

Tuesday, November 15, 2022, 7:00 P.M.

Tracy City Hall Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION PURSUANT TO GOVERNMENT CODE SECTION 54953(e).

THE CITY OF TRACY REMAINS UNDER A LOCAL EMERGENCY FOR COVID-19 AND IS NOW CONDUCTING TELECONFERENCE MEETINGS PURSUANT TO STATE LAW. TELECONFERENCED LOCATIONS MAY INCLUDE VARIOUS LOCATIONS INCLUDING TRACY CITY HALL. IN ACCORDANCE WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDELINES, UNIVERSAL MASKING IS RECOMMENDED FOR ALL PERSONS REGARDLESS OF VACCINATION STATUS AND SOCIAL DISTANCING PROTOCOLS WILL BE IN PLACE FOR TRACY CITY HALL.

MEMBERS OF THE PUBLIC MAY PARTICIPATE REMOTELY IN THE MEETING VIA THE FOLLOWING METHOD:

As always, the public may view the City Council meetings live on the City of Tracy's website at CityofTracy.org or on Comcast Channel 26/AT&T U-verse Channel 99. To view from the City's website, open the "Government" menu at the top of the City's homepage and select "[City Council Meeting Videos](#)" under the "City Council" section.

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

Remote Public Comment:

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

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2556 851 8850** and **Event Password: TracyCC**
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing +1-408-418-9388, enter 25568518850#8722922#** Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*

- *Comments for the “Consent Calendar” “Items from the Agenda/Public Comment” or “Regular Agenda” portions of the agenda will be accepted until the public comment for that item is closed.*

Comments received on Webex outside of the comment periods outlined above will not be included in the record.

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

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

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

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

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

Full copies of the agenda are available on the City's website: www.cityoftracy.org

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. DARE Presentations

1. CONSENT CALENDAR

- 1.A. Adopt the November 1, 2022 Closed Session and Regular Meeting Minutes
- 1.B. Adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from November 16, 2022 through December 15, 2022 pursuant to the Brown Act.
- 1.C. City Council 1) adopt a resolution approving the Off-site Improvement Agreement between City and 7-Eleven, Inc. for offsite improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.
- 1.D. Adopt a resolution approving increased maximum fees charged by private towing service operators for services rendered to reflect increased operating expenses.
- 1.E. City Council 1) approve the Offsite Improvement Agreement between City and Prologis, L. P. for the construction of roadway and utility improvements of International Park of Commerce (IPC) Retail Frontage Street Improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.
- 1.F. Adopt a resolution approving Amendment No.1 to the Professional Services Agreement with Dokken Engineering, Inc. to amend the scope for the development of Project Approval (PA) and Environmental Document (ED) for I-205/Chrisman Road New Interchange Project CIP 73109, Federal Project # HPLULN -5192(034), and increase the compensation by an additional \$690,014, for a total contract amount of \$1,516,933.
- 1.G. City Council 1) approve the Final Subdivision Map for Tract 3900 – Ellis Estate Lots and Limited Use Area, and 2) authorize the City Clerk to file the approved Final Map with the San Joaquin County Recorder.
- 1.H. Adopt a resolution approving an On-Call Professional Services list for landscape architectural, plan check, inspection, and project management services with: Callander & Associates, Griffin Structures, LPA Inc., Nuvis Landscape Architecture, O'Dell Engineering, Verde Design Inc., and WRT Inc. for a five-year term.
- 1.I. City Council 1) authorize the City of Tracy to enter into a Disbursement Agreement with developer, Bodal Properties, LLC. to disburse grant funding in the amount of \$500,000 awarded to the City of Tracy through the San Joaquin Council of Government ("SJCOG")'s Job Balancing Investment Fund (JBIF) program for the Edgewood Commercial Center off-site improvements and 2) authorize the City Manager to sign the Disbursement Agreement on behalf of the City.

- 1.J. Adopt a resolution approving Amendment No. 1 to the Professional Services Agreement with LPA, Inc. for additional design and planning services for the Multi-Generational Recreation Center (CIP 78178), increasing the not to exceed amount by \$3,250,239 for a total not to exceed amount of \$6,593,758.
2. ITEMS FROM THE AUDIENCE
3. REGULAR AGENDA
 - 3.A. Adopt a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fee for 2023.
 - 3.B. Conduct a Public Hearing, and upon conclusion, adopt, for the Valpico Glenbriar Apartment Project Located at Valpico Road and MacArthur Drive (Apartments Project), as recommended by the Planning Commission: (1) An Ordinance: (A) Adopting a Negative Declaration for the expansion of the Apartments Project parking lot to include a portion of the rear yard of the property located at 2625 S. Macarthur Drive (Parking Site) in accordance with the California Environmental Quality Act (CEQA); (B) Approving a General Plan Amendment redesignating the Parking Site from Commercial to Residential High (GPA22-0003); (C) Amending the Zone District of the Parking Site from Community Shopping Center to High Density Residential (R22-0002); (D) Approving a Development Review Permit expanding the Valpico Glenbriar Apartment Parking Lot to include a portion of the rear yard at 2625 S. MacArthur Drive (D22-0013); And (2) A Resolution denying a Development Review Permit for the addition of a perimeter fence and gates to the Apartments Project site (D22-0005)
 - 3.C. Adopt a Resolution: (1) Declaring, as exempt surplus property under Government Code Section 54221(G), a sub-portion of the property owned by the City of Tracy located at 5749 South Tracy Blvd, APN 25311031/25311016 commonly known as the Tracy Airport, to allow a future long-term lease with Riya Enterprises; and (2) Repealing Resolution 2022-140 that declared the entire Tracy Airport and the City-Owned property located at 505 E. Durham Ferry Road APN 25527008, commonly known as the New Jerusalem Airport, as exempt surplus.
 - 3.D. Approve a Resolution adopting the 2023 Biennial Legislative Platform (Platform) and, as a supplement to the Legislative Response Policy adopted by Resolution 2004-208, require that the Platform be adopted every two years during the City Council's Biennial Strategic Planning Retreat.
 - 3.E. Appoint, by motion, a subcommittee of two Councilmembers, and an alternate, to interview applicants to fill one term vacancy on the Tracy Parks and Community Services Commission.
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS
7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

November 1, 2022, 6:30 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy, CA.

1. Mayor Pro Tem Vargas called the meeting to order at 6:31 p.m.
2. Roll call found Council Members Arriola, Bedolla (via Webex), Davis, and Mayor Pro Tem Vargas present. Mayor Young absent from roll call.
3. ITEMS FROM THE AUDIENCE – None
4. Request to Conduct Closed Session

A. Personnel Matter (Gov. Code § 54957)

Public Employee Appointment and Employment

Position Title: City Manager

There was no public comment on the item.

ACTION: Motion was made by Council Member Davis and seconded by Council Member Arriola to recess to closed session. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Pro Tem Vargas in favor; passed and so ordered. Mayor Young absent from roll call. Time: 6:34 p.m.

Mayor Young arrived at 6:34 p.m.

5. Reconvened to Open Session – Time: 6:51 p.m.
6. Report of Final Action – None
7. Council Items and Comments – None
8. Adjournment – Time: 6:52 p.m.

ACTION: Motion was made by Council Member Davis 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 27, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

November 1, 2022, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Young called the meeting to order at 7:04 p.m.

Mayor Young led the Pledge of Allegiance.

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

Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas and Mayor Young present. Council Member Bedolla participated via Webex.

Michael Rogers, City Manager presented the Employee of the Month Award to Sheena Stephens, City Manager's Office.

Mayor Young presented a proclamation to Jass Sangha for Sikh Appreciation and Awareness Month.

1. CONSENT CALENDAR – Following the removal of Consent Items 1.E by Council Member Bedolla, 1.F by Karen Moore and 1.H by Robert Tanner motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
 - 1.A Adopt October 18, 2022, Regular Meeting Minutes – **Minutes were adopted.**
 - 1.B Adopt a resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from November 2, 2022, through December 1, 2022 pursuant to the Brown Act. – **Resolution 2022-159** made the findings and re-authorized remote teleconference meetings.
 - 1.C Adopt a resolution amending the City's Operating and Capital Budget for the Fiscal Year ending June 30, 2023, and authorize the Budget Officer to amend the City's position control roster for FY2022-23. – **Resolution 2022-160** amended the City's Operating and Capital Budget and Position Control Roster.
 - 1.D Adopt a resolution approving three On-Call Professional Services Agreements for entitlement, land development, and plan-checking engineering services for land development projects with: (1) Interwest Consulting Group, Inc. for a not-to-exceed amount of \$2 million per year for a term of three years (total not-to-exceed amount of \$6 million); (2) SNG & Associates, Inc. for a not-to-exceed amount of \$2 million per year for a term of three years (total not-to-exceed amount of \$6 million); and (3) RJR Engineering & Consulting, Inc. for a not-to-exceed amount of \$2 million per year for a term of three years (total not-to-exceed amount of \$6 million). – **Resolution 2022-161** approved the on-call Professional Services Agreements with Interwest Consulting, and SNG & Associates, RJR Engineering.

- 1.G Adopt a resolution ratifying, pursuant to Tracy Municipal Code Section 2.20.180(b)(1), various procurement contracts for goods and general services executed by the City Manager to implement interim housing solutions to address the declared shelter crisis. – Resolution 2022-162 ratified the procurement contracts for goods and general services executed by the City Manager.
- 1.E City Council 1) adopt a Resolution delegating to the City Manager, pursuant to Government Code Section 935.4, the authority to allow, compromise, reject or settle claims against, or on behalf of the City, for a maximum amount of \$50,000 per claim and 2) repeal Resolution 2001-382.

Kimberly Murdaugh, Human Resources Director provided the staff report.

There was no public comment.

Council Member Bedolla pulled the item and stated he heard the words cleaning up, it is to increase the authority to line up with the Government Code and did not think that this is an authority that he wants to provide to the City Manager as he sees it as an abdication of responsibility or something that could lead to throwing blame on decisions that are made. Council Member Bedolla believed that no lawsuit or claim is frivolous, and Council should have the say on matters that come before them. This is about dollars and because we have high profile lawsuits or claims against us it is not the time to abdicate this responsibility and put on the City Manager. Council Member Bedolla motioned to not accept the item. Motion failed due to lack of support.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to adopt **Resolution 2022-163** 1) Delegating to the City Manager, Pursuant to Government Code Section 935.4, the authority to allow, compromise, reject or settle claims against, or on behalf of the City, for a maximum amount of \$50,000 per claim; and 2) Repealing Resolution 2001-382. Roll call found Council Members Arriola, Davis, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Bedolla opposed.

- 1.F Adopt a resolution authorizing the application for grant funds to the Department of Water Resources (DWR) Urban Community Drought Relief Grant Program in the amount not to exceed \$6 million, including a City match up to 25%, to be used for the replacement of turf with drought tolerant landscaping throughout the City of Tracy.

Karen Moore asked for clarification on whether these funds would be to replace residential and commercial landscape or City landscape.

Richard Joaquin, Parks Planning & Development Manager responded to Ms. Moore's question.

Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt **Resolution 2022-164** authorizing the application for grant funds

to the Department of Water Resources (DWR) Urban Community Drought Relief Grant Program in the amount not to exceed \$6 million, including a City match up to 25%, to be used for the replacement of turf with drought tolerant landscaping throughout the City of Tracy. Roll call found all in favor; passed and so ordered.

- 1.H City Council adopt 1) Resolution authorizing a Professional Services Agreement with Kingdom Causes (DBA City Net) to provide operational services for the City of Tracy's interim emergency shelter (non-congregate housing) for a term of one year and a not to exceed amount of \$2,906,711; 2) Resolution authorizing a Professional Services Agreement with Tracy Community Connection Center to provide operational services for the City of Tracy's interim emergency navigation center (community outreach) for a term of one year and a not to exceed amount of \$829,947; and 3) Resolution appropriating \$2.6 million from the City of Tracy's American Rescue Plan Act (ARPA) fund for homeless services and amending the FY 2022-23 operating and capital budget to reflect such appropriation.

Robert Tanner pulled the item to state he is surprised the City is spending \$3.7 million and asked if there was a bidding process or is this non bid and going sole source.

Virginia Carney, Homeless Services Manager provided the staff report and presentation.

Karin Schnaider, Assistant City Manager and Midori Lichtwardt, Assistant City Manager also provided the presentation and responded to questions.

Cynthia Camacho stated if the City had gone with the group on the first go around it would have been \$1.2 million, and this is a lot higher for the same services. Why couldn't we utilize the resources we have here in Tracy and bring City Net in as a consultant. Ms. Camacho shared her concerns about not using local resources.

A resident asked how many people can be housed in one container, does it have plumbing, stated there will not be enough to hold half the people at Pescadero, and shared concerns regarding a tent city and the City wanting to control every aspect of their lives adding from Boise decision it has to be a hard-shell structure under the law and asked about the date to start moving people out.

Karen Moore supported the item and suggested the community have one day to take a tour of the facility and asked if the City will still have need for warming center.

Sue Soto asked what nonprofit is going to be doing the hiring for the homeless shelter.

Alice English stated there is a disconnect, was disappointed with some of the Homeless Manager's answers at the last Homeless Committee meeting and asked why the City is not giving people in Tracy the opportunity. TCCC works well with the people in Tracy and has hands on experience. Asked if anyone met with Ms. Camacho and her group before it came on the consent calendar.

Burnell Shull stated the City keeps pouring money into the homeless and hiring people from out of the area and asked why can't there be 20 modulars at the site and not the tent type thing. If we can get people into them and get our people here that know what to do with these people, we need to start there and not bring people in with big salaries or get more consultants.

Brad Fieldhouse, City Net representative responded to questions.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2022-165** authorizing a Professional Services Agreement with Kingdom Causes (DBA City Net) to provide operational services for the City of Tracy's interim emergency shelter (non-congregate housing) for a term of one year and a not to exceed amount of \$2,906,711, adopt **Resolution 2022-166** authorizing a Professional Services Agreement with Tracy Community Connection Center to provide operational services for the City of Tracy's interim emergency navigation center (community outreach) for a term of one year and a not to exceed amount of \$829,947 and adopt **Resolution 2022-167** Resolution appropriating \$2.6 million from the City of Tracy's American Rescue Plan Act (ARPA) fund for homeless services and amending the FY 2022-23 operating and capital budget to reflect such appropriation. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Dotty Nygard and nurses from Sutter Tracy spoke about a critical staffing crisis in the community. Ms. Nygard submitted a petition to the Clerk and read out the petition language. Need community support and stand for health care providers.

Celeste Anderson, nurse at Sutter Tracy stated they keep training new nurses and when they get to the one-year mark the nurses leave to go to a better paying hospital. Need to invest in nurses we do have and asked for support to bring wages up at Sutter.

Dotty Nygard added pressure needs to be put on Sutter to fulfill what they obligated and promised the community a new hospital.

Pete Moyer, Hansen Road resident and part of the Lammersville Preservation group thanked staff for working with them to get Hansen Road shut down to through traffic at the overpass. The City keeps implementing new projects and not widening roads or building overpasses. Shared his concerns regarding the traffic increase due to new projects and stated he does not support growth in Tracy until there is a permanent closure on Hansen Road.

Tom Heckman, lives on Hansen Road and part of Lammersville Preservation Alliance and has been working with County, City, and Prologis regarding closure of Hansen Road at the overpass and thanked staff for support and help. Their community cannot support anymore developmental projects on that side of the freeway including the Costco Annexation project until Hansen Road is permanently closed to ensure safety of and quality of our community residents.

Vannie Dart stated the population has doubled but no infrastructure has been built, only thing they have is warehouses and those workers do not live in Tracy and they do not want warehouses anymore. Ms. Dart requested better service and for people to look at candidates that have Tracy at heart. Tracy needs changes.

Jenny Wood, Tracy Earth Project spoke about creating an Environmental Sustainability Commission of staff and community members and asked why it was not on the November agenda.

Dan Evans shared his concerns with campaigning and smear tactics.

Jose Jimenez stated he has seen a lot of changes in Tracy and shared his support for Mayor Young and her achievements.

Robert Tanner spoke about garbage rates and seniors stating only one Council Member voted no on increasing rates. Bay Area made allowances for seniors. Thirteen percent of the population is 65 and over and want smaller cans and a lower price.

Mayor Young responded to Mr. Tanner's comments and Mayor Pro Tem Vargas and Council Member Arriola objected to Mr. Tanner's characterization.

Quan Washington shared support for Mayor Young.

Alice English congratulated the City, Transportation Commissioners and Airport people for a successful Halloween event at the Airport. Ms. English shared the various Halloween events she attended in Tracy. It tells how the community comes together.

Council Member Bedolla responded to a comment made by Mr. Tanner regarding his vote on garbage rates increase.

A longtime resident and small businessowner shared support for the three E's.

Wendy Tochini, homeowner in Santos Ranch community and part of Lammersville Preservation Association stated the expansion of Prologis has created an infrastructure nightmare for this community. LPA has worked with the County and City to close Hansen Road at the southside of the I-205 overpass. County has voted to close the road. The closure of Hansen Road is needed prior to starting the Costco depot annexation project and requested the City work with County and help facilitate the closure of Hansen Road as soon as possible. Until then opposed to all projects in that area.

Karen Moore stated the City is going beyond state regulations for federal background checks for cannabis storefront businesses and asked for a temporary change to the background check requirements which will allow cannabis retail storefront businesses to open.

Michael Rogers, City Manager stated he will have a conversation with Police and Development Services and will submit a memo to Council in response to Ms. Moore's comments.

3. REGULAR AGENDA

3.A Adopt a resolution accepting the Pavement Management Program Update Final Report 2022.

Robert Armijo, Senior Engineer introduced the item.

Anju Pillai, Senior Civil Engineer provided the staff report and responded to questions.

Mary Mitracos stated she lives on Eaton Ave; the street was rebuilt with new underground pipes and it has been 80 years since that happened. It is imperative to think about the future; this will affect future Councils and need to spend the money on infrastructure.

Karen Moore stated people of this city voted for Measure K which some has gone to formula funding. The concern is the Measure K money came for Holly Drive to do some bicycle infrastructure and money is still there and when we receive those grants it would be nice to know when those funds would be utilized. Ms. Moore shared she belongs to warehouse coalition which consists of a lot of organizations.

Dan Evans stated he is often astounded by what he sees in other cities, there is a lot of work to do. Mr. Evans stated he conducted a survey on what residents want to see improved and got 400 data points from Tracyites and just under public safety and homelessness came roadway infrastructure improvements and liked the idea of pursuing grants.

Council questions and comments followed.

Marissa Baclig, Harris & Associates responded to questions.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2022-168** accepting the Pavement Management Program Update Final Report 2022 and directing staff to return with recommendations in accordance with scenario five (shown in staff report). Roll call found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – Karen Moore stated this Council has been the most productive Council she has seen in a long time, would re-elect all of this Council and shared support for Mayor Pro Tem Vargas. In a past Council meeting, she talked about a discriminatory decision from the Planning Commission and Council Member Arriola asked about an investigation. Ms. Moore asked what happened with the investigation as it seemed to be discriminatory. She emailed the City Attorney but has not heard back and has no choice but to file with the Grand Jury.

5. STAFF ITEMS – Midori Lichtwardt, Assistant City Manager reported on the following:
o Election ends one week from today and City Hall is one of three locations to drop off ballots.

- Free document shredding event – Saturday, November 5, 2022, from 9:00 am to noon.
- Fall leaf pick up begins on November 7, 2022. Fill organic yard waste first and pile leaves on the street without blocking the gutter on pickup on your normal collection day.
- Westside Garage sale on November 12, 2022, from 8:00 a.m. to 1:00 p.m.
- Tracy City Center Association Ornament Stroll on November 12, 2022, from 2:00 p.m. – 7:00 p.m.
- Grand Theatre free Coop Holiday Invitational exhibition opening reception on November 12, 2022.

6. COUNCIL ITEMS – Council Member Arriola stated at the last East Bay Community Energy (EBCE) meeting they approved two ten-year battery stored projects. These are local hiring, prevailing wage, labor union job projects. One will be located in Stockton and the other in Ripon. This brings new local job growth and investments. Council Member Arriola wished everyone a happy Dia De Los Muertos and also Veterans Day.

Council Member Davis wished everyone a happy Dia De Los Muertos. Council Member Davis shared there was an outstanding Halloween event held at the Airport this past weekend and commended the City, Transportation Commissioners and volunteers.

Council Member Davis stated she received comments from a resident and commended staff for their quick response to removing debris out of the roadway. She is also happy to see more motorcycle officers on the street as it is a deterrent for speeding and running red lights and putting public safety at risk.

Council Member Davis asked for support for an update by memo on the timeline for infrastructural improvements for widening of Lammers and the freeway overpass. Council Member Arriola supported the request.

Council Member Davis asked for support to find out if there is any interest in bringing back the IAC West aerobatic competition to Tracy. Mayor Pro Tem Vargas supported the request.

Council Member Davis stated she is still getting complaints regarding storm drains being trashy, and overgrown trees and bushes have been cut down but has not been properly cleaned and asked for support to have the City look into properly maintaining the storm drains especially in a residential area. Council Member Bedolla supported the request. Council Member Davis wished a happy Veterans Day to all vets.

Council Member Bedolla asked for a memo with a comprehensive explanation on street light timing, what we can do currently and what smart cities are doing to improve traffic flow. Council Member Arriola seconded the request.

Michael Rogers, City Manager clarified with Council Member Bedolla that he was referring to clarified traffic signal timing.

Council Member Bedolla stated we could be implementing streamlining some things in the community to develop best practices promoting our local events. Appreciate when the community tells us about events and Council asks to put on City website but do not want that to be the only avenue. Perhaps put on the City calendar and on social media; at least one stop shop. Council Member Davis supported the request.

Council Member Bedolla is at the Rail Volution Conference and thanked Council and City staff for allowing him to lead in this outreach process regarding building a livable community with transit. Council Member Bedolla reported on his attendance on the conference.

Mayor Pro Tem Vargas stated Rail Volution is eye opening and hard to plan for public transit and TOD's, residential mobility. Mayor Pro Tem Vargas also stated she hears the community and referred to texts she received regarding comments made as people watch the meeting on Facebook etc. and suggested being nice. Mayor Pro Tem Vargas added she felt bad for what Mr. Evans is going through as she experienced it with Transparent Tracy and Patriots group, understands what it is to be falsely accused and family members targeted and spoke about not always agreeing but working together as a team. Diversity brings strength.

Mayor Pro Tem Vargas thanked Council Member Davis for her military service and protecting us and having freedom of speech.

Mayor Young stated she will email a report to Council and announced the following: Thanked staff who were a part of today's Chamber mixer hosted by the City of Tracy, daylight saving time will end at 2:00 a.m. on November 6, 2022, wished her son Michael a happy 27th birthday for November 7, 2022, and Veterans Day is on November 11, 2022, but she will not be able to attend.

7. ADJOURNMENT – Time: 11:14 p.m.

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

The above agenda was posted at the Tracy City Hall on October 27, 2022. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

Agenda Item 1.B

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from November 16, 2022 through December 15, 2022 pursuant to the Brown Act.

EXECUTIVE SUMMARY

AB 361 allows legislative bodies to use abbreviated teleconferencing procedures during a declared state of emergency upon the making of required findings. These abbreviated procedures allow a body to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953 of the Ralph M. Brown Act (Cal. Gov. Code section 54950 – 54963).

BACKGROUND AND LEGISLATIVE HISTORY

On March 17, 2020, the City Council of the City of Tracy ratified the declaration of an emergency by the City Manager due to COVID-19 in accordance with Chapter 3.26 of the Tracy Municipal Code. The City Council subsequently adopted resolutions with requisite findings authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy, including Boards and Commissions, pursuant to AB 361.

While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool. Due to this increase, the City reinstated social distancing protocols at in-person attendance at City Hall and encouraged the use of teleconferencing for City Council meetings.

On November 1, 2022, City Council adopted Resolution 2022-159, which made findings and authorized remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy, including Boards and Commissions, for the period of November 2, 2022 through December 1, 2022. In order to maintain compliance with Section 54953(e) of the Ralph M. Brown Act (Gov. Code section 54950 – 54963) which allows the continued use of teleconferencing, Council must make the required findings and re-authorize remote teleconferencing meetings of the legislative bodies for the City of Tracy.

This item requests that the City Council approve this proposed action for continued compliance with the Brown Act.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things rescinded his prior Executive Order N-29-20 and set a date of October 1, 2021, for public agencies to transition back to public meetings held in full compliance with the Brown Act.

As the Delta variant has surged in California, the Legislature took action to extend the COVID-19 exceptions to the Brown Act's teleconference requirements, subject to some additional safeguards. On September 16, 2021, Governor Newsom signed Assembly Bill 361, to allow a local agency to use teleconferencing if certain circumstances exist without complying with the Brown Act's traditional agenda posting, physical access, and quorum requirements for teleconferencing provisions (Attachment A).

The goal of AB 361 is "to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options" consistent with Executive Order N-29-20. The bill contains an urgency clause, which made the bill effective upon signing with a sunset date of January 1, 2024.

The new Section 54953(e)(1) of the Brown Act, as amended by AB 361, allows legislative bodies to continue to meet via teleconference without complying with the Brown Act's teleconferencing requirements, but only during a state of emergency proclaimed by the Governor, in which, 1) state or local health officials have imposed or recommended measures to promote social distancing, or 2) the legislative body has determined by majority vote that meeting in person would present an imminent risk to the health or safety of the attendees.

A local agency that holds a meeting under these circumstances would be required by AB 361 to follow the steps listed below, in addition to giving notice of the meeting and posting agendas as required under the Brown Act. These additional requirements are intended to protect the public's right to participate in the meetings of local agency legislative bodies.

Pursuant to AB 361 local agencies are required to do all of the following in addition to meeting notice requirements under the Brown Act:

- Allow the public to access the meeting and require that the agenda provide an opportunity for the public to directly address the legislative body pursuant to the Brown Act's other teleconferencing provisions.
- In each instance when the local agency provides notice of the teleconferenced meeting or posts its agenda, give notice for how the public can access the meeting and provide public comment.
- Identify and include in the agenda an opportunity for all persons to attend via a call-in or an internet-based service option; the legislative body needs not provide a physical location for the public to attend or provide comments.
- Conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the public.
- Stop the meeting until public access is restored in the event of a service disruption that either prevents the local agency from broadcasting the meeting to the public using the call-in or internet-based service option or is within the local agency's control and prevents the public from submitting public comments (any actions taken during such a service disruption can be challenged under the Brown Act's existing challenge provisions).
- Not require comments be submitted in advance (though the legislative body may provide that as an option) and provide the opportunity to comment in real-time.
- Provide adequate time for public comment, either by establishing a timed public

- comment period or by allowing a reasonable amount of time to comment.
- If the legislative body uses a third-party website or platform to host the teleconference, and the third-party service requires users to register to participate, the legislative body must provide adequate time during the comment period for users to register and may not close the registration comment period until the comment period has elapsed.

ANALYSIS

While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool. The San Joaquin County Public Health Services provided an update to the City Council of this situation at the June 7, 2022 meeting. In addition, the Human Resources Department of the City of Tracy has documented an increase in COVID-19 positive test rates amongst City staff in recent weeks. To minimize the exposure to COVID-19 from this recent surge, the City is reinstating social distancing protocols at in-person attendance at City Hall and encouraging the use of teleconferencing for City Council meetings.

Given these changed circumstances created by the increasing rates of COVID-19, the recommendation is that City Council make the following finds by majority vote every 30 days to continue using the bill's exemption to the Brown Act teleconferencing rules.

If Council approves the proposed resolution, staff will present a staff report to Council every thirty days to verify that the circumstances continue to exist.

FISCAL IMPACT

There is no fiscal impact.

STRATEGIC PLAN

This agenda item relates to the City Council's Strategic Priorities in the area of Public Safety (Goal #1 Support COVID-19 Public Health Recovery).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution making findings and re-authorizing remote teleconference meetings of the City Council and all legislative bodies of the City of Tracy for the period from November 16, 2022 through December 15, 2022 pursuant to the Brown Act.

Prepared by: Adrienne Richardson

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments:

A - Assembly Bill

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

TRACY CITY COUNCIL

RESOLUTION NO. _____

MAKING FINDINGS AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE CITY COUNCIL AND ALL LEGISLATIVE BODIES OF THE CITY OF TRACY FOR THE PERIOD OF NOVEMBER 16, 2022, TO DECEMBER 15, 2022, PURSUANT TO THE BROWN ACT

WHEREAS, The City of Tracy is committed to preserving and nurturing public access and participation in meetings of the City Council; and

WHEREAS, All meetings of the City of Tracy's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code section 54950 – 54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, AB 361 allows legislative bodies to use abbreviated teleconferencing procedures during a declared state of emergency upon the making of required findings, so as to allow a body to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953 of Brown Act; and

WHEREAS, On March 17, 2020, the City Council of the City of Tracy ratified the declaration of an emergency by the City Manager due to COVID-19 in accordance with Chapter 3.26 of the Tracy Municipal Code; and

WHEREAS, While the City has allowed in-person attendance at City Council meetings, the City is experiencing an increase in rates of COVID-19 cases within the County of San Joaquin and amongst the City staff pool; and

WHEREAS, The San Joaquin County Public Health Services provided an update of the increasing rates at the June 7, 2022, City Council meeting; and

WHEREAS, The Human Resources Department of the City of Tracy has documented an increase in COVID-19 positive test rates amongst City staff in recent weeks; and

WHEREAS, To minimize the exposure to COVID-19 from this recent surge, the City reinstated social distancing protocols at in-person attendance at City Hall and encouraged the use of teleconferencing for City Council meetings; and now therefore be it

RESOLVED:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution as findings of this City Council by this reference.

Section 2. Findings. The City Council hereby finds the following:

- A. That due to COVID-19, including the recent surge being experienced in the City of Tracy, holding City Council and other legislative body meetings exclusively in person will present imminent risk to the health and safety of attendees.
- B. That COVID-19 has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to affirm a local emergency exists and re-ratify the proclamation of a state of emergency by the Governor of the State of California.

Section 3. Remote Teleconference Meetings. The City Council, including Council subcommittees, and all Boards and Commissions of the City of Tracy are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act for the period of November 16, 2022 through December 15, 2022.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on November 15, 2022 by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.C

RECOMMENDATION

Staff recommends that the City Council 1) adopt a resolution approving the Off-site Improvement Agreement between City and 7-Eleven, Inc. for offsite improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.

