and after debate, if it passes by a simple majority vote, then the ruling of the chair is deemed reversed.

Call for orders of the day. This is simply another way of saying, “return to the agenda.” If a member believes that the body has drifted from the agreed-upon agenda, such a call may be made. It does not require a vote, and when the chair discovers that the agenda has not been followed, the chair simply reminds the body to return to the agenda item properly before them. If the chair fails to do so, the chair’s determination may be appealed.

Withdraw a motion. During debate and discussion of a motion, the maker of the motion on the floor, at any time, may interrupt a speaker to withdraw his or her motion from the floor. The motion is immediately deemed withdrawn, although the chair may ask the person who seconded the motion if he or she wishes to make the motion, and any other member may make the motion if properly recognized.

Special Notes About Public Input

The rules outlined above will help make meetings very public-friendly. But in addition, and particularly for the chair, it is wise to remember three special rules that apply to each agenda item:

Rule One: Tell the public what the body will be doing.

Rule Two: Keep the public informed while the body is doing it.

Rule Three: When the body has acted, tell the public what the body did.



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RESOLUTION 2019-_____

ADOPTING COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE AND
RESCINDING RESOLUTION NO. 2015-052

WHEREAS, Government Code section 36813 authorizes legislative bodies to establish rules for the conduct of their proceedings. These rules must comport with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950 et seq.) which applies to all meetings of "legislative bodies" within California, including the Tracy City Council and advisory boards and commissions; and

WHEREAS, On April 7, 2015, Council adopted "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings" by Resolution No. 2015-052; and

WHEREAS, During the development of a Code of Conduct, Council expressed a desire to revise their policies regarding meetings; and

WHEREAS, On October 15, 2019, staff presented draft Council Meeting Protocols and Rules of Procedures ("Protocols") and Council discussed and provided policy direction to staff regarding the proposed Protocols;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby adopts the attached Council Meeting Protocols and Rules of Procedure and rescinds Resolution No. 2015-052.

* * * * *

The foregoing Resolution 2019-_____ was adopted by Tracy City Council on the 5th day of November, 2019, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3.H

REQUEST

DISCUSS COUNCIL VACANCY POLICY AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

The 2019 San Joaquin Grand Jury Report recommended that the Council consider amending its appointment policy for filling City Council vacancies to appoint the next highest vote-getter. This staff report provides a summary of applicable law, an overview of the City's current vacancy policy adopted by Resolution No. 2017-001, and outlines potential options for the Council to consider implementing if they desire. Staff requests that Council discuss and provide direction to staff.

DISCUSSION

A. Grand Jury Report Recommendation

The 2019 San Joaquin Grand Jury Report on the Council made several recommendations for the Council to consider implementing, one of which was giving the "Tracy voters more control over Council vacancy appointments." The Grand Jury found that the Council's use of its appointment process to fill Council vacancies had "fostered loyalty, allegiance, and personal obligation by appointed Council members and has resulted in consistent voting blocs and facilitated divisiveness amongst the Council members." Additionally, the Grand Jury found that the current adopted appointment process does not take into account the "will of the voters" and is a process that has not been endorsed by the City's voters.

The Grand Jury recommended that the Council amend the City's Council vacancy filling policy to automatically appoint the "next highest vote-getter" from the previous election, who would thereby serve out the remainder of the vacant Council seat's term. The Grand Jury recommended that this action take place by December 31, 2019.

B. Filling of Council Vacancies – Special Election or Appointment

California Government Code section 36512(b) requires the Council, within 60 days from the commencement of the vacancy, to either fill the vacancy by appointment or call a special election to fill the vacancy.

Regardless of the process of filling the vacant Council seat, only persons that are an elector of the City and a registered voter are permitted to hold office as Council Member. (Government Code section 36502). An "elector" of the City is a United States citizen, 18 years of age or older, who is a resident of the City.