EXECUTIVE SUMMARY

The proposed resolution approving the Off-site Improvement Agreement will allow 7-Eleven, the Developer, to proceed with the construction of their required off-site improvements. The approved Project scope includes the reconstruction of existing tree wells along North Tracy Boulevard & West Clover Road, a new sewer lateral in West Clover Road, new fire service and water service in West Clover Road, curb ramp upgrades to ADA standards in the intersection of North Tracy Boulevard & West Clover Road, traffic signal improvements, loop replacement along West Clover Road, and asphalt re-paving work along West Clover Road.

BACKGROUND AND LEGISLATIVE HISTORY

7-Eleven, Inc., is currently in a lease agreement with LJ Remainder LLC, the legal owner of that certain real property located at 3379 North Tracy Boulevard designated with Assessor's Parcel Number(s) 214-180-21. The lease agreement allows 7-Eleven, Inc., to act as the developer of the real property.

The Development Review Application (D20-0014) for the 7-Eleven Convenience Store and Gas Station (7-Eleven Store #41531) was approved by the Planning Commission on May 12, 2021. The approved Project scope includes demolishing the existing restaurant building and the construction of a new fuel station and convenience store building. The proposed improvements also include a redesigned parking lot, accessible parking and path of travel, sidewalk, trash enclosure, air & water unit, and landscaping stormwater treatment elements.

Approval of the project was also subject to specified conditions of approval regarding the construction of off-site improvements, including reconstruction of existing tree wells along North Tracy Boulevard & West Clover Road, a new sewer lateral in West Clover Road, new fire service and water service in West Clover Road, curb ramp upgrades to ADA standards in the intersection of North Tracy Boulevard & West Clover Road, traffic signal improvements, loop replacement along West Clover Road, and asphalt re-paving work along West Clover Road.

To guarantee completion of all off-site improvements as described above by the Developer in an orderly manner, the Developer was conditioned to execute an Off-site Improvement Agreement and post insurance and surety bonds.

ANALYSIS

The Developer has submitted improvement plans and cost estimates for the required off-site improvements. Staff reviewed and approved the improvement plans and cost estimates.

The Developer has executed the Off-site Improvement Agreement and submitted the required security to guarantee completion of the off-site improvements. The Improvement Plans and Off-site Improvement Agreement are on file with the City Engineer and are available for review upon request.

Upon completion of the improvements, the City will accept the improvements for maintenance.

FISCAL IMPACT

There will be no impact to the General Fund. The Developer will pay for the cost of processing of the agreement, construction, and inspection.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

That the City Council, by resolution, 1) adopt a resolution approving the Off-site Improvement Agreement between City and 7-Eleven, Inc. for offsite improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.

Prepared by: Majeed Mohamed, Associate Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Director of Development Services
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Offsite Improvement Agreement for 7-Eleven

**CITY OF TRACY
OFF-SITE IMPROVEMENT AGREEMENT FOR
7-ELEVEN STORE #41531, D20-0014
PUBLIC IMPROVEMENTS**

This **OFF-SITE IMPROVEMENT AGREEMENT** ("**Agreement**") is made and entered into by and between the **CITY OF TRACY** a municipal corporation ("**City**"), and 7-Eleven, Inc., a Texas Corporation ("**Developer**").

Recitals

- A.** Developer is currently in a lease agreement with LJ Remainder LLC, the legal owner of that certain real property located at 3379 North Tracy Boulevard designated with Assessor's Parcel Number(s) 214-180-21 and more particularly described in Exhibit "**A**" hereto (the "**Property**"). The said lease agreement allows 7-Eleven, Inc., to act as the Developer of the said real property.
- B.** The Development Review Application (D20-0014) for the 7-Eleven Convenience Store and Gas Station ("**Project**") was approved on May 12, 2021 subject to the specified conditions of approval attached hereto as Exhibit "**B**" ("**Conditions of Approval**"), which are incorporated herein by reference.
- C.** The Project involves demolishing the existing restaurant building and the construction of a new fuel station and convenience store building. The proposed improvements also include a redesigned parking lot, accessible parking and path of travel, sidewalk, trash enclosure, air & water unit, and landscaping stormwater treatment elements. In addition, the Project was conditioned to construct certain off-site improvements, as mentioned in Exhibit "**C**" of this agreement. As such, the Developer was required to enter into an off-site improvement agreement with the City to guarantee the construction of the said off-site improvements.
- D.** Developer has submitted, and the City Engineer has approved, those certain off-site improvement plans and specifications relating to the construction of new commercial driveways along North Tracy Boulevard & West Clover Road, reconstruction of existing tree wells along North Tracy Boulevard & West Clover Road, new sewer lateral in West Clover Road, new fire service and water service in West Clover Road, curb ramp upgrades to ADA standards in the intersection of North Tracy Boulevard & West Clover Road, traffic signal improvements, loop replacement along West Clover Road, and asphalt re-paving work along West Clover Road (collectively, the "**Work**"). The location and details of the Work are described more fully in the fifteen (15) sheets of improvement plans entitled "Off-site Improvement Plans for: 7-Eleven Store #41531", prepared by Tait & Associates of Rancho Cordova, CA ("**Plans and Specifications**"). The Plans

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
7-ELEVEN STORE #41531
PUBLIC IMPROVEMENTS
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and Specifications are on file with the City Engineer (ENG 21-0024) and are incorporated herein by reference.

- E. Because the Work described above and in the Plans and Specifications has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Scope of Work; Location; Offer of Dedication. Developer shall perform, or cause to be performed, the Work in the manner and as described in the Plans and Specifications, to the satisfaction of the City Engineer pursuant to this Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's sole expense. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer. Developer may submit a written request to the City Engineer for a change in the Work, as required by Tracy Municipal Code Section 12.36.060(f). To the extent applicable, all of the Work shall be performed by Developer in accordance with the requirements of the State prevailing wage laws.

Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. Developer has (a) acquired any necessary easement or right-of-way or (b) entered into a separate Agreement with the City to acquire the necessary easement or right-of-way at Developer's expense.

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

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

2.2. Schedule of Work. Concurrently with the written notice of commencement of Work, Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
7-ELEVEN STORE #41531
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- 2.3. Completion of Work. Developer shall complete all Work no later than three hundred sixty-five (365) calendar days after Developer's submittal of its notice of commencement of Work pursuant to Section 2.1 above.
3. Improvement Security. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:
 - 3.1. Faithful Performance security in the amount of \$193,904.70 to secure faithful performance of this Agreement.
 - 3.2. Labor and Material security in the amount of \$193,904.70 to secure payment by Developer to laborers and materialmen.
 - 3.3. Warranty security in the amount of \$19,390.47 to guarantee improvements against any defective work or labor done or defective materials used in performance of Work for one year from the date on which the City Council accepts the Work as complete.
4. Indemnification. Subdivider shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from the performance of the Work by Subdivider or Subdivider's agents, representatives, contractors, subcontractors, or employees, except when caused by the active negligence or willful misconduct of City, until such time as all of the following have occurred: (1) the City Council accepts all of the improvements comprising the Work, (2) the City becomes responsible for the maintenance, operation and repair of all of the improvements comprising the Work, and (3) the one year warranty period set forth in Section 13, below, has expired, at which time the indemnification obligations under this Section 4 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Subdivider's obligations under this Section 4 are in addition to all other Subdivider's obligations set forth in this Agreement and shall not affect Subdivider's warranty obligations set forth in Section 13, below.
5. Insurance. Concurrently with the execution of this Agreement by Developer, and before beginning any Work, Developer shall furnish evidence to the City that the following insurance requirements have been satisfied. The insurance requirements contained in this Section 6 are material terms of this Agreement. These insurance coverage requirements below may be satisfied by umbrella or excess liability policies upon City approval.

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- 5.1. General. Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 5.2. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01) coverage shall be maintained in an amount not less than \$4,000,000 per occurrence and \$8,000,000 general aggregate for general liability, bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse, and underground property hazards.
- 5.3. Professional Contracts. Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing services related to the Work to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required pursuant to this Agreement.
- 5.4. Automobile Liability (with coverage at least as broad as ISO form 00 01 07 97 for “any auto” including “hired autos” and “non-owned autos”) coverage shall be maintained in an amount not less than \$2,000,000 per accident for bodily injury and property damage.
 - 5.4.1. If Developer has no employees, or does not own automobiles, then “hired autos” and “non-owned autos” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 5.5. Workers’ Compensation coverage shall be maintained as required by the State of California.
- 5.6. Endorsements. Developer shall obtain endorsements to the commercial general liability and automobile policies with the following provisions:
 - 5.6.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an Additional Insured on Developer’s Commercial General Liability policy utilizing endorsement form CG 20 10 (or its equivalent) for ongoing operations and CG 20 37 (or its equivalent) for products/completed operations.
 - 5.6.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of Developer’s insurance and shall not contribute with it.

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- 5.6.3. Developer shall require its contractors and subcontractors providing services required by this Agreement (e.g. general contractors, design professionals) to name it and the City as Additional Insureds.
- 5.7. Notice of Cancellation. Developer shall notify the City of any cancellation of either the commercial general liability policy or automobile insurance policy before the expiration date. For the purpose of this notice requirement, any material change in the policy before the expiration shall be considered a cancellation. Developer shall immediately obtain a replacement policy.
- 5.8. Authorized Insurers. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California, with an AM Best rating of at least A:VII.
- 5.9. Insurance Certificate. Developer shall provide evidence of compliance with the commercial general liability insurance and automobile insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City Attorney before the City executes this Agreement.
- 5.10. Substitute Certificates. No later than thirty (30) days before the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.11. Developer's Obligation. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any responsibility whatsoever (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary.
6. Independent Contractor Status. Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.
7. Default
- 7.1. Notice of Default. In the event that Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

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- 7.2. Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist (which conditions are not intended to constitute the exclusive bases for default):
 - 7.2.1. Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.
 - 7.2.2. Developer abandons the Work site.
 - 7.2.3. Developer fails to perform one or more requirements of this Agreement and fails to cure any such non-performance pursuant to Section 7.3 below.
 - 7.2.4. Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.
 - 7.2.5. Developer violates any legal requirement related to the Work and fails to cure such violation pursuant to Section 7.3 below.
- 7.3. Cure of Default. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice from the City, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:
 - 7.3.1. Demand that Developer complete performance of the Work.
 - 7.3.2. Demand that Developer's surety (if any) complete performance of the Work.
 - 7.3.3. Resort to any judicial remedies available to the City.
8. Ownership of Work. All original documents prepared by Developer for this Agreement are the property of the City and shall be given to the City at the completion of Developer's Work, or upon demand from the City. Prior to acceptance of the Work, Developer shall submit the as-built drawings in AutoCAD format Release-14 or higher.
9. Repair of any Damage. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to

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repair or replace (as necessary) such property to remedy the damage caused thereto.

10. Inspection by City; Inspection Fees. To permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.

- 10.1. Inspection Fees. Concurrently with the execution of this Agreement by Developer, and prior to the commencement of any Work, Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3.5%) of the estimated Project costs (as approved by the City Engineer).

In the event that the City requires an independent inspection, the City may retain an independent inspector to inspect the Work and prepare an inspection report for the City, and all costs associated therewith shall be borne by Developer.

11. Developer's Authorized Representative. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. Exhibit "C" attached hereto includes the initial contact information referenced in this Section 11.
12. Acceptance of Work. Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work and maintaining safety at the Work site. Developer's obligations to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
13. Warranty Period. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default of this Agreement and shall without delay and without any cost to City repair, replace or reconstruct any defective improvements.

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14. Notices.

14.1. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or electronically mailed to the respective party as follows:

<p><u>To City:</u> City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Attn: City Engineer notice@cityoftracy.org</p> <p><u>With a copy to:</u> City Attorney 333 Civic Center Plaza Tracy, CA 95376 attorney@cityoftracy.org</p>	<p><u>To Developer:</u> 7-Eleven, Inc. 3200 Hackberry Rd. Irving, TX 75063 Attn: Nathaniel Gardner, 7-Eleven Attorney-in-Fact</p> <p><u>With a copy to:</u> Ian C. Williams, 7-Eleven Vice President of Development and M&A</p>
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14.2. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the email address designated above, or (2) two working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

15. Approvals by City. Any approval or consent that is to be given by City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on City.

16. Modifications. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

17. 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.

18. Assignment and Delegation. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.

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19. 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.
20. Permits, Licenses, and Compliance with Law. Developer shall, at its expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, Developer shall obtain a City of Tracy Business License. Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
21. Entire Agreement; Exhibits; Severability. The recitals and all defined terms in this Agreement are part of this Agreement. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed pursuant to this Agreement. This Agreement supersedes all prior negotiations, representations, or agreements. The following Exhibits attached hereto are incorporated into this Agreement and made a part hereof by this reference:
 - A. Description of Property (Recital A.)
 - B. Conditions of Approval (Recital B.)
 - C. Subdivider's Authorized Representative Information (Section 11.)

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

22. Signatures. The individuals executing this Agreement on behalf of Developer represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of Developer. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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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: Nancy D. Young
Title: MAYOR

Date: _____

Attest:

By: Adrienne Richardson
Title: CITY CLERK

Date: _____

Approved As To Form:

By: Bijal M. Patel
Title: CITY ATTORNEY

Date: _____

DEVELOPER:

7-Eleven, Inc.



By: ~~Lyle Schmitzen~~ **Nathanael Gardner**
Title: ~~7-Eleven Construction~~
~~Manager~~ **Attorney-in-Fact**

GENERAL CONTRACTOR:

J.M. STIT Construction Inc.



By: Justin Stitt
Title: COO, Executive VP

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EXHIBIT A

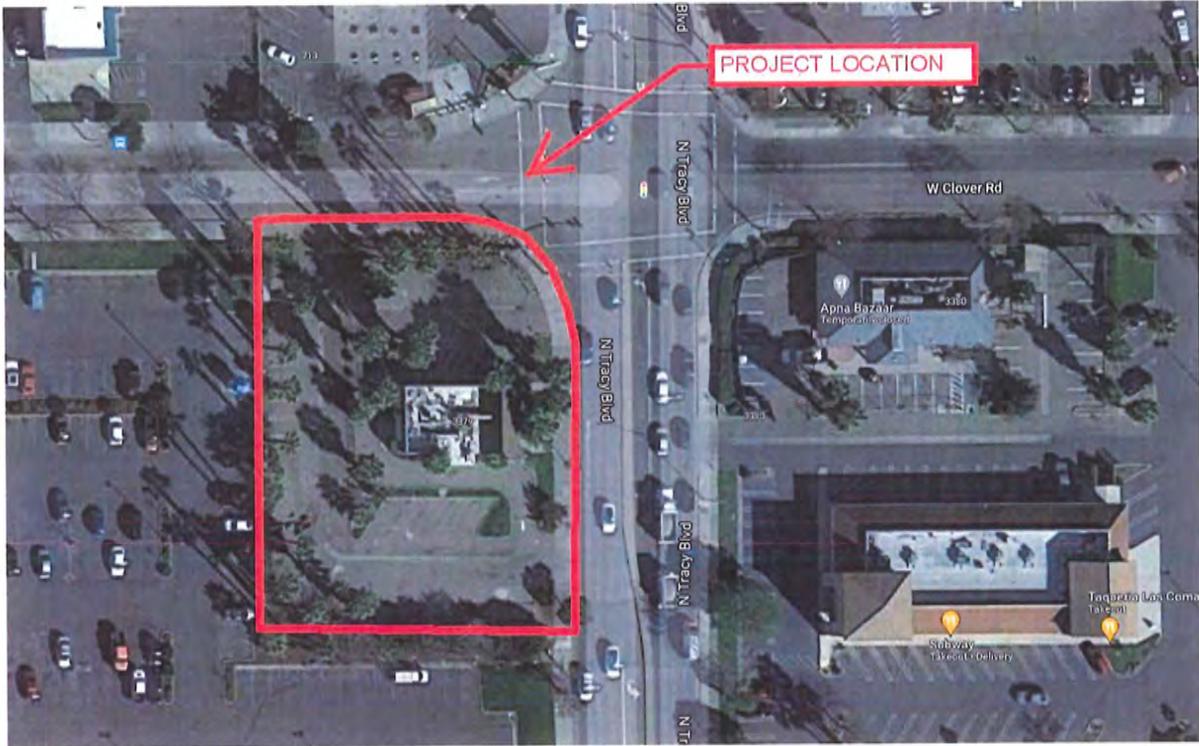


EXHIBIT B: CONDITIONS OF APPROVAL

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Exhibit 1

City of Tracy
Development Review Permit
Conditions of Approval
7-Eleven Convenience Store & Automobile Service Station
3379 N. Tracy Blvd.
Assessor's Parcel Number 214-180-21
Application Number D20-0014
May 12, 2021

These Conditions of Approval shall apply to the Development Review Permit to construct a 3,010 square foot convenience store and automobile service station at 3379 N. Tracy Blvd., Assessor's Parcel Number 214-180-21, Application Number D20-0014 (hereinafter "Project"), proposed by Michelle Feasby on behalf of 7-Eleven (hereinafter "Applicant") and LJ Remainder LLC (hereinafter "Property Owners").

1. The following definitions shall apply to these Conditions of Approval:
 - a. "Applicant" means any person, or other legal entity, defined as a "Developer".
 - b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
 - c. "City Regulations" mean all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Cordes Ranch Specific Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
 - d. "Conditions of Approval" shall mean these conditions of approval, applicable to Development Review Permit Application Number D20-0014.
 - e. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
 - f. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.

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- maintained in order to allow for a potential future vehicular access connection with the adjacent shopping center property to the west, to the satisfaction of the Development Services Director.
2. Prior to final inspection or certificate of occupancy, the back side of any visible roof parapets shall consist of the same material and be painted the same color as the front side of the roof parapets, to the satisfaction of the Development Services Director.
 3. Prior to issuance of a building permit, the applicant shall submit landscape plan details that demonstrate climbing vines underneath the wrought iron trellises on the south and east elevation, to the satisfaction of the Development Services Director.
 4. Prior to issuance of a building permit, the applicant shall submit site plans and construction details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters, to the satisfaction of the Development Services Director.
 5. Prior to the approval of a building permit, the applicant shall submit detailed landscape and irrigation plans consistent with the Department of Water Resources' Water Efficient Landscape Ordinance to the satisfaction of the Development Services Director. Said plans shall demonstrate no less than 40% of the total parking area be shaded by canopy trees at tree maturity. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 6. Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.
 7. Prior to issuance of a building permit, the construction documents shall comply with California Building Standards Commission (Cal Green Code Emergency Standards; Title 24, Part 11) regarding landscaping and irrigation water efficiency, to the satisfaction of the Utilities Director.
 8. Prior to the issuance of a building permit, the developer shall comply with all applicable Stormwater Quality Regulations, to the satisfaction of the Water Resources Division in the Utilities Department.
 9. Prior to the issuance of a building permit, the applicant shall submit detailed plans that demonstrate a minimum of one foot candle throughout the parking area as defined in TMC Section 10.08.3450.

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10. Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light into the public rights-of-way and onto any adjacent private property, to the satisfaction of the Development Services Director.
11. Prior to final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way to the satisfaction of the Development Services Director. Plans to demonstrate such compliance shall be submitted to the City prior to the issuance of a building permit.
12. Prior to the issuance of a building permit, the developer shall submit plans demonstrating that the trash enclosure shall be a masonry enclosure at a minimum height of seven feet, exterior materials and colors to match the proposed building, solid metal doors painted to match the proposed building colors, a roof designed with complementary materials and design, and a concrete apron in front of the enclosure where the dumpsters, loading/transport equipment, or vehicles will maneuver, to the satisfaction of the Development Services Director.
13. Prior to final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
14. Prior to final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, electrical conduits, etc. shall be painted to match the adjacent building surface or otherwise designed in harmony with the building exterior, to the satisfaction of the Development Services Director.
15. Prior to final inspection or certificate of occupancy, the Healy Tank and any accessory visible components shall be painted to match adjacent building surfaces, to the satisfaction of the Development Services Director.
16. No signs are approved as a part of this development application. Approval of a separate sign permit application by the Development Services Department is necessary prior to the installation of any signs.
17. Outdoor vending machines such as newspaper racks or beverage dispensing machines are not permitted.
18. Prior to issuance of a building permit, the Developer shall submit construction documents, plans, specifications, and/or calculations to the Building Safety Division, which meet all applicable requirements of Title 24 California Code of Regulations, to the satisfaction of the Chief Building Official.

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19. Prior to issuance of a building permit, the Developer shall submit plans that clearly depict an accessible route per California Building Code (CBC) 11B-206.2.2 from each building to the trash enclosure and all facilities on-site, to the satisfaction of the Chief Building Official.
20. Prior to issuance of a building permit, the Developer shall conform with all requirements of the California Fire Code as amended by the Tracy Municipal Code, to the satisfaction of the South County Fire Authority.
21. Prior to issuance of a building or grading permit, the developer shall demonstrate compliance with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and the Incidental Take Minimization Measures prepared by San Joaquin Council of Government (SJCOG), to the satisfaction of the Development Services Director.
22. Prior to issuance of a building permit, the Developer shall comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District (APCD), including District Rule 9510, Regulation VIII, and payment of all applicable fees, to the satisfaction of the APCD.

C. Engineering Division Conditions of Approval

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/reports prepared for the Project listed as follows:

- 1) Traffic Memorandum prepared by Kimley Horn and Associates dated March 23, 2021.
- 2) Storm Drain Memorandum by Wood Rodgers dated March 16, 2021.

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. Prior to release of a Grading Permit, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.4.1 Developer has completed all requirements set forth in this section.

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C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.

C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the project's limits.

C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.

C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.

C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by

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SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.

C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

Minor Retaining along Project Perimeter – Developer shall use reinforced or engineered masonry blocks for retaining soil along the Project boundary and adjacent property(s) when the grade differential exceeds 12-inches. Developer will include construction details for these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical). Slope easements may be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

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Slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading and Drainage Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).

C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).

C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

C.4.14 RESERVED

C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer

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shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:
- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
 - C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
 - C.5.1.c. A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.
 - C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the existing storm drainage line has adequate capacity to drain storm water from the

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Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.

The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot. Developer shall also construct the recommended mitigations from the storm water technical memorandum.

C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

C.5.1.g. Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

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The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.

After final inspection of the improvements constructed via an encroachment permit, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

C.5.1.h. Streets – Developer shall construct the project's frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

Tracy Boulevard and Clover Road

Developer will construct two (2) new commercial driveways per Standard Detail 130. Developer shall dedicate a ten (10) feet wide Public Utility Easement (P.U.E.) along the project frontage.

Developer shall construct driveways that conform to Section 3.08(F) of the 2020 Design Standards. Driveways shall have one and half (1.5) feet of full-height (i.e. six (6) inches) of vertical curb from the driveway's edge. Driveways shall be fire truck accessible to the satisfaction of the City Engineer.

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Developer shall also construct the recommended mitigations from the traffic technical memorandum.

Developer shall upgrade the Tracy Boulevard and Clover Road intersection to current pedestrian and ADA standards. The said upgrades will require the construction of curb ramp modifications, accessible pedestrian signal (APS) modifications, and countdown pedestrian signals at all four (4) corners of the intersection.

In terms of the Project's utility connections, Developer shall use existing utility stubs. If the stubs are not present or additional utility connections are required, the pavement restoration shall conform to C.8.1 of these Conditions.

Along the project frontage, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc. Developer shall also install a street tree in each of the empty three (3) [minimum] tree wells on the project's frontage. Developer shall also repair the existing or construct a new irrigation system to the said tree wells so that they are properly and automatically irrigated. The landscaping and irrigation shall conform to MWELo standards. If recommended, Developer shall use structural soil if the street trees' well is narrower than five (5) feet wide. Developer shall also remove existing sign monument and its appurtenances, and any other existing items such as bollards, mailboxes, etc.

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.
- C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the

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Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.5.4. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.5.5. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.5.6 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

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C.5.7 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.

C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.

C.6.3 RESERVED

C.6.4 Developer has completed all requirements set forth Condition C.8

C.7 Acceptance of Public Improvements

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.

C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.

C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the

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original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.

C.7.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.

C.7.6 Developer has completed the ninety (90) day public landscaping maintenance period.

C.7.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.

C.7.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.8 Special Conditions

C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.

C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

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C.8.3 Prior to the release of the Grading Permit, if water is required for the project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.

C.8.4 Prior to the release of the Certificate of Occupancy, Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare and submit a map depicting the location of the water meter on an 8.5-inch X 11-inch sheet to Finance Department.

C.8.5 Prior to the release of the Grading Permit, if required, Developer shall design or purchase and then construct or install a storm water treatment device and shall be located entirely within private property. Said installation shall be in a manner that does not impose any additional downstream maintenance burdens to the City. Said design and construction methods shall be to the satisfaction of the City Engineer.

C.8.6 Prior to the release of temporary or permanent occupancy, whichever is first, the Developer shall construct all APS modifications and shall be fully operational at the intersection of Tracy Boulevard and Clover Road

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EXHIBIT C

Lyle Schmidtchen, 7-Eleven Construction Manager
Phone: 818-201-4916
E-mail: lyle.schmidtchen@7-11.com

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL
RESOLUTION 2022-_____

- 1) APPROVING THE OFF-SITE IMPROVEMENT AGREEMENT BETWEEN CITY AND 7-ELEVEN, INC. FOR OFFSITE IMPROVEMENTS, AND**
- 2) AUTHORIZE THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER.**

WHEREAS, the Developer is 7-Eleven, Inc. and is currently in a lease agreement with LJ Remainder LLC, the legal owner of that certain real property located at 3379 North Tracy Boulevard designated with Assessor's Parcel Number(s) 214-180-21; and

WHEREAS, the lease agreement allows 7-Eleven, Inc., to act as the developer of the real property; and

WHEREAS, the approval of the Off-site Improvement Agreement will allow 7-Eleven to proceed with construction of their required off-site improvements; and

WHEREAS, the Development Review Application (D20-0014) for the 7-Eleven Convenience Store and Gas Station (7-Eleven Store #41531) was approved by the Planning Commission on May 12, 2021; and

WHEREAS, approval of the project was also subject to specified conditions of approval regarding the construction of off-site improvements; and

WHEREAS, to guarantee completion of all off-site improvements as described above, the Developer was conditioned to execute an Off-site Improvement Agreement and post insurance and surety bonds; and

WHEREAS, the Developer has submitted improvement plans and cost estimates for the required off-site improvements, and Staff has reviewed and approved them; and

WHEREAS, the Developer has executed the Off-site Improvement Agreement and submitted the required security to guarantee completion of the off-site improvements; and now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the Off-site Improvement Agreement between City and 7-Eleven, Inc. for offsite improvements; and

FURTHER RESOLVED: The City Council authorizes the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022 by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.D

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving increased maximum fees charged by private towing service operators for services rendered to reflect increased operating expenses.

EXECUTIVE SUMMARY

This staff report is to provide the City Council with background information supporting a request to increase the fees that local towing service operators may charge for towing services and daily storage fees. The fees that these towing service operators may charge the owners of vehicles towed and stored were last established on March 16, 2016, pursuant to Resolution No. 2016-045.

BACKGROUND AND LEGISLATIVE HISTORY

Tracy Municipal Code 3.44.190 mandates that City Council regulates the fees that may be charged by towing service operators on the City's rotational list and establish those fees by resolution. These rates and fees are to be established after a review of rates used in comparable communities and the operating expenses by towing service operators currently on the rotational list. The staff report provided to Council fulfills these requirements.

ANALYSIS

Tracy Police Department staff requested information from all of the local towing service operators to support the request to increase the fees they may charge for rotational list towing and vehicle storage services. The responding towing service operators provided information related to operational costs from 2016-2022. Listed below is a summary of the information the Police Department received regarding the increases in costs from 2016 to 2022:

1. Worker's Compensation rates vary between companies but on average, they reported an increase of approximately **30%**.
2. Salaries increased on average by approximately **25%**.
3. Between 2016 to 2021 the average cost of a gallon of diesel fuel in California has gone from **\$2.64** per gallon to **\$4.16** per gallon. In 2022, the average price of a gallon of diesel fuel peaked in June at **\$6.87**, and is currently averaging at \$6.15 (data as of Sept '22), representing a **62% increase**.

Source: U.S. Energy Information Administration

https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMD_EPD2DXL0_PTE_SCA_DPG&f=M

4. Tow truck maintenance costs vary widely between the companies, but all reported costs increased on average by approximately **24%**.

5. Vehicle insurance rates have increased on average by approximately **29%**.
6. Vehicle replacement costs vary depending on the type of equipment purchased but on average, those costs have increased by approximately **26%**.
7. Towing service operators can receive profits from junk vehicles in the form of scrap metal. In addition, companies reported an increase in fees for hazardous waste disposal for oil, tires, and batteries. Overall, profits and losses associated with junk vehicles varied between companies.
8. DMV fees and rates have increased but varied depending on the age of the trucks.
9. Reported employee medical benefits cost increases ranged from 10% to 20%.
10. Other operating expenses that were not reported in the survey but should be taken into consideration as increased operational costs are:
 - a. Facility/property maintenance
 - b. Utilities and Support Equipment (i.e. gas, electric, phones and water/sewer)
 - c. Rent/lease agreements

Tracy Police Department staff believes that the fees charged by towing service operators under agreement for rotational tow services should be consistent with what the neighboring city or county law enforcement agencies allow. The neighboring communities of Livermore, Manteca, Lathrop, Ripon, Stockton, and Turlock were polled as to their allowable tow and storage rates. Refer to Attachment B. The average area rate for towing was \$250 and the average daily storage was \$72. Additionally, the Stockton Area CHP Office was polled as they are in agreement with 23 area tow service operators.

The proposed rate increase is a reasonable request due to the increased operating expenses for business owners since the last rates were adopted in 2016. Currently, the City of Tracy does not employ its own vehicle tow service and relies only on local, privately owned tow companies to perform all towing and vehicle storage services.

In considering average rates, and the average rate information obtained from CHP Stockton Area Office (\$254.64/hr, \$87.67 average daily inside storage, and \$84.14 average daily outside storage from 23 different tow operators) staff recommends the following proposed rates:

TOW COMPANY SERVICES

	<u>Current Rate</u>	<u>Proposed Rate</u>
1. Standard Tow	\$180	\$255
2. Heavy Vehicle Towing (Class B)	\$350	\$450
3. Very Large Vehicle Tow (Class C/D)	\$400	\$500
4. Hourly Rate	\$180	\$255
5. City Vehicle (half standard rate)	\$ 65	\$127.50
6. Storage per Day – Standard Vehicle	\$ 60	\$90

7. Police Impounds (first 48 hours)	\$ 65	\$90
8. After Business Hour Release	\$ 65	\$90
9. Heavy Vehicle Storage (per day)	\$ 80	\$100

FISCAL IMPACT

There is no fiscal impact associated with this item. Approval of this request would allow privately owned tow companies that agree to provide tow operator services with the City of Tracy to increase their fees for towing services and vehicle storage.

PUBLIC OUTREACH/ INTEREST

This is a routine operational item that is reviewed periodically to ensure fees are up to date. Tracy Police Department surveyed local tow operators and neighboring law enforcement agencies during this review process.

COORDINATION

Tracy Police Department surveyed local tow operators, neighboring law enforcement agencies and California Highway Patrol during the review of the current tow fee schedule. The proposed increased fees would be comparable and consistent with California Highway Patrol and neighboring law enforcement agencies.

STRATEGIC PLAN

This agenda item relates to City Council's strategic priority for Governance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving increased maximum fees charged by private towing service operators for services rendered to reflect increased operating expenses.

Prepared by: Dave Ventling, Traffic Safety Unit Officer
Erik Speaks, Traffic Safety Unit Corporal

Reviewed by: Brian Wilmshurst, Traffic Safety Unit Sergeant
Miguel Contreras, Lieutenant
Sekou Millington, Chief of Police
Sara Cowell, Interim Director of Finance
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment: A - Proposed Tow Fee Schedule
Attachment: B - Local Fees Survey Results

Attachment A

<u>SERVICES</u>	<u>Current Rate</u>	<u>Proposed Rate</u>
1. Standard Towing	\$180	\$255
2. Heavy Vehicle Towing	\$350	\$450
3. Very Large Vehicle Towing	\$400	\$500
4. Hourly Rate	\$180	\$255
5. City Vehicle (half standard rate)	\$ 90	\$127.50
6. Storage Per Day – Standard Vehicle	\$ 60	\$ 90
7. Police Impounds (1 st 48 hours)	\$ 65	\$ 90
8. After Business Hour Release	\$ 65	\$ 90
9. Heavy Vehicle Storage (per day)	\$ 80	\$100

Attachment B

<u>Agency</u>	<u>Maximum Hourly Rate</u>	<u>Daily Storage Fees</u>
Livermore	\$190/hr	\$60 Inside \$55 Outside \$90 Gate Fee
Lodi	\$255/hr	\$65 Inside \$60 Outside
Manteca	\$280/hr	\$75
*Lathrop	\$280/hr	\$75
Ripon	\$245/hr	\$85 maximum
Stockton	\$255/hr	\$65 Inside \$60 Outside
Turlock	\$240/hr	\$80 Inside \$75 Outside \$120 Gate fee
**CHP	\$254.64/hr	\$87.67 Inside \$84.14 Outside

*Newly formed Lathrop Police Department is following schedule of fees of Manteca PD.

**Average among 23 towing service operators in agreement for towing services with Stockton Area CHP Office.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING INCREASED MAXIMUM FEES CHARGED BY PRIVATE TOWING SERVICE OPERATORS FOR SERVICES RENDERED TO REFLECT INCREASED OPERATING EXPENSES

WHEREAS, the City of Tracy's Police Department utilizes private towing and vehicle storage services on a rotational list; and

WHEREAS, Tracy Municipal Code Section 3.44.190 requires that the City Council, by resolution, regulate and establish the rates and fees that may be charged by private towing service operators on the City's rotational list; and

WHEREAS, these rates and fees are to be established after a review of rates used in comparable communities and the operating expenses by towing service operators currently on the rotational list;

WHEREAS, these rates and fees have not been increased since March 2016; and

WHEREAS, representatives from the towing service operators have indicated that the cost of doing business for the City of Tracy has increased significantly since 2016, and the increases in rates and fees are necessary to accommodate increased operating costs; and be it

RESOLVED: That City Council does hereby approve increased maximum fees charged by private towing service operators to reflect increased operating expenses, as set forth in Attachment A attached hereto.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on November 15, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.E

RECOMMENDATION

Staff recommends City Council 1) approve the Offsite Improvement Agreement between City and Prologis, L. P. for the construction of roadway and utility improvements of International Park of Commerce (IPC) Retail Frontage Street Improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.

EXECUTIVE SUMMARY

Approval of the Offsite Improvement Agreement will allow Prologis, L.P. (Developer) to proceed with the construction of the roadway improvements and utility improvements on International Parkway and Capital Parks Drive, and all associated improvements related to the development of two multi-tenant commercial buildings (3,968 sq. ft. and 8,160 sq. ft.) at 815 International Parkway (Project).

BACKGROUND AND LEGISLATIVE HISTORY

Developer is responsible for the construction of roadway and utility improvements on the frontages of the Project along International Parkway and Capital Parks Drive. The Development Review Application (D21-0013) ("Application") which authorized the Developer to proceed with the construction of said improvements was approved by the Development Services Director on August 04, 2022.

The roadway improvements and utility improvements that are the subject of the Offsite Improvement Agreement between the City of Tracy and the Prologis, L.P., and the said improvements will be funded and performed by the Prologis, L.P.

ANALYSIS

The Conditions of Approval for Development application D21-0013 requires construction of certain roadway and utility improvements on International Parkway and Capital Parks Drive between Promontory and International Parkway. Pursuant to Government Code Section 66462, Developer has requested to execute the agreement and to post the necessary securities to guarantee completion of the improvements.

Once the necessary improvements have been completed, the City will accept the improvements and accept all offers of dedication of public right-of-way and other public parcels.

FISCAL IMPACT

There will be no impact to the General Fund. The roadway improvements and utility improvements that are the subject of the Offsite Improvement Agreement between the City of Tracy and the Prologis, L.P. and therefore the said improvements will be funded and performed by the Prologis, L.P. The Developer has paid the applicable engineering review fees which include the cost of the processing of the Offsite Improvement Agreement.

CEQA DETERMINATION

The project is within the scope of the development program evaluated in the certified Cordes Ranch Specific Plan EIR (CRSP EIR) and is consistent with the land use designations and development densities and intensities assigned to the proposed Project sites by the CRSP zoning. Cumulative and offsite impacts associated with development of the proposed Project, as proposed, were fully addressed in the CRSP EIR (SCH# 2011122015). Since the proposed Project is within the scope of the development program evaluated in the CRSP EIR and no subsequent EIR is required pursuant to Section 15162 of the CEQA Guidelines, under Section 15168(c) of the CEQA Guidelines, no further environmental review is required for the Project.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

That the Tracy City Council, by resolution, 1) approve the Offsite Improvement Agreement between City and Prologis, L. P. for the construction of roadway and utility improvements for International Park of Commerce (IPC) Retail Frontage Street Improvements, and 2) authorize the City Clerk to file the agreement with the Office of the San Joaquin County Recorder.

Prepared by: Al Gali, Associate Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Director of Development Services
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Vicinity Map
Attachment B – Offsite Improvement Agreement

Attachment A



VICINITY MAP

N.T.S.

**CITY OF TRACY
OFFSITE IMPROVEMENT AGREEMENT
FOR INTERNATIONAL PARK OF COMMERCE (IPC)
IPC RETAIL FRONTAGE STREET IMPROVEMENTS ON
INTERNATIONAL PARKWAY AND CAPITAL PARKS DRIVE**

This **OFFSITE IMPROVEMENT AGREEMENT FOR INTERNATIONAL PARK OF COMMERCE (IPC) – IPC RETAIL FRONTAGE STREET IMPROVEMENTS** (“**Agreement**”) is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (“**City**”) and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as “**Developer**”).

RECITALS

- A. Developer is the legal owner of approximately one thousand two hundred and forty-two (1,242) acres of real property within the Cordes Ranch Specific Plan Area, which consists of approximately one thousand seven hundred and eighty (1,780) acres (“**Specific Plan Area**”).
- B. On September 3, 2013, the Tracy City Council (“**City Council**”) adopted the Specific Plan and approved related land use entitlements to enable the Project to proceed.
- C. The Development Review Application (D21-0013) (the “**Application**”) for construction of roadway improvements and utility improvements on International Parkway and Capital Parks Drive, and all associated improvements as approved by the Development Services Director on approved on August 4, 2022, is on file with the City Engineer, and is incorporated herein by reference. The approval of the Application was subject to specific conditions of approval (hereinafter “**Conditions of Approval**”), attached hereto as Exhibit “A”, and incorporated by reference.
- D. In accordance with the Cordes Ranch Specific Plan and IPC Retail – Promontory Station Conditions of Approval, Developer has submitted, and the City Engineer has approved, those certain improvement plans and specifications relating to the construction of concrete curb and gutter, sidewalk, accessible ramps, driveways, water and sewer lines, storm drain systems, catch basins, fire hydrants, landscape with automatic irrigation, streetlights, traffic signals, signing and striping, joint trench and associated improvements between the curb and the street right-of-way on Capital Parks Drive and International Parkway (collectively, the “**Work**”). The Work is described more fully in thirteen (13) sheets of Civil improvement plans titled as “International Park of Commerce – IPC Retail Frontage Street Improvement Plans for Capital Parks Drive” prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, nine (9) sheets of Irrigation & Landscape plans prepared by DB+A of Lafayette, California, one (1) sheet of Signing and Striping plan prepared by TJKM of Pleasanton, California, four (4) sheets of Joint Trench plans prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California and three (3) sheets of Street Light plans prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California (“**Plans and Specifications**”). The Plans and Specifications (ENG20-0027) are on file with the City Engineer, and are incorporated herein by reference. The Work will be performed on the real property shown and more particularly described in Exhibit “B” hereto (the “**Property**”).

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 2 of 11

- E. Since the Work, as described above and in the Plans and Specifications, has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** Developer shall perform, or cause to be performed, the Work in the manner and as described in the Plans and Specifications, to the satisfaction of the City Engineer, pursuant to this Agreement and, as applicable, Section 4 of the Development Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's expense, in the manner described in the Plans and Specifications, subject to the applicable fee reconciliation provisions set forth in Section 6 of the Development Agreement. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer, such approval not to be unreasonably withheld. Developer may submit a written request to the City Engineer for a change in the scope of the Work, as required by Tracy Municipal Code Section 12.36.060(f).

Subdivider shall perform all Work at the locations and grades shown on the Plans and Specifications. Subdivider (a) has acquired any necessary easement or right-of-way or (b) has entered into a separate Agreement with the City to acquire the necessary easement or right-of-way at Subdivider's expense.

2. Improvement Plans and Specifications (which incorporate portions of the City's Standard Specifications) have been prepared on behalf of Subdivider; reviewed and approved by the City. Mylars of the Improvement Plans and Specifications have been signed by the City Engineer. The Improvement Plans and Specifications describe in further detail the public improvements that are conditioned for approval of the Final Map. The Improvement Plans and Specifications, as signed by the City Engineer, are on file with the City Engineer, and are incorporated here by reference. The term "Plans and Specifications" includes thirteen (13) sheets of Civil improvement plans titled as "International Park of Commerce – IPC Retail Frontage Street Improvement Plans for Capital Parks Drive" prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, nine (9) sheets of Irrigation & Landscape plans prepared by DB+A of Lafayette, California, one (1) sheet of Traffic, Signing and Striping plans prepared by TJKM of Pleasanton, California, seven (7) sheets of Electrical plans and two (2) sheets of Photometric plans prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, signed by the City Engineer on September 20, 2022, and the City's Standard Specifications as applicable. The Work will be performed on the real property shown and more particularly described in Exhibit "B" hereto (the "**Property**").
3. Time of Performance. Time is of the essence in the performance of the Work, and the timing requirements set forth here shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Subdivider shall submit all requests for extensions of time to the City, in writing, no later than ten days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
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4. DEVELOPER'S AUTHORIZED REPRESENTATIVE. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. Exhibit "C" attached hereto includes the initial contact information referenced herein.

5. LOCATION OF PERFORMANCE. Developer shall perform the Work at the locations and grades shown on the Plans and Specifications or as otherwise approved by the City Engineer. Subject to the applicable provisions of Section 3.8 of the Development Agreement, in the event and to the extent required for the Work, Developer shall acquire all easements and/or rights-of-way necessary for the performance of the Work, at Developer's expense, subject to applicable fee reconciliation provisions set forth in Section 6 of the Development Agreement.

6. IMPROVEMENT SECURITY. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:
 - 6.1 Faithful Performance security in the amount of \$ 802,060.00 to secure faithful performance of this Agreement (until the day following the date upon which the City Council accepts the Work as complete).

 - 6.2 Labor and Material security in the amount of \$ 802,060.00 to secure payment by Developer to laborers and materialmen (until the day following the date upon which any and all claims in connection with the Work are required to be made by laborers and materialmen in accordance with applicable laws).

 - 6.3 Warranty security in the amount of \$ 80,206.00 to guarantee improvements against any defective work or labor done or defective materials used in the performance of Work (from the day following the date upon which the City Council accepts the Work as complete through and including the same date in the following year).

7. IRREVOCABLE OFFER OF DEDICATION. Prior to City's issuance of a final Certificate of Occupancy for IPC Retail, Developer shall execute an Irrevocable Offer of Dedication (IOD) in substantially the form attached hereto as Exhibit D, to convey to City the completed Work and the underlying property. At Developer's expense, Developer shall also remove or insure over, as requested by City, any new encumbrances City deems, in its discretion, to conflict with the City's intended ownership and use of the facilities as set forth in Tracy Municipal Code section 12.32.040.

8. INSURANCE. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish evidence to City that all of the following insurance requirements have been satisfied by the Developer or its general contractor responsible for the Work. The insurance coverage requirements below can also be covered by umbrella policies if approved by the City.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 4 of 11

- 8.1 General. Developer shall, throughout the duration of this Agreement, maintain or cause to be maintained insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services for the Work covered by this Agreement at the minimum levels set forth herein.
- 8.2 Commercial General Liability. Developer shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than four million dollars (\$4,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. Developer's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.
- 8.3 Automobile Liability. Developer shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident.
- 8.4 Workers' Compensation. Developer shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Developer shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
- 8.5 Professional Liability. Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.
- 8.6 Notice of Cancellation. Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days' prior written notice to City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 8.7 Authorized Insurers. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 5 of 11

- 8.8 Insurance Certificate. Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form reasonably satisfactory to the City Attorney.
- 8.9 Substitute Certificates. No later than five (5) calendar days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide City with a substitute certificate of insurance.
- 8.10 Developer's Obligation. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any of its obligations hereunder (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary or desirable.
9. PERMITS, LICENSES AND COMPLIANCE WITH LAW. Developer shall, at its expense, obtain and maintain all necessary permits, approvals and licenses for performance of the Work, subject to City's cooperation pursuant to the applicable provisions of Sections 3.4 and 3.5 of the Development Agreement. In its performance of the Work, Developer shall comply with all applicable local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
10. TIME OF PERFORMANCE. Time is of the essence in the performance of the Work, and Developer and the City shall with diligence and in good faith adhere to the timing requirements set forth herein unless otherwise modified in writing in accordance with this Agreement. Developer shall submit all requests for extensions of time to City, in writing, no later than ten (10) days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.
- 10.1. Commencement of Work. No later than fifteen (15) days prior to the commencement of the Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence the Work. Developer shall not commence the Work until after the notice required by this Section 10.1 is provided, and Developer shall not commence Work prior to the date specified in said written notice.
- 10.2. Schedule of Work. Concurrently with the written notice of commencement of Work, Developer shall provide City with a written schedule of Work that is acceptable to the City Engineer in its reasonable discretion, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.
- 10.3. Completion of Work. Developer shall complete all Work described in the Plans and Specifications no later than three hundred sixty-five (365) calendar days after Developer's submittal of its notice of commencement of Work pursuant to Section 10.1 above. If the Work is not completed by this date, City Council authorizes the City Engineer to consider an extension of time if (a) Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) Developer pays all processing fees for such time extension.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
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11. INSPECTION BY CITY; Inspection Fees. In order to permit the City to inspect the Work, Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops where portions of the Work are in preparation.

Concurrently with Developer's execution of this Agreement and before the beginning of any Work, Developer shall pay the City Inspection Fees in the amount of 3.5% of the estimated Engineer's Cost Estimate of (as approved by the City Engineer) **\$ 802,060.00** which is equal to **\$ 28,072.00**. If the City requires an independent inspection, Subdivider shall pay all such costs and provide a report directly to the City.

12. DEFAULT.

- 12.1 Notice of Default. Subject to compliance with the applicable provisions of Sections 4.4(a) and (b) of the Development Agreement, in the event that Developer is in default of this Agreement, as defined in this Section 12, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

- 12.2 Material Breach. Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist (which conditions are not intended to constitute the exclusive bases for default):

12.2.1 The Developer is insolvent, bankrupt, or makes a general assignment of the benefit of its creditors.

12.2.2 The Developer abandons the Work site.

12.2.3 The Developer fails to perform one or more material requirements of this Agreement, and fails to cure any such non-performance pursuant to Section 12.3, below.

12.2.4 The Developer violates any legal requirements related to the Work, and fails to cure such violation pursuant to Section 12.3, below.

- 12.3 Cure of Default. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice from the City, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

12.3.1 Cure the default in accordance with Section 4.4(b) of the Development Agreement.

12.3.2 Demand that Developer complete performance of the Work.

12.3.3 Demand that Developer's surety (if any) complete performance of the Work.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 7 of 11

- 12.3.4 Enter the Property and complete the Work. To this end, Developer hereby grants City a license to enter onto the Property that is the subject of this Agreement, to complete the Work in the event of an uncured default.
- 12.3.5 Any other judicial remedies available to the City.
- 13 REPAIR OF ANY DAMAGE. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.
- 14 ACCEPTANCE OF WORK. Upon Developer's satisfactory completion, as reasonably determined by the City Engineer, of all items on all punch lists prepared by the City for the Work, City Staff shall use its best efforts to expeditiously present the improvements comprising the Work to the City Council for the City Council's final acceptance. Prior to final acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Work site.
- 15 WARRANTY PERIOD. Developer shall warrant the quality of the Work, in accordance with the Plans and Specifications, for a period of one (1) year after final acceptance of the Work by the City Council, consistent with Section 14 above.
- 16 INDEPENDENT CONTRACTOR STATUS. Developer is an independent contractor, and the parties agree that City shall have no responsibility for any acts of Developer's employees, agents, representatives, contractors or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Developer.
- 17 OWNERSHIP OF WORK. All original documents prepared by Developer for this Agreement shall be given to City upon City's final acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws and with Developer's contracts with its design professionals.
- 18 INDEMNIFICATION. Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees until such time as all of the following have occurred: (1) the City Council accepts all of the improvements comprising the Work, (2) the City becomes responsible for the maintenance, operation and repair of all of the improvements comprising the Work, and (3) the one year warranty period set forth in Section 15, above, has expired, at which time the indemnification obligations under this Section 18 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Developer's obligations under this Section 18 are in addition to all other Developer obligations set forth in this Agreement, and shall not affect Developer's warranty obligations set forth in Section 15, above.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 8 of 11

19 ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of City, which shall not be unreasonably withheld, delayed or denied. Any attempt to assign or delegate this Agreement without City's written consent shall be void and of no force and effect. Consent by City to one assignment shall not be deemed to be consent to any subsequent assignment.

20 NOTICES.

20.1 Notice in Writing. All notices, demands, or other communications that this Agreement contemplates, authorizes or requires shall be in writing and shall be personally delivered and electronically mailed to the respective party as follows:

City: City of Tracy
Attn: City Engineer
333 Civic Center Plaza
Tracy, CA 95376
notice@cityoftracy.org

Prologis: Prologis L.P.
Attn: Ali Harandi
Pier 1, Bay 1
San Francisco, CA 94111
Tel: (415) 733-9525
Fax: (415) 733-2171
aharandi@prologis.com

Copy to: City Attorney's Office
Attn: City Attorney
333 Civic Center Plaza
Tracy, CA 95376
attorney@cityoftracy.org

Copy to: Rutan & Tucker, LLP
Attn: John A. Ramirez
611 Anton Blvd.
Costa Mesa, CA 92694
Tel: (714) 662-4610
Fax: (415) 262.5199
jramirez@rutan.com

Copy to: Prologis L.P.
Attn: General Counsel
1800 Wazee Suite #500
Denver, CO 80202
Tel: (303) 567-5000
Fax: (303) 567-5903
legalnotice@prologis.com

20.2 Communications shall be deemed to have been given and received when actual receipt at the email address designated above occurs.

21 MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

22 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.

23 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.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 9 of 11

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.

24. Entire Agreement; Exhibits; Severability. The recitals and all defined terms in this Agreement are part of this Agreement. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed pursuant to this Agreement. This Agreement supersedes all prior negotiations, representations, or agreements. The following Exhibits attached hereto are incorporated into this Agreement and made a part hereof by this reference:

- A. Location Map (Section 2)
- B. Conditions of Approval (Recital C.)
- C. Developer's Authorized Representative Information (Section 4.)

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

25. 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 Developer and 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 – OFFSITE IMPROVEMENT AGREEMENT
IPC RETAIL FRONTAGE STREET IMPROVEMENTS
Page 10 of 11

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

CITY OF TRACY

PROLOGIS, L.P. a Delaware Limited Partnership

Nancy D. Young, Mayor
Date: _____

By: Prologis, L.P., a Delaware Limited Partnership

DocuSigned by:
Matthew Sims

Matthew Sims, Vice President

Date: 10/19/2022

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

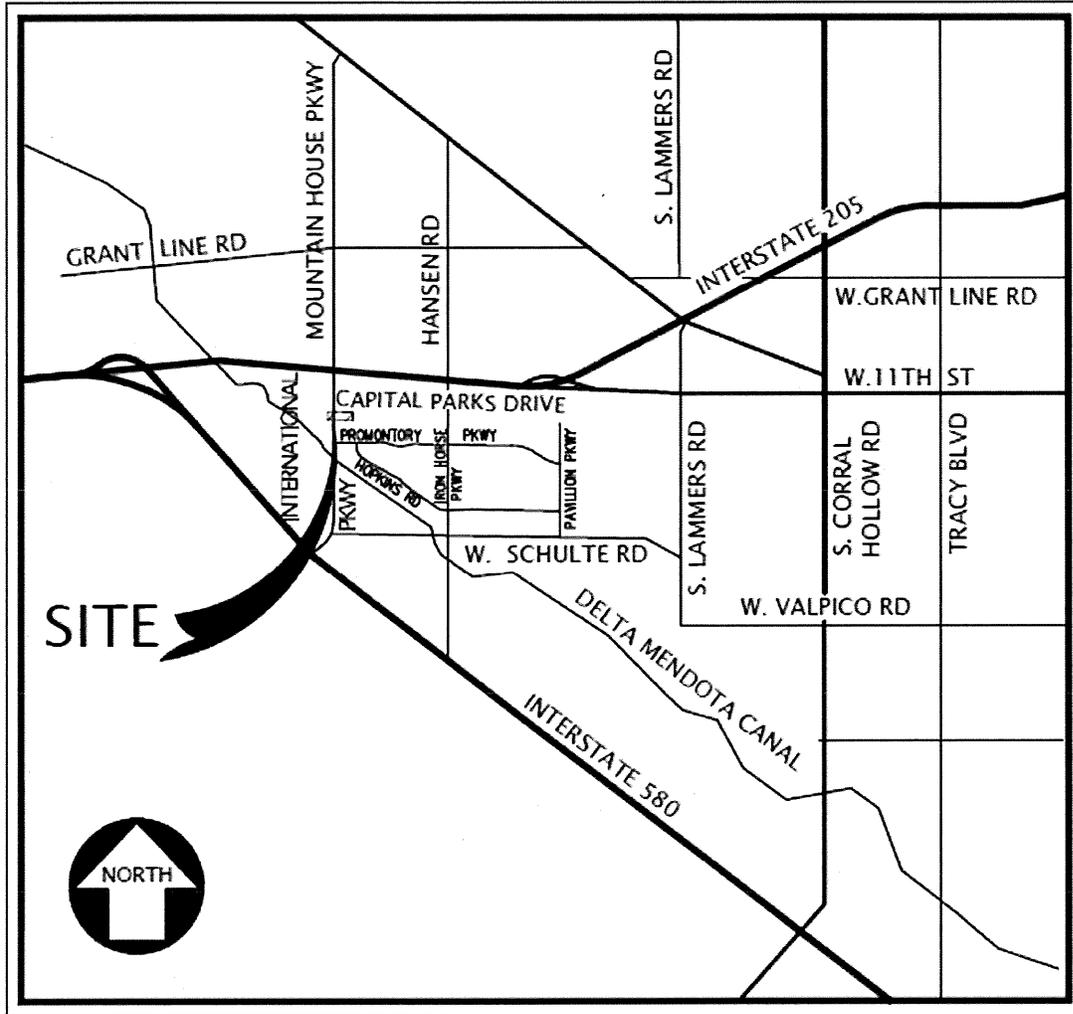
Bijal Patel, City Attorney

ATTACHMENTS:

- Exhibit A - Conditions of Approval
- Exhibit B – Location Map
- Exhibit C - Contact Information of Authorized Representative
- Exhibit D – Irrevocable Offer of Dedication

Exhibit A – Conditions of Approval

Exhibit B – Location Map



VICINITY MAP

N.T.S.

**CITY OF TRACY
OFFSITE IMPROVEMENT AGREEMENT
FOR INTERNATIONAL PARK OF COMMERCE (IPC)
IPC RETAIL FRONTAGE STREET IMPROVEMENTS ON
INTERNATIONAL PARKWAY AND CAPITAL PARKS DRIVE**

EXHIBIT "C"
PAGE 1 OF 1

<u>Name of Person</u>	<u>Company Name</u>	<u>Telephone Number</u>
Matthew Sims	Prologis, LP	(510) 298-9810
Chuck McCallum	Kier & Wright Engineers	(925) 245-8788

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CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL
RESOLUTION 2022-_____

1) **APPROVING THE OFFSITE IMPROVEMENT AGREEMENT BETWEEN CITY AND PROLOGIS, L.P. FOR THE CONSTRUCTION OF ROADWAY AND UTILITY IMPROVEMENTS OF INTERNATIONAL PARK OF COMMERCE (IPC) RETAIL FRONTAGE STREET IMPROVEMENTS**

WHEREAS, the Development Review Application (D21-0013), approved by the Development Services Director on August 04, 2022, requires construction of roadway and utility improvements on the frontages of the Project along International Parkway and Capital Parks Drive; and

WHEREAS, the Developer, Prologis, L.P., has executed the OIA and has posted the required securities to guarantee completion of the improvements; and

WHEREAS, upon completion of all improvements, the City will accept the improvements and accept all offers of dedication of public right-of-way and other public parcels; and

WHEREAS, the project scope of the development is part of the Cordes Ranch Specific Plan Environmental Impact Report and is consistent with the land use designation and development densities and intensities assigned to the proposed project sites. Cumulative and offsite impacts associated with development of the proposed Project, as proposed, were fully addressed in the CRSP EIR (SCH# 2011122015). Since the proposed Project is within the scope of the development program evaluated in the CRSP EIR and no subsequent EIR is required pursuant to Section 15162 of the CEQA Guidelines, under Section 15168(c) of the CEQA Guidelines, no further environmental review is required for the Project; and

WHEREAS, there will be no impact to the General Fund. The Developer will pay for roadway improvements and utility improvements and for the cost of inspection and processing the agreement; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby 1) approve the Offsite Improvement Agreement between City and Prologis, L. P. for the construction of roadway and utility improvements for International Park of Commerce (IPC) Retail Frontage Street Improvements.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022 by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.F

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving Amendment No.1 to the Professional Services Agreement with Dokken Engineering, Inc. to amend the scope for the development of Project Approval (PA) and Environmental Document (ED) for I-205/Chrisman Road New Interchange Project CIP 73109, Federal Project # HPLULN - 5192(034), and increase the compensation by an additional \$690,014, for a total contract amount of \$1,516,933.

EXECUTIVE SUMMARY

This agenda item with City Council approval, would approve Amendment No.1 to the Professional Services Agreement with Dokken Engineering, Inc. for Professional Engineering Services for the development of Project Approval (PA) and Environmental Document (ED) for I-205/Chrisman Road New Interchange Project CIP 73109, Federal Project # HPLULN – 5192(034), to amend the scope of services and increase compensation by an additional \$690,014 for a total contract amount of \$1,516,933. A contract amendment is requested to adjust the existing project scope and budget to provide the additional funds to complete the update and revisions to the engineering and environmental studies.

BACKGROUND AND LEGISLATIVE HISTORY

The City's General Plan identifies a new interchange at Interstate 205 (I-205) and Chrisman Road to serve the eastern part of the City. The City entered into an agreement with Dokken Engineering Inc. for completing the Project Study Report (PSR) - Project Development Support (PDS) of this new interchange on January 17, 2012, under Resolution No. 2012-011. The PSR-PDS was completed in December 2012. The City then later entered into a second agreement with Dokken Engineering Inc. for the development of Project Approval (PA) and Environmental Document (ED) for the project on August 6, 2013, under Resolution No. 2013-112 for a not to exceed amount of \$826,919.

ANALYSIS

City had been diligently working towards completing the development of the Project Approval (PA) and Environmental Document (ED) for the new interchange since the original agreement with Dokken Engineering was executed in 2012. The proposed spacing between the existing interchange at MacArthur Drive and the new Chrisman Road interchange did not meet the minimum requirements per Caltrans design standards. The minimum spacing required was 3-miles and there was only 1.5 miles spacing from MacArthur Drive to Chrisman Road along I-205. The City pursued an exception to this requirement and received an Interchange Spacing Design Exception in October 2015 from Caltrans. Technical studies to support environmental documents were completed in October 2018, followed by evaluation of additional alternatives in December 2018. The project was later put on hold due to concerns by Caltrans regarding the City's multiple interchange projects, priorities, and funding. Resulting from these concerns, Caltrans would not approve the New Connection Report for the project. As a result of a series of conversations with Caltrans, and a rewrite of the New Connection Report, the City was able to demonstrate the importance of the Chrisman Interchange project for the I-205 corridor and

demonstrate its commitment to continuing the project development process.

This Interchange project is tremendously important due to the growing traffic needs generated by several new and proposed developments in the Northeast Industrial (NEI) region. This necessitated that the City resume the development of the PA & ED and pursue funding plans for completion of the future phases of the project.