Filling Vacancy by Special Election

The Council may elect to fill a Council vacancy through a special election and must call for the election to be held at the next regularly established election date, however, the election cannot be held less than 114 days from the call for the special election. (Government Code section 36512(b))

The City would be responsible for covering the costs of the special election incurred by the San Joaquin Registrar of Voters as well as City staff time preparing for the special election. In 2017, based upon a per-voter cost estimate provided by the San Joaquin Registrar of Voters Office, City staff projected that the cost of holding a special election would be close to \$375,000.

Filling Vacancy by Appointment

The Council also has the option to fill a vacant Council seat by appointment. The Brown Act requires that all interviews conducted to fill a Council vacancy by appointment be properly noticed and conducted in open session. Aside from this requirement, there are no additional statutory requirements detailing how the Council must conduct the appointment process.

C. Statutory Authority to Adopt Ordinance For Filling Vacancy

Government Code section 36512(c) grants the City the authority to adopt an ordinance that specifies that all vacancies be filled by special election, a vacancy be filled by special election if requested by petition of the electorate, or officials appointed to fill vacancies may only serve until a special election is held. This is a permissive right of the City, and the City is under no obligation to adopt such an ordinance.

D. City's Current Council Vacancy Policy

In 2014, the Council adopted City Council Policy Number C-10, "The City Council Policy on Filling Council Vacancies." In 2017, the Council adopted Resolution No. 2017-001, which amended the Policy, to place certain limits on the time for interviews and establish the overall framework for filling Council vacancies by the appointment process. (Attachment A)

Generally, the Policy establishes the appointment process as the method of filling vacancies on the Council and outlines the interview process to be utilized for the appointment.

As mentioned previously, the Council's adopted Policy was called into question by the San Joaquin Grand Jury in its findings. The Grand Jury highlighted that the appointment process utilized in 2012 and 2014, resulted in "contentious" debates and split Council votes on who to appoint to fill the vacancies. The Grand Jury stated that although the appointment process in 2016 resulted in "less contentiousness," than the previous appointment processes, they nevertheless concluded that the Council's current policy is not "responsive to the will of the Tracy voters," which is why the Grand Jury recommended that the Council amend its policy to appoint the next-highest vote-getter from the most recent election.

E. Survey of Other Jurisdictions

City staff analyzed a cross-section of California cities to determine what methods other jurisdictions utilized to fill their respective council vacancies. Below is a summary of the analysis:

CITY	METHOD OF FILLING VACANCY
Lathrop	Appointment by City Council
Los Angeles	Council decision: special election or appointment
Modesto	Appointment by City Council within 30 days of vacancy, after 30 days special election is required
Pleasanton	Special election
Fremont	Council decision: special election or appointment, but decision must be within 60 days of vacancy
Santa Barbara	Special election
Hayward	Appointment by City Council within 30 days, unless period for nomination paper may be filed for general municipal election; after 30 days of vacancy, special election is required
Sacramento	Special election
Anaheim	Appointment by City Council

It should be noted that a significant amount of cities have no policy or municipal code provision dictating the method for filling Council vacancies.

During Council's discussion of the Grand Jury report, a question was raised about the use of Rank Choice Voting (RCV). RCV, also known as instant runoff, is a method of voting used in some cities, like Berkeley, Oakland, and San Leandro that allows voters to rank a first, second and third choice candidate for a single office. If a candidate receives more than 50% of the first choice votes, they are declared the winner. Under current California law, only charter cities are allowed to implement RCV. During this past legislative session, Senate Bill (SB) 212 was passed by the State Legislature which would have allowed general law cities to utilize RCV. However, SB 212 was not signed by the Governor and was therefore not enacted. As a general law city, the City of Tracy cannot implement RCV.

City staff is seeking direction from Council on whether it wishes to amend its current policy on filling Council vacancies, and if so, what changes should be made to the policy going forward.

STRATEGIC PLAN

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

FISCAL IMPACT

None as of right now; there may be fiscal impacts identified after Council provides direction.