The restart of the PA & ED development requires that the previously completed engineering and technical studies for the environmental documents be updated or reevaluated along with new studies like the Vehicles Miles Travel (VMT) analysis to comply with the Senate Bill (SB) 743 guidelines that have been promulgated after this project was initiated.

The City requested a proposal from the Dokken Engineering, Inc. (Consultant) required to complete the additional tasks. After negotiations between the City and Consultant, the parties have reached an agreement for the performance of these additional services for a not-to-exceed amount of \$690,014. The development of PA & ED is anticipated to be complete by December 2024.

FISCAL IMPACT

The I-205/Chrisman Road New Interchange Project CIP 73109 has an available budget of \$1,367,000. This is sufficient for the PSA with Dokken Engineering, Inc. for Professional Engineering Services for the Project Approval (PA), Environmental Document (ED) for the Amendment No.1 to the PSA in the not to exceed amount of \$690,014.

PUBLIC OUTREACH/ INTEREST

This item does not require any public outreach.

COORDINATION

The City's Engineering Division coordinated with Caltrans and the San Joaquin County for resuming this project through regular monthly Project Development Team (PDT) meetings. City also requested SJCOG to allocate some available State Transportation Improvement Program (STIP) funding to the project for funding the future Plans, Specifications and Estimate (PS&E) phase of this project, which was however not realized due to other competing projects in the County.

CEQA DETERMINATION

This action of approving an amendment to a Professional Services Agreement will not pose any environmental impact and is not subject to CEQA.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, approve Amendment No.1 to the Professional Services Agreement with Dokken Engineering, Inc., to amend the scope for the development of Project Approval (PA) and Environmental Document (ED) for I-205/Chrisman Road New Interchange Project CIP 73109, Federal Project # HPLULN - 5192(034), and increase the compensation by an additional \$690,014, for a total contract amount of \$1,516,933.

Prepared by: Anju Pillai, PE, Senior Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Director of Development Services
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Amendment No.1 to PSA with Dokken Engineering, Inc.

**CITY OF TRACY
AMENDMENT NO. 1 TO
PROFESSIONAL SERVICES AGREEMENT
FOR
PROJECT APPROVAL (PA) AND ENVIRONMENTAL DOCUMENT (ED) FOR
I-205/CHRISMAN ROAD NEW INTERCHANGE CIP 73109, FED PROJECT # HPLULN-5192
(034)**

This Amendment No. 1 (**Amendment**) to the Professional Service Agreement for the I-205/Chrisman Road New Interchange is entered into between the City of Tracy, a municipal corporation (**City**), and Dokken Engineering, Inc., a California Corporation (**Consultant**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A.** The City and Consultant entered into a Professional Service Agreement (**Agreement**) for the I-205/Chrisman Road New Interchange in the amount not to exceed \$826,919, which was approved by the City Council on August 6, 2013, under Resolution No. 2013-112
- B.** A contract amendment is requested to adjust the existing project scope and budget to provide the additional funds to complete the update and revisions to the engineering and environmental studies.
- C.** This current Project Approval (PA) and Environmental Document (ED) phase of the project has been on hold for several years. The phase was put on hold due to concerns by Caltrans regarding the City's multiple projects, priorities, and funding. At that time, the City was trying to process multiple interchange projects through Caltrans. Caltrans requested the City to determine their priority list of multiple projects and develop a funding plan prior to moving forward with the project. Additionally, Caltrans would not approve the New Connection Report for the project, as it needed to prioritize the Chrisman Interchange project over other City Interchange projects in the corridor.
- D.** Based on the growing traffic needs in the Northeast Industrial (NEI) region generated by several developments and overall growth of the City, this Interchange has risen in priority, and it is recommended to resume the PA&ED phase of the project, while the City determines the funding plan for the future phases.
- E.** The previously completed engineering and environmental technical studies will need to be updated or redone.
- F.** The terms and requirements stated on the original contract remain in full force and effort.
- G.** This Amendment is being executed pursuant to Resolution No. 2022-____ approved by Tracy City Council on _____, 2022.

Now therefore, the Parties mutually agree as follows:

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

2. Terms of Amendment.

A. The following language shall be added to Section 1. SCOPE OF SERVICES of the Agreement:

“For services performed pursuant to Exhibit A-1, City shall pay Consultant a not-to-exceed amount of \$690,014 at the billing rates set forth in Exhibit C-1.

B. Exhibit A-1 “Scope of Services,” attached hereto shall supplement Exhibit “A” of the Agreement. Consultant is responsible for completing all tasks identified in Exhibits “A” and “A-1”.

C. Exhibit B-1 “List of Personnel,” attached hereto shall supplement Exhibit “B” of the Agreement.

D. Exhibit C-1 “Compensation,” attached hereto shall supplement Exhibit “C” of the Agreement.

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

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

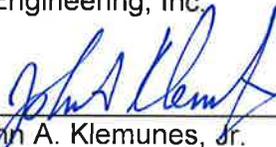
5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

City of Tracy

Dokken Engineering, Inc.

By: _____
Nancy D. Young

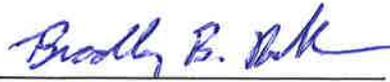
By: 
John A. Klemunes, Jr.

Title: Mayor
Date: _____

Title: President
Date: September 8, 2022

Attest:

By: _____
Adrienne Richardson, City Clerk

By: 
Bradley B. Dokken
Title: CFO
Date: 9 sept 2022

Approved as to form

By: _____
Bijal Patel, City Attorney

EXHIBIT A-1 – SCOPE OF SERVICES

The CONSULTANT shall provide professional and technical management services to reinitiate and complete the Project Report and Environmental Document.

Task 1: PROJECT MANAGEMENT

Task 1.1 Kick-off Meeting Notice, Agenda, Minutes – No updates to scope required. Work completed under previous scope.

Task 1.2 Monthly PDT Notice, Agenda, & Minutes – CONSULTANT shall coordinate and hold “Project Development Team (PDT)” meetings. The Project Manager will facilitate the meeting and have any specialty focus meetings as necessary. CONSULTANT shall prepare and distribute meeting notices and agendas. Meeting minutes will be provided to the City after the meeting.

Task 1.3 Monthly Progress Report and Project Schedule – CONSULTANT shall prepare monthly progress reports and project schedule. Monthly progress reports will include work performed and work to be performed on a monthly basis. Also, includes percent project completion for the month and overall project. The baseline schedule shall be prepared in Microsoft Project. Regular updates shall be sent to the City with the monthly invoice.

Task 1.4 Stakeholder Coordination – CONSULTANT shall coordinate with interested agencies (City, Caltrans, County, FHWA, etc.) that may need to review document at appropriate times during the project development and approval process. CONSULTANT shall maintain coordination with these interested agencies and keep the City Project Manager informed.

Task 1.5 Quality Control Plan – CONSULTANT shall implement a quality control procedure for report activities, perform in-house quality control reviews for each task and submit project documents to the City and Caltrans.

Deliverables:

- Schedule
- Meeting Agenda and Meeting Notes
- Invoices
- Progress Reports

ADDITIONAL NOT TO EXCEED COST FOR TASK NO. 1: \$68,880

Task 2: TOPOGRAPHIC SURVEY

Task 2.1 Topographic Mapping

Task 2.1.1 Set Photo Control – No updates to scope required. Work completed under previous scope.

3. Between MacArthur Drive Off-ramp and MacArthur Drive On-Ramp;
4. MacArthur Drive On-ramp;
5. Between MacArthur Drive On-ramp and Tracy Blvd Off-ramp;
6. Tracy Blvd Off-ramp;
7. Between Tracy Blvd Off-ramp and Tracy Blvd On-ramp;
8. Tracy Blvd On-ramp; and
9. West of Tracy Blvd On-ramp.

Traffic volumes for the I-205 freeway mainline, on-ramps and off-ramps will be used to analyze Existing AM and PM peak hour conditions for eastbound I-205

1. Between Grant Line Rd On-ramp and Tracy Blvd Off-ramp;
2. Tracy Blvd Off-ramp;
3. Between Tracy Blvd Off-Ramp and Tracy Blvd On-ramp;
4. Tracy Blvd On-ramp;
5. Between Tracy Blvd On-ramp and MacArthur Dr Off-ramp;
6. MacArthur Drive Off-ramp;
7. Between MacArthur Dr Off-ramp and MacArthur Dr On-ramp;
8. MacArthur Dr On-ramp; and
9. Between MacArthur Dr On-ramp and I-5.

Traffic volumes for the I-5 freeway mainline, on-ramps and off-ramps will be used to analyze Existing AM and PM peak hour conditions for southbound I-5

1. Between Mossdale and I-205 Off-ramp;
2. I-205 Off-ramp;
3. Between I-205 Off-ramp and 11st Street Off-Ramp;
4. 11st Street Off-ramp;
5. Between 11st Street Off-ramp and Kasson Road Off-ramp;
6. Kasson Road Off-ramp;
7. Between Kasson Road Off-ramp and Kasson Road On-ramp;
8. Kasson Road On-ramp; and
9. South of Kasson Road On-ramp.

Traffic volumes for the I-5 freeway mainline, on-ramps and off-ramps will be used to analyze Existing AM and PM peak hour conditions for northbound I-5

1. South of Kasson Road Off-ramp;
2. Kasson Road Off-ramp;
3. Between Kasson Road Off-ramp and Kasson Road On-Ramp;
4. Kasson Road On-ramp;
5. Between Kasson Road On-ramp and 11st Street On-ramp;
6. 11st Street On-ramp;
7. Between 11st Street On-ramp and I-205 On-ramp;
8. I-205 On-ramp; and

9. North of I-205 On-ramp.

Construction Year 2028 (No Project and With Project) and Design Year 2048 (No Project and With Project) Traffic Forecasts and VMT Analysis – The current version of the City of Tracy/ City of Lathrop / San Joaquin Council of Governments (SJCOG) / Stanislaus Council of Governments (StanCOG) and Merced County Association of Governments (MCAG) Three (3) County Travel Demand Forecasting Model (Three County Model) will be used to determine Construction Year 2028 and Design Year 2048 AM and PM peak hour forecasts for the following study locations.

1. Paradise Road / Arbor Road;
2. Chrisman Road/WB I-205 On/Off Ramps
3. Chrisman Road/EB I-205 On/Off Ramps
4. Paradise Road / Pescadero Road;
5. Tracy Boulevard / WB I-205 On/Off-Ramps;
6. Tracy Boulevard / EB I-205 On/Off-Ramps;
7. MacArthur Drive / WB I-205 On/Off-Ramps;
8. MacArthur Drive / EB I-205 On/Off-Ramps;
9. 11th Street / Grant Line Road / Kasson Road;
10. Kasson Road / SB I-5 On/Off-Ramps; and
11. Kasson Road / NB I-5 On/Off-Ramps

Future land use and roadway network assumptions for the study area will be consistent with full build-out of the City of Tracy General Plan, City of Lathrop General Plan, San Joaquin County General Plan and the SJCOG Regional Transportation Plan. Special attention will be paid to the future development and roadway network assumptions surrounding the proposed I-205/Chrisman Road interchange to ensure that the new interchange is sized appropriately. For the I- 205 freeway, projected growth in regional traffic volumes will be developed for Construction Year 2028 and Design Year 2048 AM and PM Peak Hour Conditions.

The Three (3) County Travel Demand Forecasting Model (Three County Model) will also be used to determine Construction Year 2028 and Design Year 2048 AM and PM peak hour forecasts for the following freeway mainline segments.

Westbound I-205

1. Between I-5 and Chrisman Road off-ramp;
2. Chrisman Road off-ramp;
3. Between Chrisman Road off-ramp and Chrisman Road on-ramp;
4. Chrisman Road on-ramp;
5. Between Chrisman Road on-ramp and MacArthur Drive Off-ramp;
6. MacArthur Drive Off-ramp;
7. Between MacArthur Drive Off-ramp and MacArthur Drive On-Ramp;
8. MacArthur Drive On-ramp;
9. Between MacArthur Drive On-ramp and Tracy Blvd Off-ramp;

10. Tracy Blvd Off-ramp;
11. Between Tracy Blvd Off-ramp and Tracy Blvd On-ramp;
12. Tracy Blvd On-ramp; and
13. West of Tracy Blvd On-ramp.

Eastbound I-205

1. Between Grant Line Rd On-ramp and Tracy Blvd Off-ramp;
2. Tracy Blvd Off-ramp;
3. Between Tracy Blvd Off-Ramp and Tracy Blvd On-ramp;
4. Tracy Blvd On-ramp;
5. Between Tracy Blvd On-ramp and MacArthur Dr Off-ramp;
6. MacArthur Drive Off-ramp;
7. Between MacArthur Dr Off-ramp and MacArthur Dr On-ramp;
8. MacArthur Dr On-ramp; and
9. Between MacArthur Dr On-ramp and Chrisman Road Off-Ramp;
10. Chrisman Road Off-Ramp;
11. Between Chrisman Road Off-Ramp and Chrisman Road On-Ramp;
12. Chrisman Road On-Ramp; and
13. Between Chrisman Road On-Ramp and I-5.

Southbound I-5

10. Between Mossdale and I-205 Off-ramp;
11. I-205 Off-ramp;
12. Between I-205 Off-ramp and 11st Street Off-Ramp;
13. 11st Street Off-ramp;
14. Between 11st Street Off-ramp and Kasson Road Off-ramp;
15. Kasson Road Off-ramp;
16. Between Kasson Road Off-ramp and Kasson Road On-ramp;
17. Kasson Road On-ramp; and
18. South of Kasson Road On-ramp.

Northbound I-5

10. South of Kasson Road Off-ramp;
11. Kasson Road Off-ramp;
12. Between Kasson Road Off-ramp and Kasson Road On-Ramp;
13. Kasson Road On-ramp;
14. Between Kasson Road On-ramp and 11st Street On-ramp;
15. 11st Street On-ramp;
16. Between 11st Street On-ramp and I-205 On-ramp;
17. I-205 On-ramp; and
18. North of I-205 On-ramp.

In addition to traffic forecasts, the Three County MIP/SCS Travel Demand Forecasting Model will be used to determine any potential regional implications of the

project by examining additional measures of effectiveness (MOEs) for Design Year 2048 Conditions based on Vehicle Miles of Travel (VMT) with and without the Project.

Based on an initial review of the Three County Model, the area of potential effect for the VMT analysis will be bounded by the following:

- I-205/Tracy Blvd interchange to the west
- I-5/I-205/SR 120 freeway to freeway interchange to the east
- East 11th Street to the south
- Delta Avenue to the north

The Caltrans Transportation Analysis Framework (TAF) and Transportation Analysis Under CEQA (TAC) were developed in response to Senate Bill (SB) 743 that changes the focus of transportation impact analysis in CEQA from Level of Service (LOS) to Vehicle Miles Travelled (VMT). Using VMT as the transportation metric for impact analyses means the travel forecasting process needs to be sufficiently robust to avoid misrepresenting induced vehicle travel. Some known issues that could lead to misrepresenting VMT include:

- Truncating VMT near a regional travel demand model boundary;
- Unconstrained modeled traffic flows exceeding capacity;
- Lack of model sensitivity to induce travel effects affecting trip generation, trip distribution, mode choice, and assignment; and
- Changes in land use that could result from the project.

The Three-County Travel Demand Model (TDM), which includes San Joaquin, Stanislaus, and Merced counties, will be used to develop traffic forecasts and VMT estimates for the study alternatives. The TDM provides the following forecast time periods which will be used for this study:

- Three-hour AM Period (6 to 9 AM)
- Three-hour PM Period (4 to 7 PM)
- Daily.

Base Year Model Development and Validation – To ensure compliance with CEQA and SB 743, the travel forecasts and analysis of transportation impacts will not be truncated and will capture the full geographic extent of the Project's effects.

The validation effort will entail comparing the existing traffic volume counts with the traffic demand volume estimates from the base year travel demand model. Adjustments will be made to improve model validation for I-205, I-5, Tracy Boulevard interchange, MacArthur Drive interchange, 11st street ramps and Kasson interchange. Typical adjustments include adding roadway network detail to include all study roadways, splitting up TAZs to improve network volume loading, modifying land use inputs to better account for existing land uses, and modifying roadway speeds to better match observed conditions.

Static validation is the industry practice of comparing the model volumes against the

observed volumes and checking their difference based on a set of validation targets. Static validation provides a good understanding of how well the model is doing with respect to replicating existing conditions.

The model's performance in replicating existing conditions will be compared to the model validation thresholds from the 1992 *Caltrans Travel Forecasting Guidelines* and 2017 *California Regional Transportation Plan Guidelines for Metropolitan Planning Organizations*. The base year model validation will be documented in a technical memorandum and submitted to the Project Team including Caltrans for review and acceptance.

Vehicle Miles of Travel (VMT) Forecasts – Based on the location of the I-205 Managed Lanes Project, the TAC requires that induced VMT forecasts be provided using the National Center for Sustainable Transportation (NCST) Induced Travel Calculator and TDM. The NCST Calculator is an elasticity-based tool that forecasts annual long-term induced VMT for capacity expansion projects based on VMT from the No Build Alternative. More information on the calculator is available at: <https://blinktag.com/induced-travel-calculator>.

The NCST Calculator does not produce VMT by speed bin, a common input required for air quality and greenhouse gas analysis. Future year VMT forecasts for the project alternatives will also be provided using the TDM. The TDM accounts for some induced travel, such as changes in route choice and trip destination, but does not account for changes in trip generation rates or land use development.

The VMT estimates and tools that will be used as part of this study are presented in **Table 1**. The project analysis will need to reconcile the use of the model and elasticity-based VMT forecasts, which will be a key issue for the project development team (PDT) discussion.

Table 1. VMT Tools

Tool	Primary Inputs	Future Year No Project VMT	Future Year with Project VMT	Project Induced VMT
NCST Calculator	Total Lane Miles Added to Roadway Network	No	No	Yes (long-term only although a separate elasticity can be used to estimate short-term effects)
Modified Three-County Travel Demand Model	Land Use and Roadway Network based on Regional Transportation Plans	Yes	Yes	Yes (Future with Project <i>minus</i> Future No Project)

The results of the VMT analysis will be documented for Average Daily Traffic (ADT) conditions by five (5) mile per hour speed bins for both Design Year 2048 No Project and Design Year 2048 With Project Conditions.

Construction Year 2028 and Design Year 2048 Conditions Intersection and Freeway Operations/Safety Analysis

Intersections: CONSULTANT will analyze the study intersections identified above under Construction Year 2028 (No Project and With Project) and Design Year 2048 (No Project and With Project) AM and PM peak hour conditions using the Synchro/SimTraffic software. The traffic simulation analysis will model the effects of vehicle queues on intersection capacity more accurately than the macroscopic equations provided by the Highway Capacity Manual (HCM). Peak hour factors will be based on the traffic counts. Peak hour delay and level of service will be calculated for each intersection consistent with HCM 6th Edition analysis procedures.

The traffic simulation results will be based on a statistically valid set of 15 multiple runs using different random value seeds according to Caltrans' Guidelines for Applying Traffic Microsimulation Modeling Software. The Synchro models will be converted to micro-simulation (SimTraffic) to determine existing intersection delay, level of service and 95th percentile queues.

Freeway Mainline and Ramp Junction Analysis: Freeway mainline, on-ramp merge section, off-ramp diverge section, and auxiliary lane analysis will be analyzed using methodologies consistent with the Highway Capacity Manual 6th Edition, Transportation Research Board, 2017, and contained in the Highway Capacity Software (HCS). Ramp meter analysis will be completed using the 7% ramp meter storage calculation as required by Caltrans Headquarters Traffic Operations.

The freeway mainline, ramp merge/diverge sections and auxiliary lanes will be evaluated for Construction Year 2028 (No Project and With Project) and Design Year 2048 (No Project and With Project) AM and PM peak hour conditions.

Results will include average delay, level of service, and estimated 95th percentile queue lengths for each study intersection. The results will be used to verify and/or modify the interchange design, that will be necessary to serve the projected growth in the area.

It is assumed that ramp metering will be a design feature at the I-205 / Chrisman Road interchange. The required ramp metering storage will be calculated using the following formula:

$$\text{Desired Ramp Metering Storage} = 0.07 * \text{Design Year PHV}$$

In addition, based on Caltrans requirements, CONSULTANT will also analyze the following network wide performance measures for Design Year 2048 AM and PM peak hour Conditions:

- Total Vehicle Hours of Delay

- Total Stops
- Vehicle Hours Travelled
- Total Fuel Consumption
- Total Vehicle Emissions
- Percent Demand Served

Supplemental Traffic Operations Analysis Report (TOAR) – CONSULTANT will prepare the Supplemental Traffic Operations Analysis Report (TOAR) summarizing the results and findings to submit to Caltrans and other PDT members for one round of review and written comments. CONSULTANT will respond to Caltrans comments and prepare the Final Supplemental Traffic Operations Report (FSTOAR). CONSULTANT will submit the Final STOAR in both hard copy and electronic format to include all the Word, GIS Figures, Synchro, and HCS analysis files.

Task 3.4 Preliminary Drainage Report – CONSULTANT shall make minor revisions to previously approved Preliminary Drainage Report to reflect geometric changes necessary due to the widening of I-205 as part of a separate project. Anticipated revisions include updates to the text, figures, and hydrology/hydraulics calculations.

Task 3.5 Storm Water Data Report – Previously prepared Storm Water Data Report (SDWR) not approved by Caltrans. CONSULTANT shall make minor revisions to the previously prepared SWDR to reflect geometric changes necessary due to the widening of I-205 as part of a separate project and updates to SWDR template/required attachments. CONSULTANT shall obtain approval from Caltrans.

Task 3.6 Location Hydraulic Study – Previously prepared Location Hydraulic Study (LHS) not approved by Caltrans. CONSULTANT shall make minor revisions to the previously prepared LHS to reflect geometric changes necessary due to the

widening of I-205 as part of a separate project. CONSULTANT shall obtain approval from Caltrans.

Task 3.7 Value Analysis Study – Due to changes in FHWA criteria for the thresholds of Value Analysis Study requirements, the previously identified Optional Task will now be required.

CONSULTANT shall conduct a Value Analysis (VA) Study based on the guidance in Chapter 19 of the PDPM, and as detailed in the Caltrans VA Team Guide and Report Guide. The VA Study shall be conducted over the course of a 5-day period. Tasks shall include: provide a qualified, independent Certified Value Specialist (CVS) team leader to lead the VA Study in accordance with Caltrans Value methodology; provide VA study documentation in accordance with the Caltrans VA Report Guide; ensure that applicable data and correspondence and any other relevant information necessary for the VA study is collected, developed and distributed; facilitate VA team meetings. The VA team leader shall be responsible for leading the study meetings; developing the draft VA study charter; completing the Preliminary VA Report with input/review of team and technical reviewers; submitting Preliminary VA Report; coordinate responses to preliminary VA

Report and prepare for an implementation meeting to resolve the disposition of the VA alternatives; finalize the VA Study Report; submitting the final VA Report; scheduling an implementation meeting. CONSULTANT shall provide personnel to assist the VA Study team during the study. City may provide an expert reviewer representing the City for the 5-day VA Study.

Deliverables:

- Updated Preliminary Drainage Report
- Storm Water Data Report
- Supplement Traffic Operations Analysis Report
- Value Analysis Study

NOT TO EXCEED COST FOR TASK NO.3: \$191,214

Task 4: ENVIRONMENTAL DOCUMENTATION

Under the direction of Caltrans, serving as both the CEQA and NEPA lead agency, CONSULTANT shall perform all environmental documentation and coordination required to update and revalidate the previously completed studies.

Task 4.1 Updates to Technical Studies – CONSULTANT shall review previously completed environmental studies and provide necessary updates and changes to these studies to be incorporated into the environmental document. Prior

to the updated environmental surveys, the CONSULTANT shall obtain permits to enter for private property in the project area. CONSULTANT shall prepare and distribute copies of the updated technical studies for each of the review cycles and shall respond to comments and update the studies as needed for approval. Technical studies include the following:

Task 4.1.1 Updates to Cultural Resources (Supplemental HPSR/ASR) – CONSULTANT shall prepare updated documentation in accordance with Section 106. This work shall include an updated field survey, updated record search and research, summary of additional Native American consultation, approval of an updated Area of Potential Effects (APE) map, and a supplemental Historic Property Survey Report (HPSR) and supplemental Archaeological Survey Report (ASR). A Historic Resources Evaluation Report (HRER) will not be required as the project area does not contain structures older than 50 years, or structures that have been previously listed on or are eligible for the National Register of Historic Places. This work effort shall build upon work completed during the scoping phase of the project.

Supplemental Historic Property Survey Report (HPSR) – CONSULTANT archaeologist shall complete a supplemental HPSR in compliance with Section 106 of the National Historic Preservation Act (NHPA) which shall follow the requirements set forth in the Caltrans Standard Environmental Reference Volume II, Cultural Resources and the Section 106 Programmatic Agreement. The supplemental HPSR will include changes to the project features, any additional historic properties identified, and overall findings.

Supplemental Archaeological Survey Report (ASR) – CONSULTANT archaeologist shall prepare the supplemental ASR according to Caltrans specifications. The supplemental ASR will include the results of Native American consultation, which will be reinitiated, and updated research methods and results.

Updated Research – A cultural resource records search shall be conducted at the Central California Information Center, located at Stanislaus State University. This updated records search is required to inform updates to technical studies with the most recently available information. The other direct cost associated with this task is for the updated record search from the Central California Information Center.

Updated Field Survey – CONSULTANT shall conduct an updated field survey of the APE using the methods followed in the survey conducted for the original cultural resource reports. The updated survey is needed to ensure that all prehistoric (Native American) or historic (non-Native American) archaeological

materials and other potential historic resources (e.g., buildings, bridges, railroads, mines, or canals) within the updated APE are accounted for. Any previously unrecorded resources identified during the survey shall be recorded on State of California DPR 523 forms.

Area of Potential Effect (APE) Map – CONSULTANT shall coordinate with Caltrans cultural staff to update the previously approved APE Map for review and approval, reflect geometric changes necessary due to the widening of I-205 as part of a separate project..

Native American Consultation – Native American consultation was originally initiated in 2014. Due to changes to the project features since 2014, CONSULTANT will reinitiate Native American consultation. Native American consultation will involve CONSULTANT contacting the appropriate Native American groups regarding this project under the direction of Caltrans and the District Native American Coordinator. Additionally, CONSULTANT will request the list of tribes who have requested to be consulted under AB 52. AB 52 consultation was not included in the original scope because the original scope pre-dated the passing of this Assembly Bill.

Task 4.1.2 Relocation Impact Memorandum – A Relocation Impact Memorandum was prepared in 2015 pursuant to Caltrans standards due to an impact to a business that was previously identified. CONSULTANT shall update the Relocation Impact Memorandum based on revised geometrics related to the widening of I-205, as part of a separate project.

Task 4.1.3 Air Quality Report – Based on required updated traffic analysis and geometric changes necessary due to the widening of I-205, as part of a separate project Caltrans will require a new Air Quality Report in their latest template, and the air quality modelling will need to be re-run to reflect the design and traffic changes. As the existing Air Quality Report is insufficient to satisfy Caltrans's latest requirements, and to ensure a smoother review period, a new AQR will be drafted that incorporates all of the updated Caltrans guidelines.

CONSULTANT shall prepare a new Air Quality Report in accordance with the latest guidelines in the Caltrans Standard Environmental Reference, Chapter 11. The I-205/Chrisman Road New Interchange Project is located within the San Joaquin Valley Air Basin and is designated as a federal non-attainment area for ozone and PM2.5. Therefore, CONSULTANT will re-initiate interagency consultation on behalf of the City of Tracy with SJCOG to document the project's PM2.5 conformity determination. The Air Quality Report shall include a qualitative and quantitative analysis of potential impacts on carbon monoxide (CO) or

particulate matter (PM10/PM2.5), following the 1997 CO Protocol by U.C. Davis and the FHWA's PM2.5/PM10 qualitative analysis guidance. A qualitative analysis of mobile source air toxics (MSAT) would also be included, following FHWA's Interim Guidance Update on Mobile Source Air Toxic Analysis in NEPA. The Air Quality Report shall also include: discussion of mitigation of fugitive dust (including PM2.5) according to the San Joaquin Valley Air Pollution Control District (SJVAPCD).

Following circulation of the Draft Environmental Document, CONSULTANT will prepare an Air Quality Conformity Analysis (ACQA) following the guidelines in the Caltrans Standard Environmental Reference, Chapter 11. The AQCA will include a summary of the Interagency Consultation, results of the Air Quality Report, the project's consistency with the State Implementation Plan, and identification of mitigation measures as needed.

CONSULTANT will assist with completion of the Caltrans conformity findings checklist to be submitted to FHWA as needed.

Task 4.1.4 Noise Study Report – Based on required updated traffic analysis and geometric changes necessary due to the widening of I-205, as part of a separate project, CONSULTANT shall update the Noise Study Report that assesses the project's potential effects on existing and future noise conditions, including construction impacts. CONSULTANT shall review applicable Federal, State, and City noise and land use compatibility criteria for the project area. Noise standards regulating noise impacts including Federal Highways (FHWA) Noise Abatement Criteria (NAC) and standards included in the City's General Plan Noise Element shall be discussed for sensitive land uses adjacent to the project.

A revised survey of existing ambient noise levels shall be conducted to establish an updated existing baseline setting of the noise environment at affected sensitive receptor locations in the project area. The existing and future noise levels for the project based on the latest geometric design will be assessed using Traffic Noise Model 2.5 (TNM 2.5).

Task 4.1.5 Noise Abatement Decision Report – CONSULTANT shall update the previously approved Noise Abatement Decision Report based on the revised Noise Study Report to assess noise abatement measures for feasibility and reasonableness.

Task 4.1.6 Visual Impact Assessment Memorandum – CONSULTANT shall prepare a memorandum to the 2014 Visual Impact Analysis (VIA) documenting

updates to the project since 2014. The memorandum to update the Visual Impact Assessment will be reviewed and approved by a licensed Landscape Architect prior to submittal to Caltrans for approval. No visual simulations are included with this scope. The other direct cost is for the Landscape Architect review and approval efforts.

Task 4.1.7 Natural Environment Study (NES) Addendum – CONSULTANT shall conduct follow up field surveys and updated literature research to assess changes to the biological environment since the 2015 NES. Updated surveys and research will inform the Addendum to the 2015 NES. CONSULTANT shall draft an Addendum that incorporates changes to the biological environment, any new findings, and updated project features.

Fieldwork conducted by CONSULTANT biologists shall consist of an assessment of the presence/absence of sensitive biological resources and a jurisdictional delineation of water resources. Fieldwork will also assess the potential for occurrence of such resources that may not be detectable when the fieldwork is conducted, such as burrowing owl (*Athene cunicularia*) and Swainson's hawk (*Buteo swainsoni*) which were previously identified as having potential to occur within the project's biological study area.

Task 4.1.8 Wetland Delineation – An updated jurisdictional delineation is required for the project as the delineation conducted in 2014 has expired. CONSULTANT shall complete the updated jurisdictional wetland delineation according to the 1987 Army Corps of Engineers (ACOE) Wetland Delineation Manual and 2008 Arid West Regional Supplement, the currently accepted methodology. The results of the delineation shall be presented in the revised NES that will include updated mapping of any jurisdictional wetland areas.

Task 4.1.9 Paleontological Memorandum – CONSULTANT shall prepare a memorandum to provide updates to the 2016 Combined Paleontological Evaluation Report and Preliminary Paleontological Mitigation Plan. Due to updates to the project features, areas that were not included in the previous study will be investigated. The other direct cost is for qualified Paleontologists from Cogstone Resource Management, Inc. to assist with preparation of this Paleontological Memorandum.

Task 4.1.10 Updated Farmlands 1006 Farmland Report – Private property within the project area was identified as farmland and a Farmland Conversion Impact Rating AD-1006 form was completed in 2015. CONSULTANT shall prepare a new Farmland Conversion Impact Rating AD-1006 form with updated project details to ensure that changes to the proposed project that may impact farmlands are accounted for.

Task 4.1.11 Initial Site Assessment Addendum – CONSULTANT shall complete a memorandum addendum to the Initial Site Assessment (ISA) originally completed for the proposed project in 2015. The addendum to the ISA shall discuss any changes to the project or environmental setting since the original studies were conducted. An updated data search shall also be ordered from the Environmental Data Research Inc. (EDR Inc.) in order to determine if there have been any changes to hazardous waste sites since the original ISA research was conducted (this is the other direct cost included in the fee). As previously scoped, the data search shall be performed

for an approximate 1.0-mile radius from the project site. No changes to hazardous waste are anticipated and the addendum is expected to revalidate the 2015 ISA with no new findings. No field exploration and/or testing is anticipated or included.

Task 4.1.12 Water Quality Addendum – CONSULTANT shall prepare an addendum to update the 2015 Water Quality Memorandum. The addendum will account for changes to the project or environmental setting since the original Water Quality Memorandum. No changes to water quality impacts are anticipated and the addendum is expected to revalidate the 2015 Memorandum with no new findings.

Task 4.1.13 Section 4(f) Memorandum – CONSULTANT shall prepare a memorandum to document the lack of Section 4(f) resources within 0.5 miles of the project area. The memorandum will be prepared for the project file to demonstrate that Section 4(f) was reviewed and considered and found to not be applicable to the project.

Task 4.1.14 Community Impact Assessment Memorandum – CONSULTANT shall prepare a Community Impact Assessment Memorandum to discuss Farmland, potential Growth impacts, and state that there are no Environmental Justice concerns. The memorandum would document impacts related to the community and would be summarized within the environmental document. No changes to community impacts are anticipated.

Task 4.1.15 Climate Change/Greenhouse Gas Memorandum – CONSULTANT shall prepare a Climate Change/Greenhouse Gas Memorandum to comply with new Caltrans requirements. The memorandum would document construction and operational emissions estimates. No changes to air quality impacts are anticipated and the memorandum will supplement the 2015 Air Quality Report and addendum with no new findings.

Task 4.1.16 Cumulative Impact Assessment– CONSULTANT shall prepare an Cumulative Impact Assessment to document the potential cumulative impacts associated with the proposed I-205/Chrisman Interchange in consideration with all other projects in the vicinity, including other proposed interchanges, developments, and projects along the State Highway System. The assessment will utilize information from the previously prepared I-205/Chrisman Interchange IS/EA and the recently approved IS/MND for the I-205/Mountain House Parkway Interchange to assess potential cumulative impacts.

Task 4.1.17 Limited Phase II Environmental Site Assessment– CONSULTANT shall preform field investigations and sampling associated with a Limited Phase II Environmental Site Assessment. Laboratory testing will occur on the field samples to test to determine the presence and levels of potentially hazardous materials including aerially deposited lead (ADL) along I-205, pesticides and herbicides within the historically agricultural parcels, and asbestos containing material and lead based paint for the existing Paradise Road Overcrossing. The results will be summarized in a new document.

Task 4.2 Environmental Document

Task 4.2.1 Draft Environmental Document Update – CONSULTANT shall update the previously completed draft environmental document, incorporating the project purpose and need, updated project description, and the revised technical studies. In addition to sections prepared under the previous scope, CONSULTANT shall prepare sections for Energy, Tribal Cultural Resources, and Wildfire. As originally scoped, it is anticipated that an Initial Study/Environmental Assessment will be prepared but final determination of document level will come after the completion of the technical studies.

Task 4.2.2 Public Circulation – CONSULTANT shall prepare the Draft IS/EA for public review as previously scoped. A public meeting shall be held in coordination with Caltrans during the circulation period.

Prepare Responses to Comments – At the close of the public review period for the IS/EA, CONSULTANT shall meet with the City and Caltrans staff to review any comments on the IS/EA that were received, and to discuss potential response to comments.

CONSULTANT shall then formulate responses to the comments on the IS/EA. Once draft responses to comments are completed, they will be submitted to the agencies' staff for review and comment. The agencies' comments will be incorporated into the response to comments document, which will be submitted to Caltrans as an appendix in the IS/EA.

Administrative Record – Prior to action on the IS/EA and the Final Environmental Document, CONSULTANT shall prepare appropriate findings and determinations for the Administrative Record. The Administrative Record will conform to the requirements of NEPA Assignment by FHWA to Caltrans as detailed in the Caltrans Standard Environmental Reference.

Task 4.2.3 Final Environmental Document – Following public review of the revised Draft IS/EA, CONSULTANT shall prepare the appropriate determination documents for CEQA and NEPA (expected to be a Mitigated Negative Declaration and Finding of No Significant Impact [MND/FONS]I) as previously scoped. In addition, the Final Environmental Document shall be provided in an Americans with Disabilities Act compatible format.

Task 4.2.4 Environmental Commitment Record – CONSULTANT shall prepare an Environmental Commitment Record, including monitoring forms, to ensure that the mitigation measure contained in the IS/EA are properly implemented.

Task 4.2.5 Notice of Preparation (Optional) - If it is determined that the project will experience significant unavoidable impacts under CEQA, CONSULTANT will prepare a Notice of Preparation (NOP) for an Environmental Impact Report and will circulate the NOP to all responsible agencies. The review period of the NOP is 30 days. The NOP will include a description of the project, a location map, identification of potential environmental issues, and probable environmental effects of the project. Once the 30-day review is complete and agency comments have been received, preparation of

the draft environmental document can commence.

Task 4.2.6 Environmental Impact Report/Environmental Assessment (EIR/EA) (Optional) - CONSULTANT will incorporate the purpose and need, project description, and the technical studies into the draft EIR/EA. CONSULTANT will prepare sections for Human Environment, Physical Environment, Biological Environment, and Cumulative Impacts. The EIR/EA will determine if the project has any other significant impacts on the environment under both State and Federal standards, identify potential mitigation measures for such impacts, and determine all feasible mitigation measures to reduce all other impacts below a level of significance. If needed, this optional task is supplemental to the effort previously identified with the 4.2.1 Draft Environmental Document Update.

Task 4.2.7 Notice of Availability and Circulation of the DED Draft EIR/EA (Optional) - The EIR/EA needs to be circulated for public review for a period of 45 days. Pursuant to CEQA requirements, CONSULTANT will prepare a Notice of Availability for the Draft EIR/EA. This notice, along with the draft environmental document and technical studies, will be made available at the City offices, the Public Library, and electronically during the 45-day public circulation and review period. In addition, the document will be distributed to other reviewing government agencies through the California State Clearinghouse. If needed, this optional task is supplemental to the effort previously identified with Task 4.2.2 Public Circulation.

Task 4.2.8 Public Hearing – EIR/EA (Optional) - To satisfy the requirements of the CEQA EIR, CONSULTANT will conduct a public hearing during the 45-day circulation of the environmental document. This hearing will explain the purpose of the project, why it is needed, what is being proposed, and the environmental impacts of the proposed project. CONSULTANT will advertise the hearing in the local newspaper, with posted fliers, and direct mailings, as needed, to ensure maximum attendance and participation at the meeting. The hearing will either be in-person or virtual and will consist of a brief presentation followed by questions directed to technical experts on the project. Comments will be collected and summarized for the City's consideration.

Task 4.2.9 Final EIR/EA (Optional) - Following public review of the draft EIR/EA, a final environmental document will be prepared by CONSULTANT. The CEQA portion will be a Final EIR, while the most likely outcome is the preparation of a FONSI under NEPA. Prior to action on the EIR/EA, CONSULTANT will assist the City and Caltrans to prepare appropriate findings and the Administrative Record. If needed, this optional task is supplemental to the effort previously identified with Task 4.2.3 Final Environmental Document.

Task 4.2.10 CEQA Finding of Fact & Statement of Overriding Consideration/ NEPA Finding of No Significant Impact (FONSI) (Optional) - CONSULTANT will draft findings of fact pursuant to State CEQA Guidelines Section 15091 for each of the significant effects identified in the Final EIR. The findings will describe the effect, cite one or more applicable findings under Section 15091, and describe the evidence that supports the selected findings. The findings will also explain why other project alternatives have been found infeasible by the City and Caltrans. CONSULTANT will coordinate the drafting of these findings with City and Caltrans Staff.

necessary due to the widening of I-205 as part of a separate project.

Task 6.3 Right of Way Data Sheets – CONSULTANT shall update the previously completed Right of Way Data Sheet to reflect current right of way cost estimates, revised right of way areas based to reflect geometric updates, and obtain approval from Caltrans.

Deliverables:

- Updated Right of Way Data Sheet

NOT TO EXCEED COST FOR TASK NO.6: \$13,400

Task 7: PRELIMINARY DESIGN

Task 7.1 Refine/Evaluate Conceptual Alignments – No updates to the scope required. Work completed under the previous scope.

Task 7.2 Develop Project Alternatives – No updates to the scope required. Work completed under the previous scope.

Task 7.3 Geometric Approval Drawings – CONSULTANT shall update the previously approved Geometric Approval Drawing (GAD) to reflect geometric changes necessary due to the widening of I-205 as part of a separate project, and updated design standards of the Highway Design Manual. CONSULTANT shall prepare an updated Design Information Bulletin (DIB) 78 to confirm all Highway Design Manual standards are being met. CONSULTANT shall obtain approval of the updated GAD through Caltrans.

Task 7.4 Design Exception Fact Sheets – No updates to the scope required. Work completed under previous scope and no new exceptions are required based on updated design standards of the Highway Design Manual.

Task 7.5 Structures Advanced Planning Studies – CONSULTANT shall update the previously approved Advanced Planning Study (APS) to reflect geometric changes necessary due to the widening of I-205 as part of a separate project.

Task 7.6 Stage Construction Concept – CONSULTANT shall update the exhibit to reflect geometric changes necessary due to the widening of I-205 as part of a separate project.

Task 7.7 Transportation Management Plan – CONSULTANT shall complete an updated Transportation Management Plan (TMP) request from Caltrans.

Task 7.8 Life Cycle Cost Analysis – As the previous Life Cycle Cost Analysis (LCCA) was still in progress, CONSULTANT shall prepare an updated LCCA using Caltrans current version of the RealCost software. CONSULTANT shall obtain approval of the LCCA through Caltrans.

Task 7.9 Cost Estimates – CONSULTANT shall update Caltrans standard 11-page cost estimates based on current unit costs and geometric revisions associated with

the widening of I-205, under a separate project.

Deliverables:

- Geometric Approval Drawing
- DIB 78
- Design Exception Fact Sheets
- Advance Planning Studies
- Stage Construction Concept
- Preliminary Transportation Management Plan
- Life Cycle Cost Analysis
- Cost Estimates

NOT TO EXCEED COST FOR TASK NO.7: \$56,050

Task 8: PROJECT REPORT

Task 8.1 Draft Project Report – CONSULTANT shall update the previously prepared Draft Project Report (DPR) for approval by Caltrans. The DPR updates will include revisions to all sections, as necessary. The DPR will accompany circulation of the Draft Environmental Document.

Task 8.2 New Access Report – CONSULTANT shall update the previously prepared a New Access Report (NCR) for the preferred alternative. The updated NCR will follow the most current FHWA and Caltrans guidelines. CONSULTANT shall develop a Draft and Final New Access Report for submittal to the City and Caltrans. Conditional approval of the NCR through Caltrans is required prior to completion of the Draft Project Report.

Task 8.3 Final Project Report – Following public circulation of the Draft Environmental Document, consideration of public comments and the selection of a preferred alternative, the DPR will be updated to the Final Project Report. The Final Project Report will be submitted to Caltrans and the City for review and comment. Approval of the Final Project Report by Caltrans will grant approval of the project.

Deliverables:

- Draft Project Report
- New Access Report
- Final Project Report

NOT TO EXCEED COST FOR TASK NO.8: \$41,130

III. COMPLETION OF THE SCOPE OF SERVICES. CONSULTANT shall complete the design within the following timeline & budget:

CONSULTANT not to exceed cost to complete all required scope of services (Task 1 to Task 8) is \$612,649 (*without optional tasks*) and \$690,014 (*with optional tasks*)

EXHIBIT B-1 LIST OF PERSONNEL

DOKKEN ENGINEERING

<u>NAME</u>	<u>CLASSIFICATION</u>
Rick Liptak	Principal
Juann Ramos	Project Manager
Jacqueline Lockhart	Project Engineer
Staff	Senior Engineer
Staff	Associate Engineer
Staff	Assistant Engineer
Staff	Senior CADD
Staff	CADD/Engineering Technician
Sarah Holm	Environmental Manager
Staff	Senior Environmental Planner
Staff	Associate Planner
Staff	Environmental Planner
Staff	Right of Way Manager
Staff	Senior Right of Way Agent
Staff	Right of Way Assistant

FEHR & PEERS

<u>NAME</u>	<u>CLASSIFICATION</u>
Fred Choa	Lead Traffic Engineer
Staff	Transportation Engineer 1
Staff	Transportation Planner 2
Staff	Transportation Planner 1
Staff	GIS Specialist
Staff	Project Coordinator
Staff	Project Accountant

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2022-_____

APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH DOKKEN ENGINEERING, INC. TO AMEND THE SCOPE FOR THE DEVELOPMENT OF PROJECT APPROVAL (PA) ENVIRONMENTAL DOCUMENT (ED) FOR I-205/CHRISMAN ROAD NEW INTERCHANGE PROJECT CIP 73109, FEDERAL PROJECT # HPLULN-5192(034), AND INCREASE THE COMPENSATION BY AN ADDITIONAL \$690,014, FOR A TOTAL CONTRACT AMOUNT OF \$1,516,933.

WHEREAS, the City's General Plan identifies a new interchange at Interstate 205 (I-205) and Chrisman Road to serve the eastern part of the City; and

WHEREAS, the City had entered into an agreement with Dokken Engineering, Inc. for completing the Project Study Report (PSR) - Project Development Support (PDS) of this new interchange on January 17, 2012, under Resolution No. 2012-011 and the PSR-PDS was completed in December 2012; and

WHEREAS, the City then later entered into a second agreement with Dokken Engineering, Inc. for the development of Project Approval (PA) and Environmental Document (ED) for the project on August 6, 2013, under Resolution No. 2013-112 for a not-to-exceed amount of \$826,919; and

WHEREAS, the project was delayed due to concerns by Caltrans regarding the City's multiple Interchange projects, priorities, and funding; and

WHEREAS, the City has been able to resolve the concerns that were raised by Caltrans; and

WHEREAS, the interchange project is an important project to the City due to the growing traffic needs generated by several new and proposed developments in the Northeast Industrial (NEI) region; and

WHEREAS, this necessitated that the City resume the development of the PA & ED and pursue funding plans for completion of the future phases of the project until construction commences; and

WHEREAS, resuming this project requires that the previous completed engineering and environmental technical studies be updated or reevaluated along with new studies like the Vehicles Miles Traveled analysis to comply with the Senate Bill (SB) 743 guidelines; and

WHEREAS, the City requested a proposal from the Dokken Engineering, Inc. (Consultant) for the fees and schedule required to complete the additional tasks; and

WHEREAS, after negotiations between the City and Consultant, the parties have reached an agreement for the performance of these additional services for a not-to-exceed amount of \$690,014; and

WHEREAS, the development of PA & ED is anticipated to be complete by December 2024; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, by resolution, hereby approves Amendment No. 1 to the Professional Services Agreement with Dokken Engineering, Inc. to amend the scope for development of Project Approval (PA) and Environmental Document (ED) for I-205/Chrisman Road New Interchange Project CIP 73109, Federal Project # HPLULN - 5192(034), and increases the compensation by an additional \$690,014, for a total contract amount of \$1,516,933.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022 by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.G

REQUEST

Staff recommends that City Council 1) approve the Final Subdivision Map for Tract 3900 – Ellis Estate Lots and Limited Use Area, and 2) authorize the City Clerk to file the approved Final Map with the San Joaquin County Recorder.

EXECUTIVE SUMMARY

This agenda item requests that the City Council approve the Final Subdivision Map for Tract 3900 – Ellis Estate Lots and Limited Use Area, for subdivision into 9 one-acre estate lots and one lettered parcel, Parcel A. Approval of the Final Subdivision Map will facilitate the recordation of the Final Subdivision Map and the issuance of building permits for the construction of the custom estate lots in the Ellis Limited Use Area. No Subdivision Improvement Agreement is associated with this Final Subdivision Map because all improvements serving this subdivision were constructed and are soon to be accepted with earlier phases of the project, Ellis Phase 1A, and Ellis Phase 1B.

The project area is also covered under San Joaquin Council of Governments' Airport Land Use Compatibility Plan (ALUCP) and is designated in the Tracy Municipal Airport Outer Approach/ Departure Zone – Zone 4. ALUCP staff reviewed the proposed tentative map for conformity with the Airport Land Use Plan on July 27, 2021, and determined that the proposed land uses are consistent with the ALUCP's safety zones and development criteria.

BACKGROUND AND LEGISLATIVE HISTORY

On January 22, 2013, City Council certified the Final Revised Environmental Impact Report for the Ellis Specific Plan and approved a General Plan amendment, annexation, and the Ellis Specific Plan for the 321-acre site known as Ellis. A development agreement was approved by City Council on March 19, 2013. Annexation of the Ellis site to the City of Tracy was completed by LAFCo on April 16, 2013.

On July 23, 2014, Planning Commission approved a Tentative Subdivision Map for the first phase of the Ellis Specific Plan, consisting of 296 residential lots and six other parcels on approximately 150 acres, located at the northwest corner of Corral Hollow Road and Linne Road, Application Number TSM11-0002.

On September 1, 2015, City Council approved the final map for Tract 3764, Ellis Phase 1A and the tract's subdivision improvement agreement.

On May 10, 2017, Planning Commission approved a Tentative Subdivision Map for Ellis Phase 2, consisting of 356 residential lots and nine other parcels on approximately 106 acres, located immediately west of Ellis Phase 1, Application Number TSM16-0003.

On July 18, 2017, City Council approved the final map for Tract 3872, Ellis Phase 1B and the tract's subdivision improvement agreement.

On March 9, 2022, Planning Commission approved a Vesting Tentative Subdivision Map (VTSM) for the Ellis Limited Use Area, a 42.22-acre parcel consisting of nine approximately one-acre estate lots and an approximately 32-acre remainder parcel located in the vicinity of Ellis Town Drive, bounded by Summit Drive to the north, Corral Hollow Road to the east, Avalon Drive to the south, and Ellis Town Drive to the west. (Application Number TSM21-0002).

The Subdivider is requesting approval of the Final Subdivision Map for Ellis Limited Use Subdivision, Tract 3900, to create 9 single-family residential lots within the boundaries of and in conformance with the approved VTSM. The Final Subdivision Map for Tract 3900 (Attachment B) has been prepared on behalf of the Subdivider and reviewed by the Engineering Division.

ANALYSIS

The on-site improvements for Summit Drive, Corral Hollow Road, Avalon Drive, and Ellis Town Drive were previously installed with the construction of Ellis Phase 1A (Tract 3764) and Ellis Phase 1B (Tract 3872); there are no public improvements required within the borders of the Tract 3900 Final Map, and therefore the City Engineer has determined that no Subdivision Improvement Agreement will be required for Tract 3900.

The project area is covered under the San Joaquin Council of Governments' Airport Land Use Compatibility Plan (ALUCP) and is designated in the Tracy Municipal Airport Outer Approach/Departure Zone – Zone 4. Zone 4 prohibits stadiums, group recreational uses, children's schools, large daycare centers, hospitals, and nursing homes. ALUCP staff reviewed the proposed tentative map for conformity with the Airport Land Use Plan on July 27, 2021. The ALUCP has determined that the uses are allowed on the lots in Tract 3900.

The Final Subdivision Map has been reviewed as to its substantial compliance with the design of the approved Tentative Subdivision Map. The Final Subdivision Map is on file with the City Engineer and is available for review upon request.

FISCAL IMPACT

There will be no impact to the General Fund. The Subdivider has paid the applicable engineering review fees which include the cost of processing the Final Subdivision Map.

CEQA DETERMINATION

The project is consistent with the Final Revised Environmental Impact Report (EIR) that was certified by the City Council on January 22, 2013 for the Ellis Specific Plan, (SCH#2012022023). Pursuant to CEQA Guidelines Section 15162 and Public Resources Code Section 21116, no subsequent EIR shall be prepared for the project because the project as a certified EIR and no substantial changes are proposed in the project that would require major revision to the previous EIR; no substantial changes have occurred with respect to the circumstances under which the project will be undertaken that would require major revisions to the previous EIR, and no new information of substantial importance regarding significant effects, mitigation measures, or alternatives for this project has become known, which was not known at the time the previous EIR was certified as complete. Furthermore, as a residential subdivision that is consistent with a specific plan for which an EIR was certified after January 1, 1980, the project is exempt from

the requirements of CEQA pursuant to California Government Code Section 65457. Therefore, no further environmental review is necessary.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

That City Council, by resolution, 1) approve the Final Subdivision Map for Tract 3900 – Ellis Estate Lots and Limited Use Area, and 2) authorize the City Clerk to file the approved Final Map with the San Joaquin County Recorder.

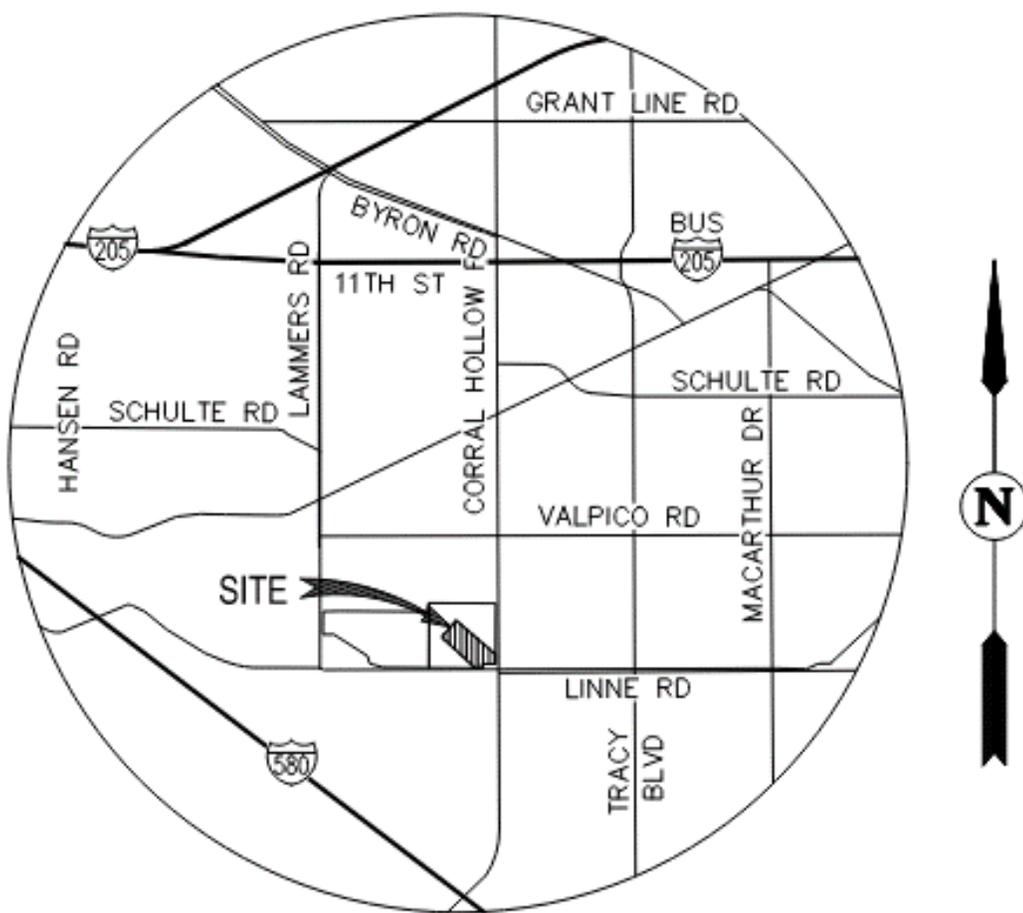
Prepared by: Al Gali, Associate Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Director of Development Services
Kris Balaji, PMP, PE, Development Services Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – Vicinity Map
Attachment B – Final Subdivision Map



VICINITY MAP

OWNER'S STATEMENT

WE, THE UNDERSIGNED, HEREBY STATE THAT WE ARE ALL THE PARTIES HAVING RECORD TITLE INTEREST IN THE LANDS SUBDIVIDED AND SHOWN ON THIS FINAL MAP OF "TRACT NO. 3900, SUBDIVISIONS OF SAN JOAQUIN COUNTY, LIMITED USE, CITY OF TRACY, CALIFORNIA" AND WE HEREBY CONSENT TO THE PREPARATION AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, CALIFORNIA.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED TO THE CITY OF TRACY, IN FEE, FOR PUBLIC PURPOSES: THE AREAS DESIGNATED AS CORRAL HOLLOW ROAD DEDICATION AND SUMMIT DRIVE DEDICATION WITHIN THE BOUNDARY OF THIS MAP ARE FOR THE PURPOSE OF PUBLIC STREETS.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED TO THE CITY OF TRACY AS AN EASEMENT FOR PUBLIC PURPOSES: THE AREAS DESIGNATED AS "PUBLIC UTILITY EASEMENT" OR "PUE" ARE FOR PUBLIC UTILITY PURPOSES, INCLUDING THE RIGHTS OF INGRESS, EGRESS, CONSTRUCTION, RECONSTRUCTION, ACCESS FOR MAINTENANCE OF WORKS, IMPROVEMENTS AND STRUCTURES, AND THE CLEARING OF OBSTRUCTIONS AND VEGETATION;

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED TO THE CITY OF TRACY AS AN EASEMENT FOR PUBLIC PURPOSES: THE AREAS DESIGNATED AS "WATER LINE EASEMENT" OR "WLE" ARE FOR PUBLIC WATER LINE PURPOSES, INCLUDING THE RIGHTS OF INGRESS, EGRESS, CONSTRUCTION, RECONSTRUCTION, ACCESS FOR MAINTENANCE OF WORKS, IMPROVEMENTS AND STRUCTURES, AND THE CLEARING OF OBSTRUCTIONS AND VEGETATION;

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED TO THE CITY OF TRACY AS AN EASEMENT FOR PUBLIC PURPOSES: THE AREAS DESIGNATED AS RESTRICTED ACCESS SHOWN AS //////////////// THAT RELINQUISHES TO THE PUBLIC ALL ABUTTERS RIGHTS OF ACCESS FOR PEDESTRIAN AND VEHICLE INGRESS AND EGRESS ACROSS THE LOT LINES OF LOTS 4, 5, 6, AND 7 TO AND FROM ELLIS TOWN DRIVE, LOT 4 TO AND FROM AVALON STREET, AND LOT 7 TO AND FROM SUMMIT DRIVE;

WE ALSO HEREBY RESERVE THE FOLLOWING EASEMENT: PRIVATE STORM DRAIN EASEMENT (PSDE) FOR THE USE OF THE OWNERS, AND THEIR ASSIGNEES AND DESIGNEES, OF PARCEL A AND AS AN APPURTENANCE SAID PARCEL A, FOR PRIVATE STORM DRAIN FACILITIES.

WE ALSO HEREBY RESERVE THE FOLLOWING EASEMENT: ACCESS AND MAINTENANCE EASEMENT (AME) FOR THE USE OF THE OWNERS, AND THEIR ASSIGNEES AND DESIGNEES, OF PARCEL A AND AS AN APPURTENANCE SAID PARCEL A, FOR INGRESS AND EGRESS AND MAINTENANCE OF THE FACILITIES MAINTAINED ON SAID LOTS.

WE ALSO HEREBY RESERVE THE FOLLOWING EASEMENT: ACCESS EASEMENT (AE) OVER LOT 8 FOR THE USE OF THE OWNERS, AND THEIR ASSIGNEES AND DESIGNEES, OF LOT 6 AND AS AN APPURTENANCE SAID LOT 6, FOR INGRESS AND EGRESS AND MAINTENANCE OF THE IMPROVEMENTS WITHIN SAID EASEMENT.

AS OWNER: ELLIS STORAGE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, WHICH ACQUIRED TITLE AS ELLIS STORAGE LLC

BY: Les Serpa DATE: 7-25-22
 NAME: Les Serpa
 TITLE: Manager

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF California } SS.
 COUNTY OF San Joaquin
 ON July 25th, 2022, BEFORE ME, Kirstie McKenzie A NOTARY PUBLIC,

PERSONALLY APPEARED Les Serpa, 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:
 SIGNATURE: Kirstie McKenzie
 NAME (PRINT): Kirstie L. McKenzie
 PRINCIPAL COUNTY OF BUSINESS: San Joaquin
 MY COMMISSION NUMBER: 2302416
 MY COMMISSION EXPIRES: Sept. 8, 2023

SOILS REPORT

A SOILS REPORT WAS PREPARED BY ENGO INCORPORATED, DATED JULY 7, 2016, PROJECT NO. 3887.000.005, SIGNED BY STEVE HARRIS, GE AND HAS BEEN FILED AT THE OFFICE OF THE CITY ENGINEER.