RECOMMENDATION

City staff is requesting direction from Council as to whether Council wishes to amend its current policy regarding the filling of Council vacancies, and if so, what process Council would like to utilize to fill Council vacancies.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Adrienne Richardson, City Clerk
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENT:

- A. City Council Policy C-10 on Filling City Council Vacancies (Resolution No. 2017-001)

RESOLUTION 2017-001

AMENDING CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES

WHEREAS, State law provides that if a vacancy occurs in the City Council, the Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy, and

WHEREAS, State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires, and

WHEREAS, The City Council adopted a policy regarding filling City Council vacancies on October 21, 2014 via Resolution 2014-180, and

WHEREAS, The City Council wishes to amend that policy to place certain limits on the time for interviews and other matters as set forth in the amended policy.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Tracy that it hereby adopts the attached amended policy regarding filling City Council vacancies.

The foregoing Resolution 2017-001 was passed and adopted by the Tracy City Council on the 3rd day of January, 2017, by the following vote:

AYES: COUNCIL MEMBERS: RANSOM, VARGAS, YOUNG, RICKMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

I. BACKGROUND

The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b), which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the City Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires.

II. POLICY

The following procedures will be used by the City Council to fill a City Council vacancy if the City Council chooses to fill such a vacancy by appointment rather than by special election:

A. Schedule

At the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

B. Applications

The application of a person interested in being appointed to the City Council shall state background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and

2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

C. Disclosure of Applications

Following the deadline set by the City Council for the submittal of applications, copies of all applications and the names of the applicants shall be filed in the City Clerk's office and made public. No information shall be disclosed prior to the close of the application deadline.

D. Questions from the Public

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the City Council for the submittal of questions, all such questions shall be forwarded to City Council Members, who may use them in the applicant interviews.

E. Questions for Applicants

The City Council may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to answer such questions at the interviews and/or provide written responses to such questions prior to the interviews. Questions may be suggested by the public, individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

F. City Council Interviews

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. The first round of interviews, under the Voting Procedure set forth below, shall be limited to ten minutes per applicant. During the first round of interviews under the Voting Procedures set forth below, all applicants will be asked to respond to the same or standard questions approved by a majority Council vote. The order of interviews will be based on a random drawing. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer question(s) approved by the City Council. For the second round of interviews, in addition to the same or standard questions approved by a majority of the City Council and asked of each remaining applicant, each City Council Member may question each remaining applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the City Council. The second round of interviews shall be limited to fifteen minutes per applicant, provided, however, that based on the time available and the number of candidates, the City Council, by majority vote, may extend the time limit on interviews.

G. Voting Procedure

The person to fill the City Council vacancy shall be selected from all applicants by the following process of elimination:

1. If one or two applicants exist:
 - a. each City Council Member shall vote for one applicant; and
 - b. the applicant who receives a majority vote shall be appointed to fill the vacancy.

2. If three or more applicants exist:
 - a. each City Council Member shall vote for two applicants; and
 - b. all applicants receiving the least number of votes (including no votes) shall be eliminated; and
 - c. subsequent votes shall be taken with each City Council Member voting for two applicants until one or two applicants remain; and
 - d. each City Council Member shall then vote for one applicant and the applicant who receives a majority vote shall be appointed to fill the vacancy.
 - i. In the event of a tie between two or more applicants with the highest number of votes, Council may ask those applicants to respond to additional questions. Council may also choose to resolve a tie between two or more applicants with the highest number of votes by any method approved by a majority vote.
3. If no applicant receives a majority vote, the City Council may adopt such other procedures to fill the vacancy as it deems appropriate.
4. Notwithstanding the voting procedure described above, at any time during the appointment process, the City Council in its discretion may abandon the process and call a special election to fill the vacancy.
5. If no applicant receives a majority vote within 60 days of the commencement of the vacancy, the City Council shall call a special election to fill the vacancy.

H. Appointment by the City Council

The appointment to fill the vacancy shall be made by resolution of the City Council.