TRACT NO. 3900

**SUBDIVISIONS OF SAN JOAQUIN COUNTY, CALIFORNIA
 LIMITED USE**

BEING A SUBDIVISION OF ALL OF RESULTANT PARCEL C OF THAT CERTAIN GRANT DEED RECORDED AS DOCUMENT NO. 2016-129634, SAN JOAQUIN COUNTY RECORDS, LYING WITHIN SECTION 6, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



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 JUNE 2022

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF ELLIS STORAGE LLC, IN DECEMBER 2019. I HEREBY STATE THAT ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN THOSE POSITIONS ON OR BEFORE DECEMBER 31, 2025; AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND THAT THIS TRACT MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

Mark H. Wehber DATE: 7/21/2022
 MARK H. WEHBER
 L.S. NO. 7960



STATEMENT OF THE SURVEYOR FOR THE CITY

I, DAVID W. ENKE, HEREBY STATE THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO. 3900, SUBDIVISIONS OF SAN JOAQUIN COUNTY, LIMITED USE, CITY OF TRACY, CALIFORNIA" AND THAT THE SUBDIVISION SHOWN HEREON COMPLIES WITH ALL THE PROVISIONS OF CHAPTER 2 OF THE CALIFORNIA SUBDIVISION MAP ACT, AS AMENDED, AND THAT THIS FINAL MAP IS TECHNICALLY CORRECT.

David W. Enke DATE: 8/2/2022
 DAVID W. ENKE, L.S. 4071
 SURVEYOR FOR THE CITY



NOTES:

1. THE SAN JOAQUIN COUNTY AIRPORT LAND USE COMMISSION'S AIRPORT LAND USE COMPATIBILITY PLAN IDENTIFIES THE TRACY MUNICIPAL AIRPORT'S AIRPORT INFLUENCE AREA. PROPERTIES WITHIN THIS AREA ARE ROUTINELY SUBJECT TO OVERFLIGHTS BY AIRCRAFT USING THIS PUBLIC-USE AIRPORT AND, AS A RESULT, RESIDENTS MAY EXPERIENCE INCONVENIENCE, ANNOYANCE, OR DISCOMFORT ARISING FROM THE NOISE OF SUCH OPERATIONS. STATE LAW (PUBLIC UTILITIES CODE SECTION 21670 ET SEQ.) ESTABLISHES THE IMPORTANCE OF PUBLIC USE AIRPORTS TO THE PUBLIC INTEREST OF THE PEOPLE OF THE STATE OF CALIFORNIA. RESIDENTS OF PROPERTY NEAR SUCH AIRPORTS SHOULD THEREFORE BE PREPARED TO ACCEPT THE INCONVENIENCE, ANNOYANCE, OR DISCOMFORT FROM NORMAL AIRCRAFT OPERATIONS. RESIDENTS ALSO SHOULD BE AWARE THAT THE CURRENT VOLUME OF AIRCRAFT ACTIVITY MAY INCREASE IN THE FUTURE. ANY SUBSEQUENT DEED CONVEYING THIS PARCEL OR SUBDIVISIONS THEREOF SHALL CONTAIN A STATEMENT IN SUBSTANTIALLY THIS FORM.
2. ALL PERSONS PURCHASING LOTS WITHIN THE BOUNDARIES OF THIS APPROVED MAP SHOULD BE PREPARED TO ACCEPT THE INCONVENIENCES OR DISCOMFORTS ASSOCIATED WITH AGRICULTURAL OPERATIONS OR ACTIVITIES, SUCH AS NOISE, ODORS, INSECTS, DUST OR FUMES. SAN JOAQUIN COUNTY HAS DETERMINED THAT SUCH INCONVENIENCES OR DISCOMFORTS SHALL NOT BE CONSIDERED TO BE A NUISANCE.
3. ALL FRONT LOT CORNERS ARE TO BE REFERENCED WITH A 1" BRASS DISK SET IN THE SIDEWALK OR A REBAR AND CAP SET IN DIRT, SET 1' FROM LOT CORNER ON SIDE LOT LINE PROJECTION. REAR CORNERS ARE TO BE REFERENCED WITH A REBAR AND CAP OR NAIL AND TAG.
4. APPROVAL OF THIS FINAL MAP IS SUBJECT TO THE APPLICABLE REQUIREMENTS OF THE TENTATIVE SUBDIVISION MAP FOR TRACT NO. 3900 CONDITIONS OF APPROVAL THAT WAS APPROVED BY THE CITY CITY PLANNING COMMISSION ON MARCH 9, 2022, PURSUANT TO RESOLUTION 2022-007.

CITY ENGINEER'S STATEMENT

I ROBERT ARMIJO, HEREBY STATE THAT I AM THE CITY ENGINEER OF THE CITY OF TRACY, CALIFORNIA AND THAT I HAVE EXAMINED THIS FINAL MAP OF "TRACT NO. 3900, SUBDIVISIONS OF SAN JOAQUIN COUNTY, LIMITED USE, CITY OF TRACY, CALIFORNIA", AND THAT THE SUBDIVISION SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF CHAPTER 2 OF THE SUBDIVISION MAP ACT AND OF ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

Robert Armijo DATE: 25 AUG 22
 ROBERT ARMIJO, R.C.E. 63173
 CITY ENGINEER



CITY CLERK'S STATEMENT

THIS IS TO STATE THAT AT ITS REGULARLY HELD MEETING ON THE _____ DAY OF _____, 20____, THE CITY COUNCIL OF THE CITY OF TRACY, CALIFORNIA PER COUNCIL RESOLUTION NO. _____ APPROVED THIS FINAL MAP OF "TRACT NO. 3900, SUBDIVISIONS OF SAN JOAQUIN COUNTY, LIMITED USE, CITY OF TRACY, CALIFORNIA", ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE THE OFFER OF DEDICATION IN FEE OF SUMMIT DRIVE DEDICATION AND CORRAL HOLLOW ROAD DEDICATION, SUBJECT TO SATISFACTORY COMPLETION OF IMPROVEMENTS THEREON, AND ACCEPTED ON BEHALF OF THE PUBLIC FOR PUBLIC USE THE OFFERS OF DEDICATION OF ALL PUBLIC UTILITY EASEMENTS AND WATER LINE EASEMENTS, AS SHOWN ON THIS FINAL MAP IN ACCORDANCE WITH TITLES 10 AND 12 OF THE TRACY MUNICIPAL CODE, AND ANY AMENDMENTS THERETO, APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP;

ACCEPTED ON BEHALF OF THE PUBLIC THE RELINQUISHMENT TO THE CITY OF TRACY ALL ACCESS RIGHTS OF LOTS 4, 5, 6, AND 7 TO AND FROM ELLIS TOWN DRIVE, LOT 4 TO AND FROM AVALON STREET, AND LOT 7 TO AND FROM SUMMIT DRIVE;

I HEREBY FURTHER STATE PURSUANT TO SECTION 66477.5 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA: THE LOCAL AGENCY SHALL RECONVEY THE PROPERTY TO THE SUBDIVIDER IF THE LOCAL AGENCY MAKES A DETERMINATION PURSUANT TO SAID SECTION THAT THE SAME PUBLIC PURPOSE FOR WHICH THE PROPERTY WAS DEDICATED DOES NOT EXIST, OR THE PROPERTY OR ANY PORTION THEREOF IS NOT NEEDED FOR PUBLIC UTILITIES, AS SPECIFIED IN SUBDIVISION (c) OF SAID SECTION.

DATED THIS _____ DAY OF _____, 2022.

Adrienne Richardson
 ADRIANNE RICHARDSON,
 CITY CLERK AND CLERK OF THE COUNCIL

SIGNATURE OMISSION:

PURSUANT TO SECTION 66436 OF THE CALIFORNIA SUBDIVISION MAP ACT THE SIGNATURES OF THE FOLLOWING PARTIES HAVE BEEN OMITTED:
 1. WEST SIDE IRRIGATION DISTRICT: 30' PIPELINE EASEMENT PER DN 89-022545.

CERTIFICATE OF DEDICATION

THE CITY OF TRACY SHALL RECONVEY CORRAL HOLLOW ROAD DEDICATION, SUMMIT DRIVE DEDICATIONS TO THE BELOW NAMED OWNER, OR SUCCESSOR IN INTEREST, IF THE CITY DETERMINES PURSUANT TO GOVERNMENT CODE SECTION 66477.5 THAT THE SAME PUBLIC PURPOSES FOR WHICH THE PROPERTY WAS DEDICATED DOES NOT EXIST, OR THE PROPERTY OR ANY PORTION THEREOF IS NOT NEEDED FOR SAID PUBLIC PURPOSES.

OWNER'S NAME: ELLIS STORAGE LLC
 ADDRESS: 2603 CAMINO RAMON, SUITE 200
 CITY/STATE: SAN RAMON, CA 94583

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 202____, AT _____
 _____ M. IN BOOK _____ OF MAPS AND PLATS, AT PAGE _____, AT THE REQUEST

OF OLD REPUBLIC TITLE COMPANY.

FEE: \$ _____

BY: _____ ASSISTANT/DEPUTY RECORDER
 STEVE J. BESTOLARIDES
 ASSESSOR-RECORDER-COUNTY CLERK

TRACT NO. 3900

SUBDIVISIONS OF SAN JOAQUIN COUNTY, CALIFORNIA

LIMITED USE

BEING A SUBDIVISION OF ALL OF RESULTANT PARCEL C OF THAT CERTAIN GRANT DEED RECORDED AS DOCUMENT NO. 2016-129634, SAN JOAQUIN COUNTY RECORDS, LYING WITHIN SECTION 6, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA



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CIVIL ENGINEERS SURVEYORS PLANNERS

SCALE: 1" = 150' JUNE 2022



BASIS OF BEARINGS:

THE LINE BEARING N00°13'39"W (CALCULATED) BETWEEN THE CITY OF TRACY CONTROL MONUMENTS GPS09 AND GPS16 OF THE CITY OF TRACY MODIFIED GRID SYSTEM, CALCULATED FROM THE CITY OF TRACY REPORT ON GPS SURVEY PREPARED BY ASSOCIATED CONSULTANTS GROUP, INC., ON FILE WITH THE CITY OF TRACY PUBLIC WORKS DEPARTMENTS, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP, SHOWN HEREON. DISTANCES SHOWN ARE GROUND DISTANCES.

LEGEND

	BOUNDARY LINE
	SECTION LINE
	LOT LINE/RIGHT-OF-WAY LINE
	EASEMENT LINE
	CENTERLINE
	CITY LIMIT LINE
	TIE LINE
	RESTRICTED ACCESS
(T)	TOTAL
(R)	RADIAL
(M-M)	MONUMENT TO MONUMENT
	FOUND STANDARD STREET MONUMENT PER (2)
	FOUND STANDARD STREET MONUMENT
	FOUND MONUMENT AS NOTED
	MONUMENT, SEARCHED FOR, NOT FOUND
PM	PARCEL MAP
M&P	MAPS AND PLATS
AME	PRIVATE ACCESS AND MAINTENANCE EASEMENT
DN	DOCUMENT NUMBER
LE	LANDSCAPE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
PSDE	PRIVATE STORM DRAIN EASEMENT
WLE	WATER LINE EASEMENT

NOTES:

- ALL DISTANCES SHOWN ARE MEASURED UNLESS OTHERWISE NOTED.
- SUBDIVISION AREA: 42.21 ACRES±
- SEE SHEET 1 FOR ADDITIONAL NOTES

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
- (1) TRACT 3764 (42 M&P 43), CERTIFICATE OF CORRECTION (DN. 2016-011616)
- (2) TRACT 3872 (42 M&P 91)
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- (6) RECORD OF SURVEY (30 SURVEYS 18)
- (7) CORNER RECORD (CR 18-152)

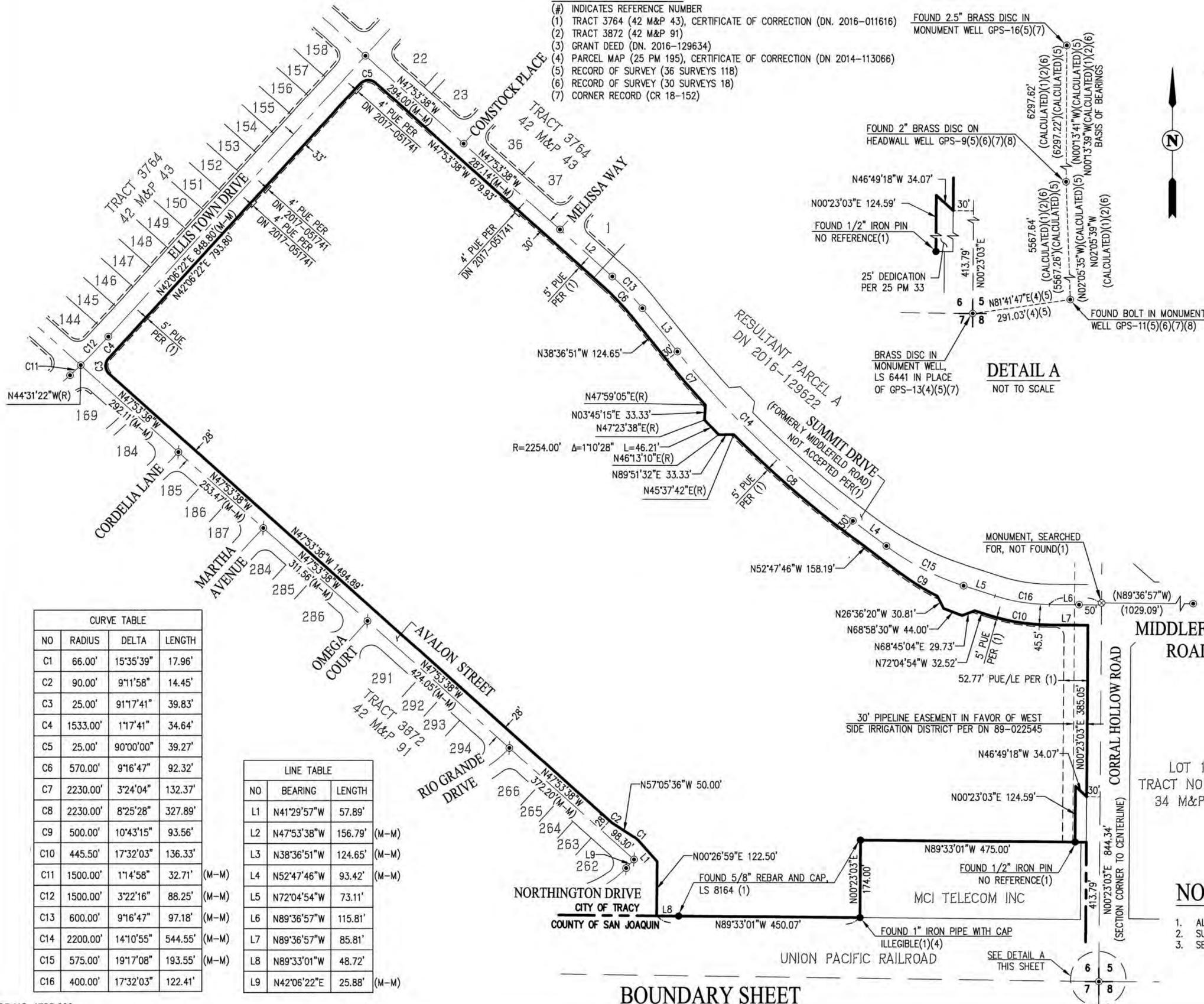
FOUND 2.5" BRASS DISC IN MONUMENT WELL GPS-16(5)(7)

FOUND 2" BRASS DISC ON HEADWALL WELL GPS-9(5)(6)(7)(8)

FOUND 1/2" IRON PIN NO REFERENCE(1)

BRASS DISC IN MONUMENT WELL, LS 6441 IN PLACE OF GPS-13(4)(5)(7)

DETAIL A
NOT TO SCALE



NO	RADIUS	DELTA	LENGTH
C1	66.00'	15°35'39"	17.96'
C2	90.00'	9°11'58"	14.45'
C3	25.00'	91°17'41"	39.83'
C4	1533.00'	1°17'41"	34.64'
C5	25.00'	90°00'00"	39.27'
C6	570.00'	9°16'47"	92.32'
C7	2230.00'	3°24'04"	132.37'
C8	2230.00'	8°25'28"	327.89'
C9	500.00'	10°43'15"	93.56'
C10	445.50'	17°32'03"	136.33'
C11	1500.00'	1°14'58"	32.71' (M-M)
C12	1500.00'	3°22'16"	88.25' (M-M)
C13	600.00'	9°16'47"	97.18' (M-M)
C14	2200.00'	14°10'55"	544.55' (M-M)
C15	575.00'	19°17'08"	193.55' (M-M)
C16	400.00'	17°32'03"	122.41' (M-M)

NO	BEARING	LENGTH
L1	N41°29'57"W	57.89'
L2	N47°53'38"W	156.79' (M-M)
L3	N38°36'51"W	124.65' (M-M)
L4	N52°47'46"W	93.42' (M-M)
L5	N72°04'54"W	73.11'
L6	N89°36'57"W	115.81'
L7	N89°36'57"W	85.81'
L8	N89°33'01"W	48.72'
L9	N42°06'22"E	25.88' (M-M)

BOUNDARY SHEET

TRACT NO. 3900

SUBDIVISIONS OF SAN JOAQUIN COUNTY, CALIFORNIA

LIMITED USE

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SCALE: 1" = 150' JUNE 2022

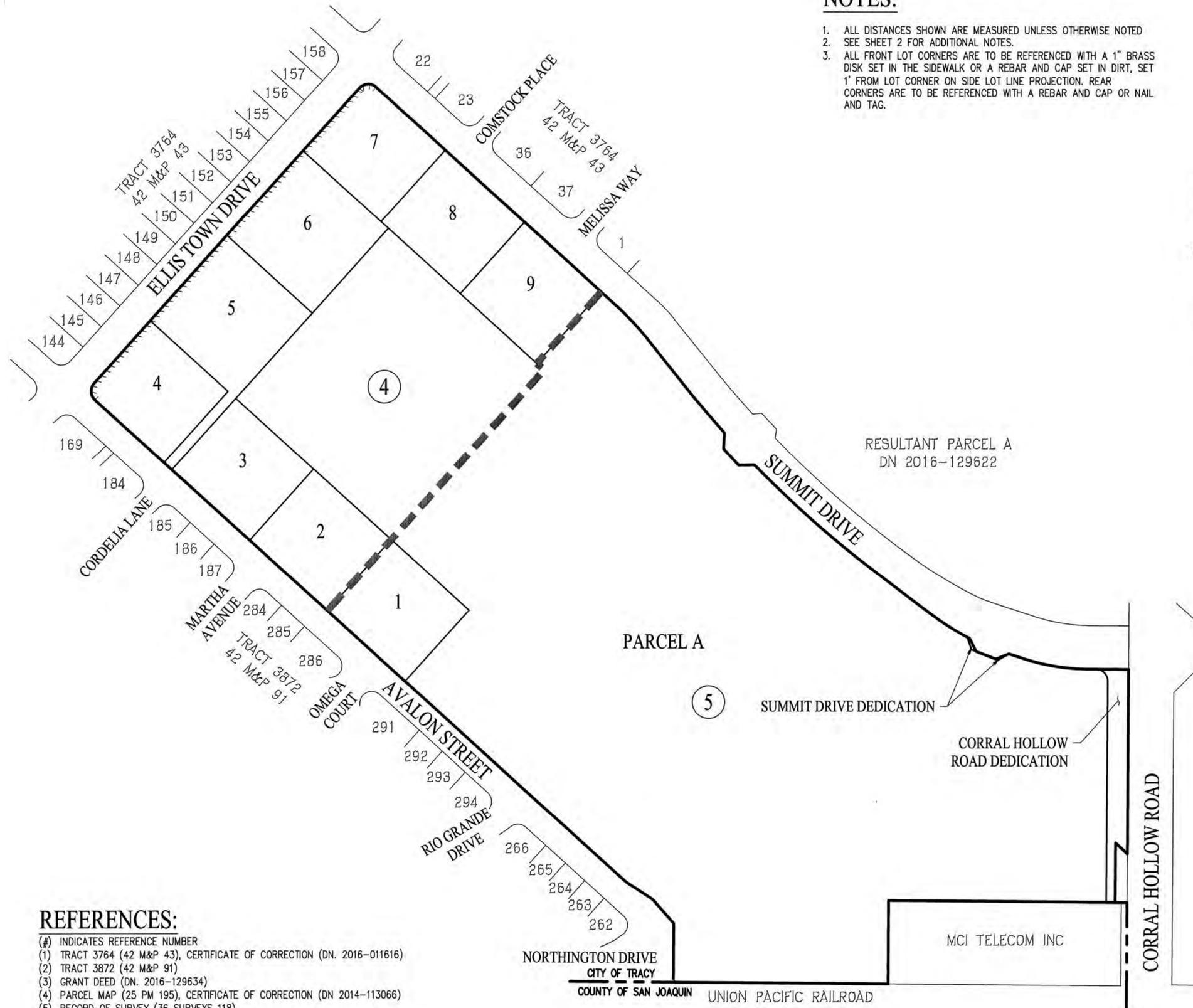


GRAPHIC SCALE



NOTES:

1. ALL DISTANCES SHOWN ARE MEASURED UNLESS OTHERWISE NOTED
2. SEE SHEET 2 FOR ADDITIONAL NOTES.
3. ALL FRONT LOT CORNERS ARE TO BE REFERENCED WITH A 1" BRASS DISK SET IN THE SIDEWALK OR A REBAR AND CAP SET IN DIRT, SET 1' FROM LOT CORNER ON SIDE LOT LINE PROJECTION. REAR CORNERS ARE TO BE REFERENCED WITH A REBAR AND CAP OR NAIL AND TAG.



BASIS OF BEARINGS:

THE LINE BEARING $N00^{\circ}13'39''W$ (CALCULATED) BETWEEN THE CITY OF TRACY CONTROL MONUMENTS GPS09 AND GPS16 OF THE CITY OF TRACY MODIFIED GRID SYSTEM, CALCULATED FROM THE CITY OF TRACY REPORT ON GPS SURVEY PREPARED BY ASSOCIATED CONSULTANTS GROUP, INC., ON FILE WITH THE CITY OF TRACY PUBLIC WORKS DEPARTMENTS, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP, SHOWN HEREON. DISTANCES SHOWN ARE GROUND DISTANCES.

LEGEND

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LE	LANDSCAPE EASEMENT
PUE	PUBLIC UTILITY EASEMENT
PSDE	PRIVATE STORM DRAIN EASEMENT
WLE	WATER LINE EASEMENT
	SHEET LIMIT
	SHEET NUMBER

REFERENCES:

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INDEX SHEET

TRACT 3764, 42 M&P 43

TRACT NO. 3900

SUBDIVISIONS OF SAN JOAQUIN COUNTY, CALIFORNIA

LIMITED USE

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CIVIL ENGINEERS SURVEYORS PLANNERS

SCALE: 1" = 60' JUNE 2022



GRAPHIC SCALE

BASIS OF BEARINGS:

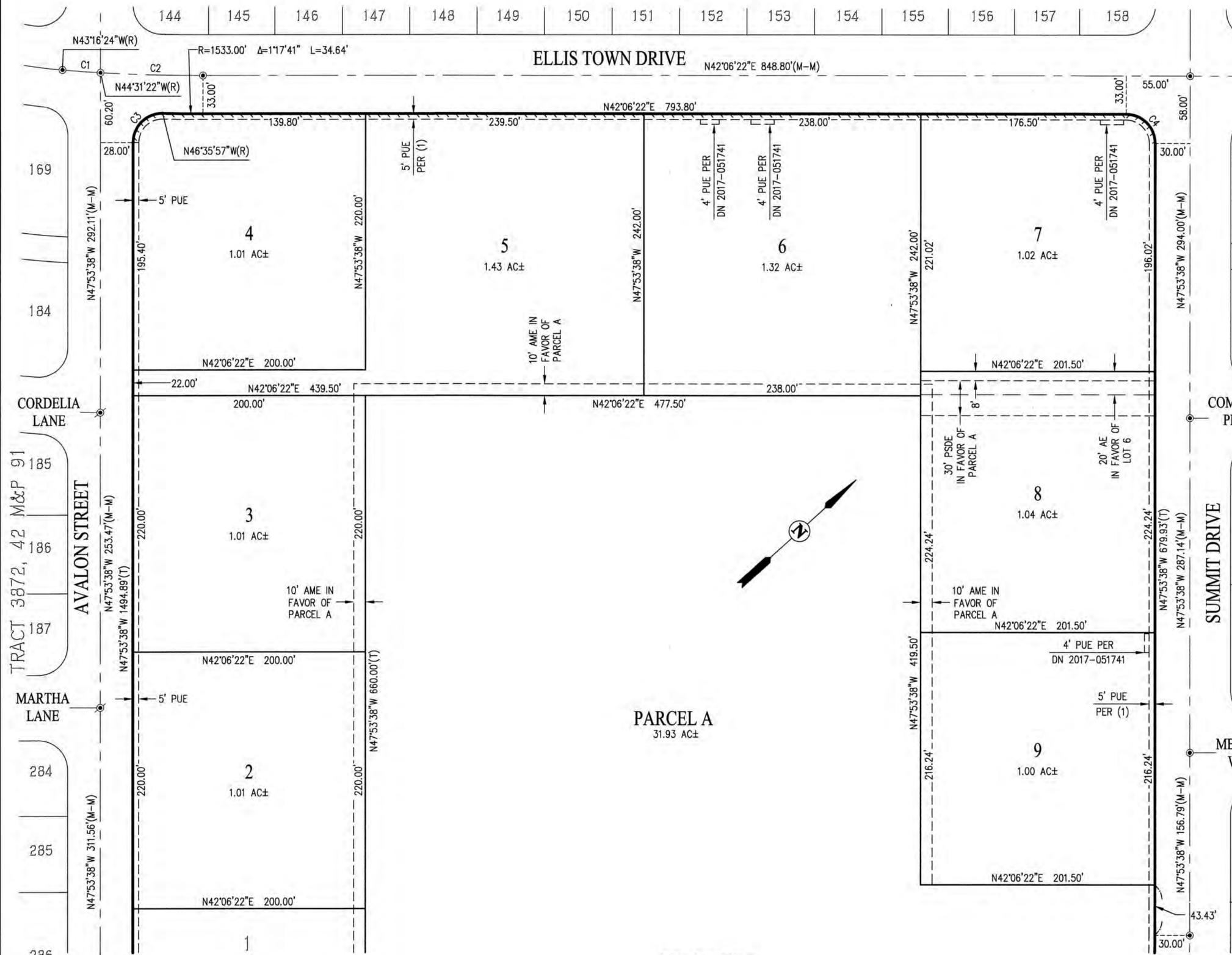
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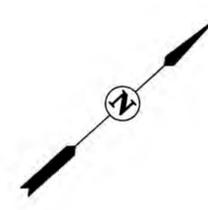
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PARCEL A
31.93 AC±



SEE SHEET 5

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
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C2	1500.00'	3°22'16"	88.25'

CURVE TABLE			
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TRACT NO. 3900

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CIVIL ENGINEERS SURVEYORS PLANNERS

SCALE: 1" = 100' JUNE 2022



GRAPHIC SCALE

BASIS OF BEARINGS:

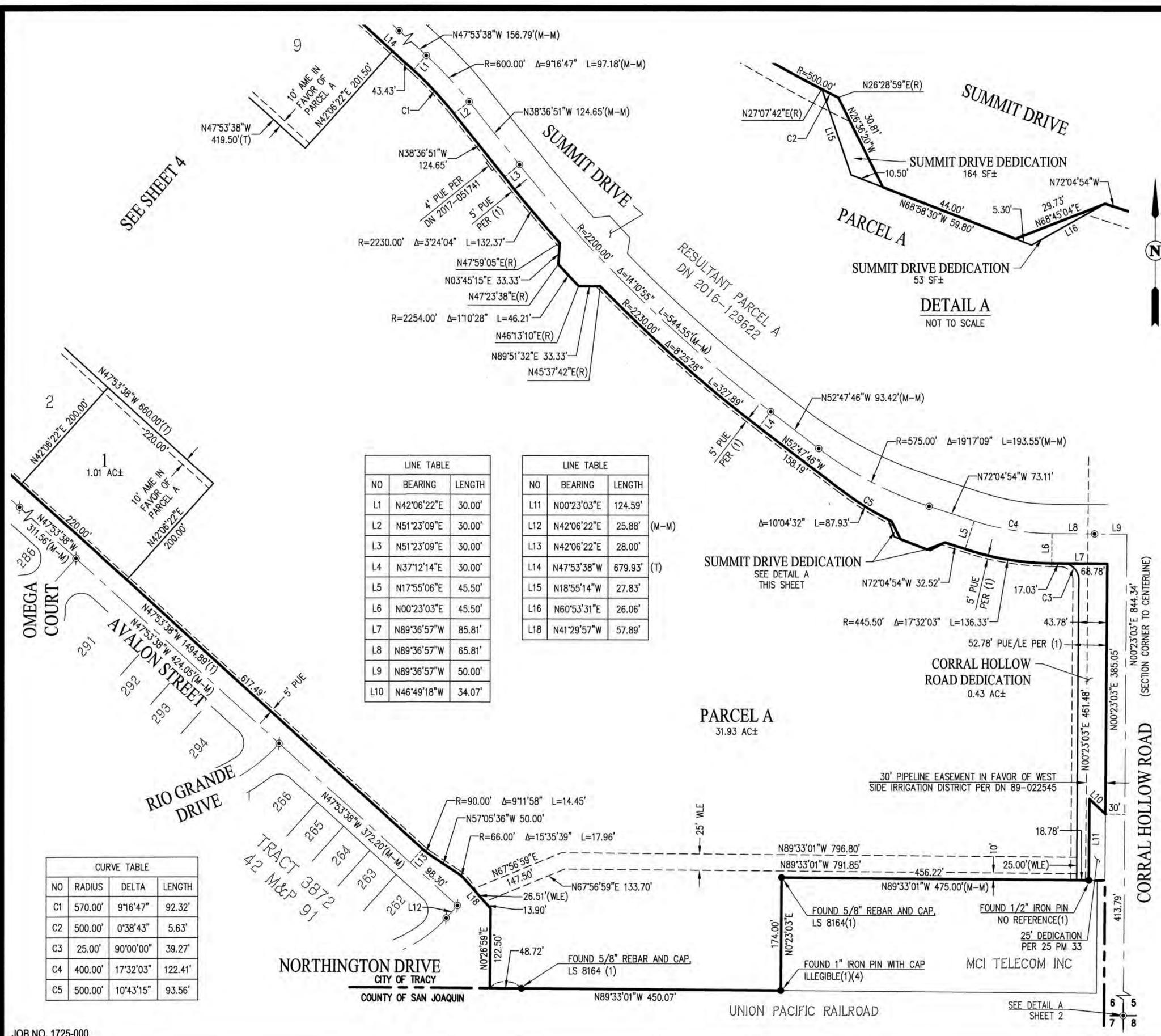
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REFERENCES:

- (#) INDICATES REFERENCE NUMBER
- (1) TRACT 3764 (42 M&P 43), CERTIFICATE OF CORRECTION (DN. 2016-011616)
- (2) TRACT 3872 (42 M&P 91)
- (3) GRANT DEED (DN. 2016-129634)
- (4) PARCEL MAP (25 PM 195), CERTIFICATE OF CORRECTION (DN 2014-113066)
- (5) RECORD OF SURVEY (36 SURVEYS 118)
- (6) RECORD OF SURVEY (30 SURVEYS 18)
- (7) CORNER RECORD (CR 18-152)



LINE TABLE		
NO	BEARING	LENGTH
L1	N42°06'22"E	30.00'
L2	N51°23'09"E	30.00'
L3	N51°23'09"E	30.00'
L4	N37°12'14"E	30.00'
L5	N17°55'06"E	45.50'
L6	N00°23'03"E	45.50'
L7	N89°36'57"W	85.81'
L8	N89°36'57"W	65.81'
L9	N89°36'57"W	50.00'
L10	N46°49'18"W	34.07'

LINE TABLE		
NO	BEARING	LENGTH
L11	N00°23'03"E	124.59'
L12	N42°06'22"E	25.88'
L13	N42°06'22"E	28.00'
L14	N47°53'38"W	679.93'
L15	N18°55'14"W	27.83'
L16	N60°53'31"E	26.06'
L18	N41°29'57"W	57.89'

CURVE TABLE			
NO	RADIUS	DELTA	LENGTH
C1	570.00'	9°16'47"	92.32'
C2	500.00'	0°38'43"	5.63'
C3	25.00'	90°00'00"	39.27'
C4	400.00'	17°32'03"	122.41'
C5	500.00'	10°43'15"	93.56'

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2022-_____

-
- 1) APPROVING THE FINAL SUBDIVISION MAP FOR TRACT 3900 – ELLIS ESTATE LOTS AND LIMITED-USE AREA**
 - 2) AUTHORIZING THE CITY CLERK TO FILE THE APPROVED FINAL MAP WITH THE SAN JOAQUIN COUNTY RECORDER**

WHEREAS, On January 22, 2013, City Council certified the Final Revised Environmental Impact Report for the Ellis Specific Plan and approved a General Plan Amendment, Annexation, and the Ellis Specific Plan for the 321-acre site known as Ellis; and

WHEREAS, A Development Agreement was approved by City Council on March 19, 2013, and Annexation of the Ellis site to the City of Tracy was completed by LAFCO on April 16, 2013; and

WHEREAS, On March 9, 2022, Planning Commission approved a Vesting Tentative Subdivision Map to subdivide an area in the southeastern portion of Ellis, commonly referred to as the Ellis Limited Use Area, a 42.22-acre parcel consisting of nine approximately one-acre estate lots and an approximately 32-acre remainder parcel for an approximately 2.5-acre dog park and other future development, (Application Number TSM21-0002); and

WHEREAS, The Final Subdivision Map for Ellis Limited Use Subdivision, Tract 3900 consists of 9 single-family residential estate lots within the boundaries of and in conformance with the approved Vesting Tentative Subdivision Map; and

WHEREAS, The project area is also covered under San Joaquin Council of Governments' Airport Land Use Compatibility Plan (ALUCP) and is designated in the Tracy Municipal Airport Outer Approach/Departure Zone – Zone 4. ALUCP staff reviewed the proposed tentative map for conformity with the Airport Land Use Plan on July 27, 2021, and determined that the proposed land uses are consistent with the ALUCP's safety zones and development criteria; and

WHEREAS, The onsite improvements for Summit Drive, Corral Hollow Road, Avalon Drive, and Ellis Town Drive were previously installed for Ellis Phase 1A (Tract 3764) and Ellis Phase 1B (Tract 3872), and there are no public improvements required within the borders of the Tract 3900 Final Map, and therefore the City Engineer has determined that no Subdivision Improvement Agreement will be required for Tract 3900; and

WHEREAS, The project is consistent with the Final Revised Environmental Impact Report (EIR) that was certified by the City Council on January 22, 2013 for the Ellis Specific Plan, (SCH#2012022023). Pursuant to CEQA Guidelines Section 15162 and Public Resources Code Section 21116, no subsequent EIR shall be prepared for the project because the project as a certified EIR and no substantial changes are proposed in the project that would require major revision to the previous EIR; no substantial changes have occurred with respect to the

circumstances under which the project will be undertaken that would require major revisions to the previous EIR, and no new information of substantial importance regarding significant effects, mitigation measures, or alternatives for this project has become known, which was not known at the time the previous EIR was certified as complete. Furthermore, as a residential subdivision that is consistent with a specific plan for which an EIR was certified after January 1, 1980, the project is exempt from the requirements of CEQA pursuant to California Government Code Section 65457. Therefore, no further environmental review is necessary; and

WHEREAS, The project is consistent with the Council’s approved Economic Development Strategy to ensure the physical infrastructure necessary for development; now, therefore, be it

RESOLVED: That City Council, by resolution, approve the Final Subdivision Map for Tract 3900 – Ellis Estate Lots and Limited Use Area.

FURTHER RESOLVED: That City Council authorizes the City Clerk to File the Final Subdivision Map with the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022 by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.H

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving an On-Call Professional Services list for landscape architectural, plan check, inspection, and project management services with: Callander & Associates, Griffin Structures, LPA Inc., Nuvis Landscape Architecture, O'Dell Engineering, Verde Design Inc., and WRT Inc. for a five-year term.

EXECUTIVE SUMMARY

This agenda item, with City Council approval, would approve an On-Call Professional Services list for landscape architectural, plan check, inspection, and project management services with: Callander & Associates, Griffin Structures, LPA Inc., NUVIS Landscape Architecture, O'Dell Engineering, Verde Design Inc., and WRT Inc. for a five-year term.

BACKGROUND AND LEGISLATIVE HISTORY

On September 9, 2022, the City issued a Request for Proposals (RFP) for On-Call Landscape Architectural, Landscape Plan Check, Landscape Inspection, and Project Management Services in which proposers had the ability to select which specific services they were interested in providing services for. On October 13, 2022, ten proposals were submitted to the City for this RFP. From this RFP, seven "on-call" consultants were selected to provide at least one of the four services requested to the City. This on-call list is for a three-year term with an option to extend the term up to two (2) consecutive one (1) year terms based on performance.

On-call services is the practice of designating specific consultants to be available at specific times for specific projects based on the demands of the department and/or organization.

ANALYSIS

The Parks & Recreation Department's current capital improvement program (CIP) consists of a variety of projects generally consisting of playground replacements, sport court renovations and enhancements, shade structures, enhancing pedestrian safety and access to parks, creation of natural/open space areas and habitat, BMX pump tracks, aquatic center, and sports complex renovations including sports field lighting. The City is also evaluating numerous streetscapes and considering capital projects. Some of the current CIP projects require specialized professional services which City staff does not possess. In addition to capital improvements, the City is also experiencing substantial growth in new development areas including new parks and streetscapes in which landscape plan check and landscape inspection services are needed. These services may also be utilized for other City CIP projects as those needs arise. On-call professional services will allow staff to increase current workload capacity to keep up with the demand of delivering projects in a timely fashion.

Staff has completed an extensive review of ten (10) proposals received and is recommending that seven (7) on-call consultants remain on the On-Call list. The table below lists the On-Call consultants and the services they will be providing.

Firm		Services Provided
Callander Associates (CALA)		LA, LPC, LI, PM
Verde Design, Inc.		LA
Wallace Roberts & Todd, Inc. (WRT)		LA
O'Dell Engineering		LA, LPC, LI, PM
LPA, Inc.		LA
Nuvis Landscape Architecture		LA, LPC, LI
Griffin Structures		PM

LA = Landscape Architectural Services LPC = Landscape Plan Check Services
LI = Landscape Inspection Services PM = Project Management Services

The City will utilize these services on an “on-call basis.” Staff will enter into professional services agreements as projects and needs arise. The City will issue Purchase Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Purchase Order. Staff will follow the City’s purchasing policy and return to Council as needed based on the contract amounts for each project.

CEQA DETERMINATION

The approval of the on-call list will not result in a physical change in the environment and therefore is not considered as a project as defined by Section 21065 of the Public Resources Code.

STRATEGIC PLAN

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

FISCAL IMPACT

The cost of the work performed by consultants will be captured by capital improvement budgets or through developer contributions. The developer contributions include Cost Recovery Agreements, plan-check fees, and/or other fees per the City’s Master Fee Schedule. It should be noted that Cost Recovery Agreements cover the costs of staff time and consultant work related to each project.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving an On-Call Professional Services list for landscape architectural, plan check, inspection, and project management services with: Callander & Associates, Griffin Structures, LPA Inc., Nuvis Landscape Architecture, O’Dell Engineering, Verde Design Inc., and WRT Inc. for a five-year term.

Prepared By: Richard Joaquin, Parks Planning & Development Manager

Reviewed by: Brian MacDonald, Director of Parks & Recreation
 Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

TRACY CITY COUNCIL
RESOLUTION 2022- _____

APPROVING AN ON-CALL PROFESSIONAL SERVICES LIST FOR LANDSCAPE ARCHITECTURAL, PLAN CHECK, INSPECTION, AND PROJECT MANAGEMENT SERVICES WITH: CALLANDER & ASSOCIATES, GRIFFIN STRUCTURES, LPA INC., NUVIS LANDSCAPE ARCHITECTURE, O'DELL ENGINEERING, VERDE DESIGN INC., AND WRT INC. FOR A FIVE-YEAR TERM

WHEREAS, the City has a variety of capital improvement program (CIP) projects requiring specialized professional services; and

WHEREAS, the City is experiencing substantial growth in new development areas including parks and streetscapes; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, in accordance with Tracy Municipal Code, Section 2.20.140, a Request for Proposals for On-Call Landscape Architectural, Landscape Plan Check, Landscape Inspection, and Project Management services was posted on the City's website; and

WHEREAS, the City received ten (10) proposals to provide the required services, and after extensive review the City selected seven (7) firms to provide these services; and

WHEREAS, the table below lists the seven (7) On-Call consultants and the services they will be providing:

Consultant Name	Services Provided
Callander Associates (CALA)	LA, LPC, LI, PM
Verde Design, Inc.	LA
Wallace Roberts & Todd, Inc. (WRT)	LA
O'Dell Engineering	LA, LPC, LI, PM
LPA, Inc.	LA
Nuvis Landscape Architecture	LA, LPC, LI
Griffin Structures	PM

*LA = Landscape Architectural Services LPC = Landscape Plan Check Services
LI = Landscape Inspection Services PM = Project Management Services; and*

WHEREAS, the cost of these services are generally paid from capital improvement project budgets and Land Development Projects either through a cost-recovery agreement or Land Development fees; and

WHEREAS, the City will utilize such services on an on-call basis, and the City will execute Professional Services Agreements with each consultant and issue Purchase Orders for the scope of work needed; and be it

RESOLVED: That the City Council of the City of Tracy hereby approves an On-Call Professional Services list for landscape architectural, plan check, inspection, and project management services with: Callander & Associates, Griffin Structures, LPA Inc., Nuvis Landscape Architecture, O'Dell Engineering, Verde Design Inc., and WRT Inc. for a five-year term.

* * * * *

The foregoing Resolution 2022- _____ was adopted by the Tracy City Council on the 15th day of November, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.I

RECOMMENDATION

Staff recommends that the City Council 1) authorize the City of Tracy to enter into a Disbursement Agreement with developer, Bodal Properties, LLC. to disburse grant funding in the amount of \$500,000 awarded to the City of Tracy through the San Joaquin Council of Government (“SJCOG”)’s Job Balancing Investment Fund (JBIF) program for the Edgewood Commercial Center off-site improvements and 2) authorize the City Manager to sign the Disbursement Agreement on behalf of the City.

EXECUTIVE SUMMARY

This item for consideration by the City Council authorizes the City of Tracy to enter into a Disbursement Agreement, attached herein as Attachment A, with developer, Bodal Properties, LLC. The Agreement is between the City of Tracy and Bodal Properties, LLC. for a \$500,000 grant awarded to the City of Tracy through the SJCOG Job Balancing Investment Fund (JBIF). The grant will help fund the construction of off-site improvements along Corral Hollow Road and is designed to create new employment in the County through regional transportation infrastructure improvements. The JBIF program was created as a local economic development incentive tool to fund transportation improvements along the regional transportation network needed to attract jobs to San Joaquin County and to provide an essential strategic funding mechanism to assist in attracting employers. Economic Development staff applied for the JBIF program grant after learning from the developer that the commercial/retail project may not move forward based on higher than anticipated project costs. The Edgewood Commercial Center off-site improvements meet the requirements to receive funding through the JBIF program. No General Fund monies will be used for the development of this commercial/retail center. The project is estimated to create 175 jobs at buildout.

BACKGROUND AND LEGISLATIVE HISTORY

SJCOG – JBIF Program

The SJCOG Board approved the creation of the JBIF program in April 2015, which is funded by the Regional Transportation Impact Fee (RTIF) program. The RTIF is a county-wide, multi-jurisdiction capital improvement funding program intended to cover a portion of the costs for new transportation facilities required to serve new development within the County.

The JBIF program was created as a local economic development incentive tool to fund the transportation improvements needed to attract job-creating firms to San Joaquin County and to provide an essential strategic funding mechanism to assist in attracting employers to the region. This is consistent with the policies and strategies in SJCOG’s long-range transportation planning document, the Regional Transportation Plan.

Edgewood Commercial Center Project Background

On October 1, 2019, the City received a Development Review Permit application for the Edgewood Commercial Center Project located on the southeast corner of Corral Hollow Road

and Middlefield Drive. The Project consists of a convenience store, automotive service and gas station, electric vehicle charging station, and parking area on 2.44-acres. The Project is associated with an application for a Rezone of the site (R19-0001) and a Conditional Use Permit (CUP19-0013) received on December 2, 2019.

The Edgewood Commercial Center Project was approved by City Council Resolution 2020-122 on July 7, 2020, attached herein as Attachment B. The Project is estimated to create 175 jobs at buildout. On-site and off-site transportation improvements include construction of driveways, sidewalk curb and gutter, a left turn lane, roadway widening, and median reconstruction. The developer requested assistance with public improvement requirements to help offset higher than anticipated project costs.

The City of Tracy's Economic Development staff engaged SJCOG in June 2020 regarding a grant opportunity to fund the City's off-site requirements for the Edgewood Commercial Center Project, which is located on the RTIF roadway network. The City of Tracy worked with SJCOG and the Project applicant to meet the requirements of the JBIF program with the goal of having the funding approved by the SJCOG Board in August 2020.

On September 24, 2020, the City of Tracy and SJCOG entered into a Cooperative Agreement which established guidelines for the acceptance and reimbursement of JBIF grant funds, and on April 6, 2021, the City Council approved by Resolution 2021-037, attached herein as Attachment C, acceptance of a \$500,000 grant through SJCOG's JBIF program.

The Offsite Improvement Agreement (OIA) for the Edgewood Commercial Center Public Improvements was executed on March 18, 2022.

FISCAL IMPACT

There is no fiscal impact associated with the approval of this item.

CEQA DETERMINATION

A California Environmental Quality Act (CEQA) determination is not required of this item.

STRATEGIC PLAN

This agenda item supports the City Council's Economic Development Strategic Priority.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council 1) authorize the City of Tracy to enter into a Disbursement Agreement with developer, Bodal Properties, LLC. to disburse grant funding in the amount of \$500,000 awarded to the City of Tracy through the San Joaquin Council of Government ("SJCOG")'s Job Balancing Investment Fund (JBIF) program for the Edgewood Commercial Center off-site improvements and 2) authorize the City Manager to sign the Disbursement Agreement on behalf of the City.

Prepared by: Joseph Viorge-Koide, Economic Development Administrative Technician

Reviewed by: Vanessa Carrera, Assistant to the City Manager
Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments:

Attachment A – City of Tracy Disbursement Agreement with Bodal Properties, LLC.
Attachment B – Council Resolution 2020-122
Attachment C – Council Resolution 2021-037

Attachment A

AGREEMENT BETWEEN THE CITY OF TRACY
AND BODAL PROPERTIES, LLC
FOR JOBS BALANCING INVESTMENT FUNDS (JBIF)
PROVIDED BY SAN JOAQUIN COUNCIL OF GOVERNMENTS

THIS AGREEMENT entered into this ____ day of November 2022 by and between the City of Tracy (herein called the "Grantee") and Bodal Properties, LLC, a California limited liability corporation (herein called the "Subrecipient"). Grantee and Subrecipient are collectively referred to as the "Parties" or individually as "Party."

WHEREAS, in April of 2015 the San Joaquin Council of Governments Board (Authority), approved the creation of the San Joaquin Regional Transportation Impact Fee (RTIF) Jobs Balancing Investment Fund (JBIF), as a tool for local economic development professionals to fund transportation improvements needed to attract job-creating firms to San Joaquin County; and

WHEREAS, the Operating Agreement that was executed on April 30, 2015, included Authority and eight Participating Agencies in San Joaquin County. The City/Grantee is one of the Participating Agencies; and

WHEREAS, during one of the meetings with the Authority, the City identified a transportation project that meets the RTIF programs eligibility requirements to receive funding; and

WHEREAS, the City and the Authority entered into a Cooperative Agreement, on September 24, 2020, to fund the eligible transportation improvements (Project) in the City of Tracy. The Cooperative Agreement is attached and incorporated by reference; and

WHEREAS, the Authority has agreed to provide RTIF program funds in an amount of up to \$500,000 for the eligible transportation improvements costs as funding contribution to the Project; and

WHEREAS, the Subrecipient's Project qualifies for RTIF Funds for improvements to Corral Hollow Road, which is part of the Authority's network; and

WHEREAS, the Subrecipient and the City have an executed Off-site Improvement Agreement, executed in March of 2022, for this eligible Project; and

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

The Subrecipient will be responsible for a RTIF funds in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Subrecipient hereby agrees to use the RTIF funds provided to Subrecipient solely for the Project. Such program will include the following activities eligible under the RTIF program:

The project includes the construction of a right-turn pocket from Corral Hollow Road onto Middlefield Drive, the addition of a bike lane segment, as well as restoration of the sidewalk, curb, gutter, and right-of-way landscaping. A median on Corral Hollow Road will be constructed to restrict left-turn movements. The project will also be required to lengthen the left-turn lane on westbound Middlefield Drive and reconstruct the existing median.

The proposed project will also allow for connectivity to future development on the remainder of the parcel where the project is located. Two driveways are proposed to serve the site. There will be a full-access driveway on Middlefield Drive, which aligns with the opening in the medians and with an apartment complex driveway on the north side of Middlefield Drive, and a partial access driveway on Corral Hollow Road.

II. TIME OF PERFORMANCE

Subrecipient shall abide by the timing requirements of the Off-Site Improvement Agreement between City and Bodal Properties, LLC, executed on March 18, 2022, and incorporated by reference as Exhibit B.

III. TERM

This Agreement shall remain in effect until discharged or terminated as provided by this section. Parties may mutually consent to terminate at any time. Additionally, this Agreement shall be discharged, and the parties shall have no further obligation to each other, upon completion of the Project as certified by the Grantee.

IV. PROJECT BUDGET

Subrecipient shall use RTIF funds consistent with the Project scope of work described in Section 1 of this agreement. In no event will a change in scope result in the reimbursement of more than \$500,000. The Project currently has a \$509,050.23 funding gap (see budget below).

PHASE 1	Total
Land Basis	\$275,000
Construction Cost	\$3,500,000
A&E	\$250,000
Offsite Improve. Req.	\$875,000
Tenant Improvements	\$200,000
Sitework /Landsc.	\$390,000
Dev. Impact Fees	\$495,000
Other Soft Costs	\$521,500
Contingency	\$467,363
Financing	\$373,890
Developer Return	\$661,298
Total Cost	\$8,009,050
Project Valuation	\$7,500,000
Funding Gap	\$(509,050.23)

V. INVOICES

Starting after the execution of this Agreement, Subrecipient shall provide monthly progress reports and shall provide invoices no less than monthly for activities conducted over the prior month. This shall occur until the final invoice is submitted to the Authority.

Subrecipient shall provide the Grantee with one (1) copy of all invoices by every consultant, subconsultant, contractor, or subcontractor performing work related to the Project. In addition to the invoices, monthly progress reports shall include a brief description of the status of the project, the work completed to date, including any issues that may impact the project schedule. This summary may be included in the invoices submitted to the Authority or be attached to those invoices.

VI. NOTICES

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid first-class mail to the following contract representatives:

<u>Grantee</u>	<u>Subrecipient</u>
Michael Rogers City of Tracy 333 Civic Center Drive Tracy, CA 95376 209-831-6115 209-830-6837	Harpreet Singh Bodal Properties, LLC 15 E. Grant Line Road Tracy, CA 95376 209-676-0916

Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Paragraph.

VII. GENERAL CONDITIONS

A. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance, and Workers' Compensation Insurance as the Subrecipient is an independent subrecipient. Subrecipient shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of Grantee.

B. Indemnification and Hold Harmless

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges, liabilities, costs and expenses (including attorneys' fees) and judgments whatsoever that arise out of or in connection with, either directly or indirectly, the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

C. Insurance

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

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

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

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

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

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

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

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

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

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

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

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

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

D. Amendments

The Grantee or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee's governing body, if necessary. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

E. Suspension or Termination

This Agreement shall remain in effect until discharged or terminated. Parties may terminate this Agreement at any time by mutual consent. Except as to any rights or obligations which survive discharge as specified in Section VII(b), this Agreement shall be discharged, and the parties shall have no further obligation to each other, upon completion of the project as certified by Grantee.

VIII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IX. MISCELLANEOUS

A. Waiver.

No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

B. Applicable Law.

This Agreement shall be construed and interpreted in accordance with the laws of the State of California. Venue for any dispute arising out of this Agreement shall be the state and federal courts located in San Joaquin County, California.

C. Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees. Attorney fees shall include attorneys' fees on any appeal, and in addition a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

D. Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

E. Integration.

It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

GRANTEE

SUBRECIPIENT

Michael Rogers
City Manager
City of Tracy

DocuSigned by:
HARPREET SINGH
6399168FE8954F8
Harpreet Singh
Owner/Developer

10/27/2022 | 4:01 PM PDT

Approved as to form:

DocuSigned by:
Varinder Pal Singh
627602690342410
Varinder Pal Singh
Owner/Developer

10/27/2022 | 4:15 PM PDT

Bijal M. Patel, City Attorney

Exhibit to Agreement

COOPERATIVE AGREEMENT CITY OF TRACY JOBS BALANCING INVESTMENT FUND (JBIF) PROJECT

This Cooperative Agreement ("Agreement") is made and entered into this **24th** day of September 2020 by and between the City of Tracy, a political subdivision of the State of California ("Sponsor"), and the SAN JOAQUIN COUNCIL OF GOVERNMENTS, acting as the San Joaquin County Local Transportation Authority ("Authority") pursuant to Public Utilities Code, section 180000, et seq.

RECITALS

WHEREAS, Authority and Sponsor desire to enter into a Cooperative Agreement for funding of transportation improvements in San Joaquin County pursuant to the authority provided by the San Joaquin County Regional Transportation Impact Fee ("RTIF") program Operating Agreement ("OA"), executed April 30, 2015, between SJCOG and the eight Participating Agencies in San Joaquin County; and

WHEREAS, Sponsor desires to receive funding from the Authority for the transportation improvement project known as the City of Tracy JBIF Project ("Project"); and

WHEREAS, the Project is eligible as the City of Tracy JBIF Project to receive funding from the 15% regional share of RTIF funding retained by the Authority for transit improvements; and

WHEREAS, the Authority is providing RTIF program funds in an amount up to **\$500,000** for eligible transportation improvement costs as funding contribution to the Project.

WHEREAS pursuant to the principles of the adopted RTIF program operating agreement, the Authority is authorized to manage the RTIF program for the San Joaquin County region; and

WHEREAS, the Authority is authorized to issue RTIF funds in an amount not to exceed the portion of RTIF funds paid directly to Authority by each participating agency to be expended for eligible project costs; and

WHEREAS, Authority shall issue reimbursement payments as provided in Section 2.1 to Sponsor pursuant to a request for reimbursement submitted by the Sponsor; however, the Sponsor understands that in no event shall project reimbursement payments, when aggregated with the previously approved reimbursement requests, exceed **\$500,000** for project costs as listed in Exhibit "A"; and

WHEREAS, any difference in cost which results in less than **\$500,000** of RTIF funds being spent on the Project shall be retained by the Authority for reallocation to any other eligible project; and

WHEREAS, Sponsor agrees to abide by the terms and conditions of the Authority as set forth herein for the receipt of RTIF funds; and

WHEREAS, Authority agrees to provide RTIF funding for the off-site transportation improvements of the Sponsor's Project according to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant, and agree as follows:

AGREEMENT

SECTION I Covenants of City of Tracy

1.1. Project Application. The complete project description, scope of work, delivery schedule, estimate of cost by activity, anticipated amount and type of funds that will supplement RTIF funds, and the anticipated timing for release of RTIF funds shall be specified in the application, which is attached as Exhibit "A," and incorporated herein by this reference.

1.2. Change In Project Scope. A change in the Project scope as described in Exhibit "A" may not be implemented until it has been approved by the Authority. In no event will a change in scope result in the Authority reimbursing more than \$500,000.

1.3. Eligible Reimbursement Costs. Eligible reimbursement costs shall be off-site transportation improvements as specified in Exhibit "A" or as may be approved from time to time by the Authority pursuant to Section 1.2.

1.4. RTIF Percentage Share Defined. For this Agreement, the RTIF percentage share of eligible costs shall not exceed 57% described in Exhibit "A".

1.5. Invoices and Progress Reports. Starting one month after the execution of this Agreement, Sponsor shall provide monthly progress reports and shall provide invoices no less than monthly for activities conducted over the prior unbilled month. This shall occur until the final invoice is submitted to the Authority. These documents shall include the following specified information:

1.5.a. Copies of Consultant Invoices. Sponsor shall provide the Authority with one (1) copy of all invoices submitted to Sponsor by every consultant, subconsultant, contractor, or subcontractor performing work related to the Project.

1.5.b. Progress Reports. The monthly progress reports shall include a brief description of the status of the project, the work completed to date, including any issues that may impact the project schedule. This summary may be included in the invoices submitted to the Authority or be attached to those invoices.

1.6. Use of Funds. Sponsor shall use RTIF funds consistent with the Project scope of work described in Exhibit "A" or approved in writing by the Authority pursuant to Section 1.2.

1.7. Submittal of Documents. Sponsor shall provide copies to the Authority of the purchase agreement and all executed contracts which relate to the Project scope as described in Exhibit "A" or approved by the Authority pursuant to Section 1.2. Sponsor shall retain records pertaining to the Project for a four (4) year period following completion of the Project.

1.7.a Communication to Authority. Upon inquiry, Sponsor shall communicate, verbal or written, to Authority or its representatives with Project documents, invoices, and progress

reports, at any time of Project activities consistent to the provisions specified in Section I (1.6), (1.7), (1.8), and Section II (2.2)

1.8. Completion of Project. Sponsor shall be responsible for the timely completion of the project site land acquisition of the Project and provide management of consultant and contractor activities, including responsibility for schedule, budget, and oversight of the services, consistent with the scope of work. Since Sponsor is responsible for project management and oversight, any and all costs which exceed the lesser of \$500,000 of the total eligible project off-site transportation improvement costs set forth in Exhibit "A" shall be the sole responsibility of Sponsor. This provision shall apply in all instances including situations where a change in scope has been approved by the Authority pursuant to Section 1.2.

1.8.a. Letter of Project Completion. Sponsor shall provide a letter of project completion which includes final cost, revenues, schedule of activities, etc. This letter shall accompany the final invoice for payment from the sponsor to provide notice of project account closing by Authority.

1.9. Time Limit for Reimbursement of Project Costs. The reimbursement period shall not exceed 36 months from the execution date of this agreement.

1.10. Excess Costs. In the event, the actual Project cost exceeds the estimate shown in Exhibit "A," this amount will be considered an excess cost. **City of Tracy is solely responsible for all costs over the amount identified in Section 1.5.**

1.11. Errors and Omissions. Sponsor shall diligently monitor and manage all aspects of the Project and shall aggressively pursue any and all remedies, including full restitution and damages from any consultant, contractor, or sub-contractor and their insured and sureties suspected of any acts, errors, or omissions committed during business activities that economically damage the project.

SECTION II Covenants of Authority

2.1. Reimbursement Payments. The Authority shall make reimbursement payments to Sponsor for eligible Project costs as specified in Exhibit "A". To receive monthly reimbursement payments for work completed on the Project, Sponsor shall comply with the following reimbursement procedures:

2.1.a. Deadline to Submit Reimbursement Requests. All invoices and progress reports shall be submitted to Authority on or before 5:00 p.m. on the tenth (10th) calendar day of the month in which the Sponsor requests reimbursement payments. Authority shall issue reimbursement payments to Sponsor on or before the last day of the month for all timely submittals. The final invoice for reimbursement shall be submitted to the Authority no later than 90 days after the discharge of the Agreement.

2.1.b. Late Submittals. If Sponsor fails to submit documents to Authority as set forth in Section 2.1.a, above, then Authority may provide reimbursement payments for late submittals in the following calendar month.

2.1.c. Ineligible Expenditures. The Authority, in accordance with Section 2.1.e., reserves the right to adjust current or future reimbursement payments to Sponsor if an invoice

includes ineligible expenditures. An ineligible expenditure is one that is allocated for a purpose unrelated to the Project work described in Exhibit A.

2.1.d. Reimbursement Amount. The amount of reimbursement payments to Sponsor shall be equivalent to **57%** of eligible off-site transportation improvement expenditures for each invoice submitted to the Authority as specified in Exhibit "A". The total reimbursement amount for this Agreement shall not exceed **\$500,000** for off-site transportation improvement costs.

2.1.e. Suspension of Reimbursement. If the Authority determines that any costs in an invoice are not allowable, the Authority shall return the invoice to Sponsor, with an invoice dispute notice outlining the reason for the return and the proposed remedy, if one exists, which would make the invoice acceptable for payment. Sponsor may re-submit the invoice for payment after reviewing the invoice notice and making any necessary corrections or justification. Sponsor may also immediately submit a new invoice representing only the amounts which are not in dispute while setting aside the disputed amounts for review in accordance with the provisions set forth in this Section 2.1.

2.1.e. (1) Meeting. Once a dispute has occurred, the Authority shall arrange a meeting between the Authority and the Sponsor staff to discuss and attempt to resolve the dispute. If the invoice was received on or before 5:00 p.m. on the 10th day of the month, the meeting shall be held no later than the 20th day of the same month. If the invoice was received after this date and time, then the meeting shall be held no later than the 20th day of the following month.

2.1.e. (2) Technical Advisory Committee. If an agreement cannot be reached at the meeting, then the Sponsor or the Authority shall have the option to take the dispute to the Authority's Technical Advisory Committee, with the understanding that by doing so the reimbursement for the disputed cost item(s) will be delayed until a resolution of the matter is reached.

2.1.e. (3) Board Decision. If the Sponsor or the Authority disagrees with the resolution by the Technical Advisory Committee then the dispute shall be submitted to the Authority's Board for resolution. If the Board determines that the disputed cost item(s) is ineligible, the Authority shall not provide reimbursement payment to the Sponsor for the disputed item(s). If the Board determines that the disputed cost item(s) is eligible, then the Authority shall provide reimbursement payment to the Sponsor for the disputed cost.

2.1.e. (4) Reservation of Rights. By utilizing the above procedures, the Sponsor does not surrender any rights to pursue available legal remedies if the Sponsor disagrees with the Board decision.

2.1.f. Acceptance of Work Does Not Result In Waiver. Reimbursement payments do not result in a waiver of the right of the Authority to require fulfillment of all terms of this Agreement.

2.2 Right to Conduct Audits. The Authority shall have the right to conduct audits of all Sponsor's records pertaining to the Project at any time of Project activities and up to four (4) years after completion of the Project. Such audits during Project construction include quality assurance and cost control of Sponsor's project site land acquisition activities to assure use of funds are consistent with the Project scope of work described in Exhibit "A" or approved in writing by the Authority pursuant to Section 1.2.

SECTION III
Mutual Covenants

3.1. Term. This Agreement shall remain in effect until discharged or terminated as provided in Section 3.2 or Section 3.14.

3.2. Discharge. This Agreement shall be subject to discharge as follows:

3.2.a. Termination by Mutual Consent. This Agreement may be terminated at any time by mutual consent of the parties.

3.2.b. Discharge Upon Completion of Project. Except as to any rights or obligations which survive discharge as specified in Section 3.13, this Agreement shall be discharged, and the parties shall have no further obligation to each other, upon completion of the project as certified by the Authority.

3.3. Indemnity. It is mutually understood and agreed, relative to the reciprocal indemnification of Authority and Sponsor:

3.3.a. Sponsor shall fully defend, indemnify and hold harmless Authority, and any officer or employee of Authority, against any damage or liability occurring by reason of anything done or omitted to be done by Sponsor under the Agreement. It is also fully understood and agreed that, pursuant to Government Code Section 895.4, Sponsor shall fully defend, indemnify and hold the Authority harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Sponsor under this Agreement or in connection with any work, authority, or jurisdiction delegated to Sponsor under this Agreement.

3.3.b. Authority shall fully defend, indemnify and hold harmless Sponsor, and any officer or employee of Sponsor, against any damage or liability occurring by reason of anything done or omitted to be done by Authority under or in connection with any work, authority or jurisdiction delegated to Authority under the Agreement. It is also understood and agreed that pursuant to Government Code Section 895.4, Authority shall fully defend, indemnify and hold the Sponsor harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Authority under this Agreement or in connection with any work, authority or jurisdiction delegated to Authority under this Agreement.

3.4. Notices. Any notice which may be required under this Agreement shall be in writing and shall be given by personal service, or by certified or registered mail, return receipt requested, to the addresses set forth below:

TO AUTHORITY:

Andrew T. Chesley
Executive Director
San Joaquin Council
Of Governments
555 E. Weber Avenue
Stockton, California 95202

TO SPONSOR:

Jenny Haruyama
City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Either party may change its address by giving notice of such change to the other party in the manner provided in this Section 3.4. All notices and other communications shall be deemed communicated as of actual receipt or after the second business day after deposit in the United States mail.

3.5. Additional Acts and Documents. Each party agrees to do all such things and take all such actions and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent, and purpose of the Agreement.

3.6. Integration. This Agreement represents the entire Agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

3.7. Amendment. This Agreement may not be changed, modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

3.8. Independent Agency. Sponsor renders its services under this Agreement as an independent agency and the Authority is also an independent agency under the Agreement. None of the Sponsor's agents or employees shall be agents or employees of the Authority and none of the Authorities' agents or employees shall be agents or employees of Sponsor.

3.9. Assignment. The Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of the other party.

3.10. Binding on Successors. This Agreement shall be binding upon the successor(s), assignee(s), or transferee(s) of the Authority or as the case may be. This provision shall not be construed as an authorization to assign, transfer, hypothecate, or pledge this Agreement other than as provided above.

3.11. Severability. Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either party to enter into or carry out, such determination shall not affect the validity of the remainder of this Agreement which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

3.12. Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all of the parties;

each counterpart shall be deemed an original, but all counterparts shall constitute a single document.

3.13. Survival. The following provisions in this Agreement shall survive discharge:

3.13.a. Sponsor. As to Sponsor, the following sections shall survive discharge: Section 1.7 (obligation to apply funds to Project), Section 1.8 (obligation to provide copies and retain records), and Section 1.9 (obligation to continue to manage Project).

3.13.b. Authority. As to Authority, the following section shall survive discharge: Section 2.1.a (submittal deadline and payment of final invoice), and Section 2.2 (right to conduct audit).

3.13.c. Both Parties. As to both parties, the following section shall survive discharge: Section 3.3. (mutual indemnities).

3.14. Limitation. All obligations of Authority under the terms of this Agreement are expressly contingent upon the Authority's continued authorization to collect and expend the proceeds provided by SJCOG's share of the Regional Transportation Impact Fee program. If for any reason the Authority's right or ability to collect or expend such proceeds is terminated or suspended in whole or part so that it materially affects the Authority's ability to fund the project, the Authority shall promptly notify Sponsor, and the parties shall consult on a course of action. If, after twenty-five (25) working days, a course of action is not agreed upon by the parties, this Agreement shall be deemed terminated by mutual or joint consent. Any future obligation to fund this project or any other project or projects of Sponsor, not already specifically covered by separate Agreement, shall arise only upon execution of a new Agreement.

3.15. Attorneys' Fees. Should any litigation commence between the parties concerning the rights and duties of any party pursuant to, related to, or arising from, this Agreement, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees and costs of such litigation, or in a separate action brought for that purpose.

3.16. Time. Time is and shall be of the essence of this Agreement and each and all of its provisions in which performance is a factor.

3.17. Remedies Cumulative. No remedy or election of remedies provided for in this Agreement shall be deemed exclusive but shall be cumulative with all other remedies at law or in equity. Each remedy shall be construed to give the fullest effect allowed by law.

3.18. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California.

3.19. Captions. The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the construction or interpretation of any of its provisions.

3.20. No Continuing Waiver. The waiver by any party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same, or of any other provision of this Agreement.

3.21. No Rights in Third Parties. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party to this Agreement, nor shall any provision of this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.

3.22. Signator's Warranty. Each party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other party.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

CITY OF TRACY

By:



ROBERT RICKMAN
City of Tracy Mayor

SAN JOAQUIN COUNTY
TRANSPORTATION AUTHORITY

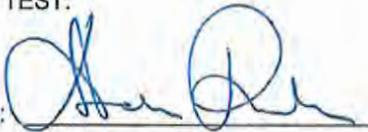
By:



SOL JOBRACK
SJCOG Board Chair

ATTEST:

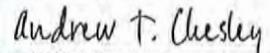
By:



Adrienne Richardson
City Clerk

ATTEST:

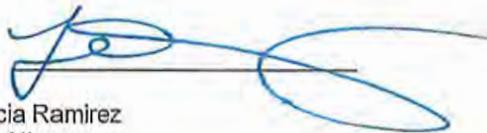
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ANDREW T. CHESLEY
Executive Director

APPROVED AS TO FORM AND CONTENT:

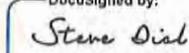
By:



Leticia Ramirez
City Attorney

APPROVED AS TO FORM:

By:

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STEVE DIAL
Deputy Executive Director/CFO

**City of Tracy
 Project Name**

This phase of the project involves the construction of an automotive service station, an electric vehicle charging station, and a convenience store. Off-site transportation improvements of this phase include the construction of a right-turn pocket from Corral Hollow Road onto Middlefield Drive, the addition of a bike lane segment, as well as restoration of the sidewalk, curb, gutter, and landscaping. A median on Corral Hollow Road will be constructed to restrict left-turn movement. This phase will also include lengthening the left-turn lane on westbound Middlefield Drive and reconstruct the existing median.

SJCOG RTIF \$500,000
Total Cost of Offsite Improvements (57%)

PHASE 1	% of Total Estimate	Total
Land Basis		\$275,000
Construction Cost		\$3,500,000
A&E		\$ 250,000
Offsite Improvement Requirements	57%	\$875,000
Tenant Improvements		\$200,000
Sitework and Landscaping		\$390,000
Development Impact Fees		\$495,000
Other Soft Costs		\$521,500
Contingency		\$467,363
Financing		\$373,890
Developer Return		\$661,298
Total Cost		\$8,009,050
Project Valuation		\$7,500,000
Funding Gap		\$(509,050.23)

Exhibit B

CITY OF TRACY
OFF-SITE IMPROVEMENT AGREEMENT FOR
EDGEWOOD COMMERCIAL CENTER
PUBLIC IMPROVEMENTS

This **OFF-SITE IMPROVEMENT AGREEMENT** ("**Agreement**") is made and entered into by and between the **CITY OF TRACY** a municipal corporation ("**City**"), and **BODAL PROPERTIES, LLC**, a California limited liability company ("**Developer**").

RECITALS

- A. Developer is the legal owner of that certain real property located at 4600 S. Corral Hollow Road designated with Assessor's Parcel Number(s) 244-020-31 and more particularly described in Exhibit "A" hereto (the "**Property**").
- B. The Development Review Application (D19-0013) for the Edgewood Commercial Center ("**Project**") was approved on July 7, 2020 subject to the specified conditions of approval attached hereto as Exhibit "B" ("**Conditions of Approval**"), which are incorporated herein by reference.
- C. Developer has submitted, and the City Engineer has approved, those certain improvement plans and specifications relating to the construction of a new right-turn pocket on northbound Corral Hollow Road, a new left-turn pocket on Middlefield Drive, a temporary asphalt-concrete median, traffic signal improvements, minor street widening on southbound Corral Hollow Road (collectively, the "**Work**"). The location and details of the Work are described more fully in the twenty (20) sheets of improvement plans entitled "Edgewood Commercial Center Phase 1 Fuel Island & Convenience Store", prepared by Schack & Company, Inc. of Tracy, California ("**Plans and Specifications**"). The Plans and Specifications are on file with the City Engineer and are incorporated herein by reference.
- D. Because the Work described above and in the Plans and Specifications has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **SCOPE OF WORK.** Developer shall perform, or cause to be performed, the Work in the manner and as described in the Plans and Specifications, to the satisfaction of the City Engineer pursuant to this Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's sole expense. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer. Developer may submit a written request to the City Engineer for a change in the Work, as required by Tracy Municipal Code Section 12.36.060(f). To the extent applicable, all of the Work shall be performed by the Developer in accordance with the requirements of the State prevailing wage laws.

CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
EDGEWOOD COMMERCIAL CENTER PHASE 1 FUEL ISLAND & CONVENIENCE STORE
PUBLIC IMPROVEMENTS
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2. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. Exhibit "C" attached hereto includes the initial contact information referenced in this Section 2.

3. **LOCATION OF PERFORMANCE.** Developer shall perform the Work at the locations and grades shown on the Plans and Specifications or as otherwise approved by the City Engineer. In the event and to the extent required for the Work, Developer shall acquire all easements, rights-of-way and/or other property interests necessary for the complete performance of the Work, at Developer's sole cost and expense.

4. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:
 - 4.1. **Faithful Performance** security in the amount of **\$992,991.14** to secure faithful performance of this Agreement.

 - 4.2. **Labor and Material** security in the amount of **\$992,991.14** to secure payment by the Developer to laborers and materialmen.

 - 4.3. **Warranty** security in the amount of **\$99,299.11** to guarantee improvements against any defective work or labor done or defective materials used in the performance of Work.

5. **INSURANCE.** Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish evidence to City that all of the following insurance requirements have been satisfied by the Developer or its general contractor responsible for the Work. The insurance coverage requirements below can also be covered by umbrella policies if approved by the City.
 - 5.1. **General.** Developer shall, throughout the duration of this Agreement, maintain or cause to be maintained insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services for the Work covered by this Agreement at the minimum levels set forth herein.

 - 5.2. **Commercial General Liability.** Developer shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than four million dollars (\$4,000,000) per

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occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse and underground property damage hazards. Developer's general liability policies shall be primary and non-contributory and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

- 5.3. **Automobile Liability.** Developer shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than two million dollars (\$2,000,000) per accident.
- 5.4. **Workers' Compensation.** Developer shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Developer shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.
- 5.5. **Professional Liability.** Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.
- 5.6. **Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days' prior written notice to City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7. **Authorized Insurers.** All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 5.8. **Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form reasonably satisfactory to the City Attorney.
- 5.9. **Substitute Certificates.** No later than five (5) calendar days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide City with a substitute certificate of insurance.

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- 5.10. **Developer's Obligation**. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any of its obligations hereunder (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary or desirable.
6. **PERMITS, LICENSES, AND COMPLIANCE WITH LAW**. Developer shall, at its expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, Developer shall obtain a City of Tracy Business License. Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
7. **TIME OF PERFORMANCE**. Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 7.1. **Commencement of Work**. No later than fifteen (15) days prior to the commencement of Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence Work. Developer shall not commence Work until after the notice required by this section is properly provided, and Developer shall not commence Work prior to the date specified in the written notice.
- 7.2. **Schedule of Work**. Concurrently with the written notice of commencement of Work, Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 7.3. **Completion of Work**. Developer shall complete all Work no later than three hundred sixty-five (365) calendar days after Developer's submittal of its notice of commencement of Work pursuant to Section 7.1 above.
8. **INSPECTION BY THE CITY; INSPECTION FEES**. To permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 8.1. **INSPECTION FEES**. Concurrently with the execution of this Agreement by Developer, and prior to the commencement of any Work, Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2 %) of the estimated Project costs (as approved by the City Engineer).

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In the event that the City requires an independent inspection, the City may retain an independent inspector to inspect the Work and prepare an inspection report for the City, and all costs associated therewith shall be borne by Developer.

9. DEFAULT

9.1. Notice of Default. In the event that Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

9.2. Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist (which conditions are not intended to constitute the exclusive bases for default):

9.2.1. Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

9.2.2. Developer abandons the Work site.

9.2.3. Developer fails to perform one or more requirements of this Agreement and fails to cure any such non-performance pursuant to Section 9.3 below.

9.2.4. Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

9.2.5. Developer violates any legal requirement related to the Work and fails to cure such violation pursuant to Section 9.3 below.

9.3. Cure of Default. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice from the City, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

9.3.1. Demand that Developer complete performance of the Work.

9.3.2. Demand that Developer's surety (if any) complete performance of the Work.

9.3.3. Resort to any judicial remedies available to the City.

10. REPAIR OF ANY DAMAGE. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other

**CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
EDGEWOOD COMMERCIAL CENTER PHASE 1 FUEL ISLAND & CONVENIENCE STORE
PUBLIC IMPROVEMENTS
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property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.

11. **ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work and maintaining safety at the Work site. Developer's obligations to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
12. **WARRANTY PERIOD.** Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default of this Agreement and shall without delay and without any cost to City repair, replace or reconstruct any defective improvements.
13. **INDEPENDENT CONTRACTOR STATUS.** The Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.
14. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement are the property of the City and shall be given to the City at the completion of Developer's Work, or upon demand from the City. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in AutoCAD format Release-14 or higher.
15. **INDEMNIFICATION.** Developer shall indemnify, defend and hold City, its officers, employees, agents and volunteers harmless from and against all claims, liability, loss, damage, expense, and cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Developer's performance of the Work hereunder, or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage caused by the sole or active negligence or willful misconduct of the City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and shall survive the termination of this Agreement.
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the

**CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
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City to one assignment shall not be deemed to be consent to any subsequent assignment.

17. NOTICES.

17.1. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or electronically mailed to the respective party as follows:

To CITY:

City Engineer
c/o D.S. Dept.
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
notice@cityoftracy.org

To Developer:

Bodal Properties, LLC
15 E. Grant Line Rd
Tracy, CA, 95376

Attn: harmashiana@yahoo.com
mvarinder@hotmail.com

17.2. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the email address designated above, or (2) two working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

18. APPROVALS BY CITY. Any approval or consent that is to be given by City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on City.

19. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

20. 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.

21. 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.

22. 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.

23. ENTIRE AGREEMENT. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties

**CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
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concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

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

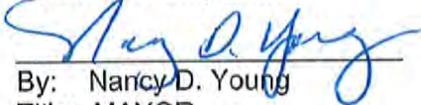
[SIGNATURES ON FOLLOWING PAGE]

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

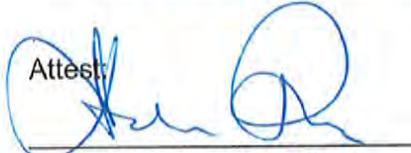
CITY OF TRACY,

a municipal corporation



By: Nancy D. Young
Title: MAYOR

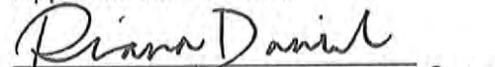
Date: 3-17-2022

Attest: 

By: Adrienne Richardson
Title: CITY CLERK

Date: 3-18-2022

Approved As To Form:


By: Riana Daniel for
Title: CITY ATTORNEY

Date: 3/14/22

DEVELOPER:

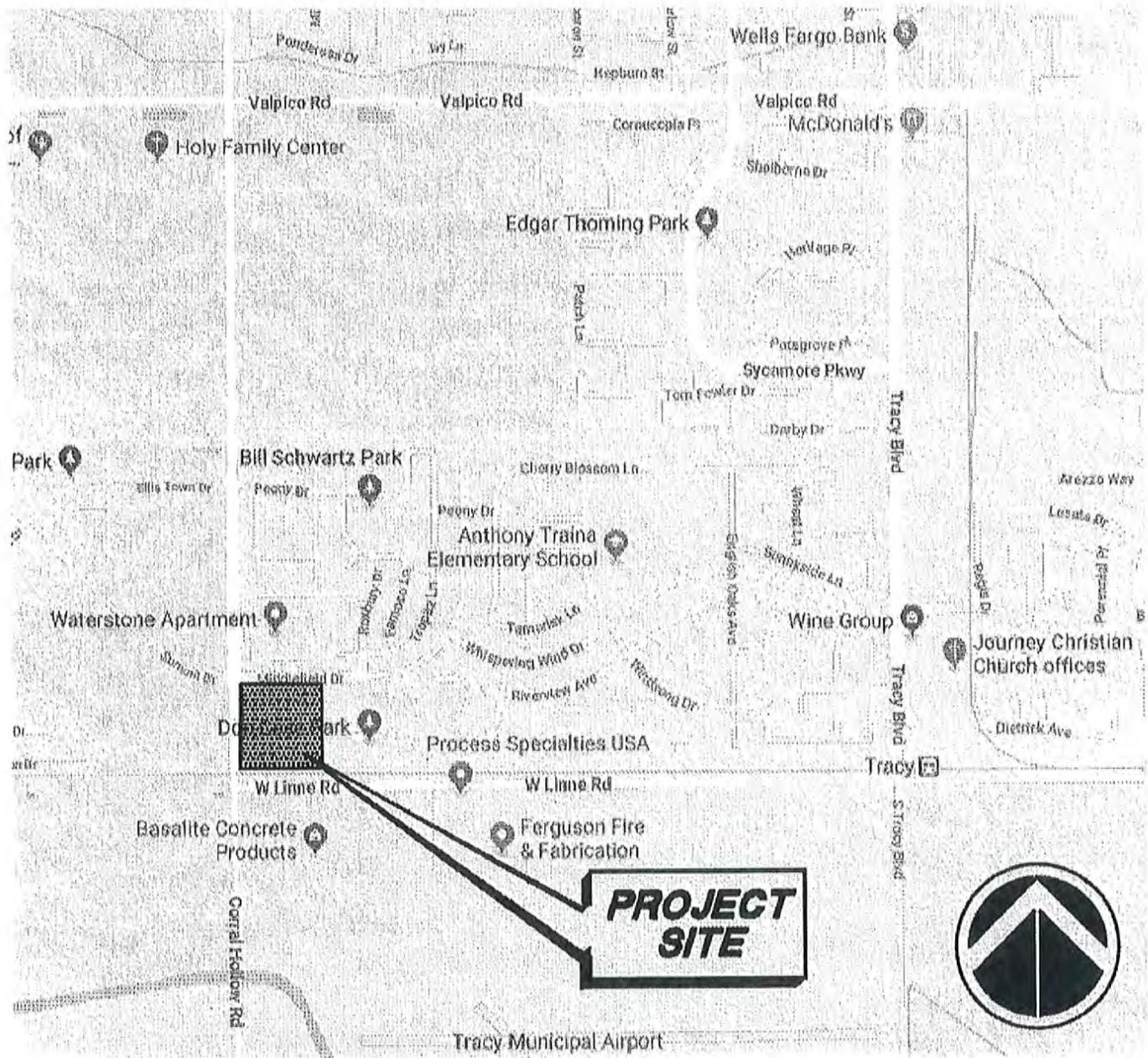

By: Harpreet Singh
Title: owner


By: Varinder Pal Singh
Title: owner

EXHIBITS

- A – Description of Property
- B – Conditions of Approval
- C – Authorized Representative

EXHIBIT A



LOCATION MAP

EXHIBIT B
1 OF 22

RESOLUTION 2020-122

APPROVING A DEVELOPMENT REVIEW PERMIT FOR A RETAIL CONVENIENCE STORE, AN AUTOMOBILE SERVICE STATION WITH ELECTRIC VEHICLE CHARGING STATION, AND ASSOCIATED PARKING AND LANDSCAPING IMPROVEMENTS AT ASSESSOR'S PARCEL NUMBER 244-020-31, LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW ROAD AND MIDDLEFIELD DRIVE - THE APPLICANT IS SCHACK AND COMPANY AND THE PROPERTY OWNERS ARE HARPREET SINGH & VARINDER PAL SINGH. APPLICATION NUMBER D19-0031

WHEREAS, On October 1, 2019, the City received a Development Review Permit application for a 3,884 sf convenience store building, an automotive service station with twelve pumps and a 2,880 sf canopy, an electric vehicle charging station consisting of seven stations, and associated parking area and landscaping improvements on the approximately 2.44-acre northwestern portion of an approximately 10.92-acre site located at the southeast corner of Corral Hollow Road and Middlefield Drive, which is associated with application for a Rezone of the site (R19-0001) and a Conditional Use Permit (CUP19-0013) received on December 2, 2019 (the "Project"), and

WHEREAS, The Project is consistent with the City of Tracy General Plan, in that the site is designated Commercial by the General Plan, and the proposed Project is allowed under the Commercial land use designation, and

WHEREAS, The City Council is authorized to take final action on a Tier 1 Development Review Permit following a Planning Commission recommendation pursuant to Tracy Municipal Code Section 10.08.3950, and

WHEREAS, Section 15183 of the California Environmental Quality Act (CEQA) Guidelines provides that projects which are consistent with the development density established by existing Community Plan, General Plan, or Zoning policies for which an Environmental Impact Report was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the Project or its site, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on June 10, 2020, and recommended approval of the Project, and

WHEREAS, The City Council conducted a public hearing to review and consider the Project on July 7, 2020;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy does hereby approve development review permit for the retail convenience store, automotive service station, electric vehicle charging station, and associated parking and landscaping improvements described in application number D19-0031, subject to (1) the conditions contained in Exhibit 1, and (2) that it will not take effect until the project site is rezoned to the Neighborhood Shopping Zone, based on the following findings:

1. The proposal increases the quality of the Project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed Project will improve the undeveloped site with

EXHIBIT B
2 OF 22

Resolution 2020-122
Page 2

structures embodying high-quality design and substantial landscaping throughout the development area. The retail building employs varying roof heights and materials, building popouts and wall movement, substantial stonework, decorative trims and accent lighting, and application of warm colors. The mansard tile roof and exposed rafter tails complement the residential character of the adjacent subdivision. The fueling area canopy and the trash enclosure will architecturally match the building. All onsite structures are designed with a complementary level of architectural detailing, and utility equipment will largely be screened behind decorative screen walls and/or landscaping. Furthermore, the project is conditioned such that should any outdoor display of retail propane tanks or similar product occur, it shall be screened from general view, such as behind a screen wall. The site is designed with good through circulation, and landscaping in excess of minimum requirements is provided.

2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, including land use, building design, off-street parking and circulation, and landscaping design.

The foregoing Resolution 2020-122 was adopted by the City Council on the 7th day of July, 2020, by the following vote:

AYES:	COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTAIN:	COUNCIL MEMBERS: NONE


MAYOR

ATTEST:


CITY CLERK

City of Tracy
Conditions of Approval
Edgewood Service Station
Application Number D19-0031
July 7, 2020

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: Edgewood Service Station, Application No. D19-0031

The Property: An approximately 10.92-acre site located at the southeast corner of Corral Hollow Road and Middlefield Drive, Assessor's Parcel Number 244-020-31

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
 - b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
 - c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
 - d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
 - e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all conditions set forth herein.
 - f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
- A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development Services Department on May 20, 2020. This includes the site plan, civil plans, landscape plans, and building elevations, colors, and materials.
- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check

fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.

- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development Services Department Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@cityoftracy.org

- B.1. Enhanced Vapor Recovery. Before approval of a building permit, detailed plans shall be submitted to the Development Services Department that demonstrates construction details for the enhanced vapor recovery equipment in accordance with either Option A or Option B as shown in the plans dated January 24, 2020 to the satisfaction of the Development Services Department Director. Such plans shall demonstrate that the equipment will be fully screened from public view as shown in Options A and B for the different types of equipment options. Any vent pipes that are visible shall be painted to match the adjacent building.
- B.2. Parking Area.
- B.2.1. Before the approval of a building permit, the applicant shall provide detailed plans that show sidewalk and landscape planters perpendicular to parking stalls overhanging 24 inches into the parking stall in place of required wheel stops in Accordance with TMC Section 10.08.3530(e), where feasible. This landscape overhang may not be double-counted toward other parking area minimum landscape requirements.
- B.2.2. Before the approval of a building permit, the applicant shall provide site plans and construction details that demonstrate the number, design, and location of

- bicycle parking spaces will be provided in accordance with TMC Section 10.08.3510.
- B.2.3. Before the approval of a building permit, the applicant shall provide site plans and construction details that demonstrate minimum 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
- B.2.4. Before the approval of a building permit, the applicant shall provide detailed plans that demonstrate a minimum of one foot candle throughout the parking area.
- B.2.5. Before final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light off of glass and metal surfaces, into the public rights-of-way, and onto any adjacent private property to the satisfaction of the Development Services Department Director.
- B.3. Landscaping & irrigation. Before the approval of a building permit, the applicant shall provide detailed landscape and irrigation plans consistent with the Tracy Municipal Code Section 10.08.3560 for parking area landscaping and the following, to the satisfaction of the Development Services Department Director.
- B.3.1. Two additional accent trees shall be provided in the landscape area northwest of the building.
- B.3.2. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
- B.3.3. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
- B.3.4. Each planter shall contain a combination of trees, shrubs, and groundcover. No planter area shall be comprised of solely of mulch or rock.
- B.3.5. All existing street trees, except for any that are needed to be removed for the construction of required frontage improvements as determined by the City, shall remain and be protected during construction.
- B.3.6. Landscape & Irrigation Maintenance. Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.
- B.4. Screening utilities and equipment.
- B.4.1. Before final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way to the satisfaction of the Development Services Department Director. Detailed plans documenting compliance with this condition shall be submitted to the City prior to the issuance of a building permit.

- B.4.2. Before final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Department Director.
- B.4.3. Before final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, electrical conduits, bollards, and other wall-mounted or building-attached utilities shall be internal to the structures where feasible or otherwise painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Department Director.
- B.4.4. A trash enclosure shall be designed and appropriately sized for this project, including allowance for recycling collection. The trash and recycling collection enclosure shall include a solid roof structure, solid metal doors, and solid walls sufficiently sized to fully screen the dumpsters (no less than six feet in height). The enclosure, including the roof, shall be architecturally compatible with the buildings, which includes but is not limited to, design, materials, and colors. A six-inch concrete curb and/or bollards may be installed on the interior of the enclosure for the protection and durability of the enclosure walls. A building permit is required prior to construction of such enclosures for the evaluation of design and location to the satisfaction of the Development Services Director.
- B.4.5. Any for-sale propane tanks or other products required by local, state, or federal law to be stored outdoors shall be located such that they are generally screened from view, such as by locating it behind the screen wall, to the satisfaction of the Development Services Director.
- B.5. Fencing. Any fence over seven feet in height shall obtain a building permit from the Development Services Department Building Safety Division.
 - B.5.1 No chain-link fencing shall be located so that it is readily visible from any public right-of-way.
 - B.5.2 Electronically charged, razor wire, barbed wire, integrated corrugated metal, or plain exposed plastic concrete/PCC fences, vinyl slats, and woven fabric fences are not permitted anywhere on site.
- B.6. Habitat conservation. Prior to issuance of any permits for ground disturbance, the applicant shall comply with the San Joaquin County Habitat Conservation Division and a signed copy of the Incidental Take Minimization Measures shall be submitted to the City as verification of compliance.
- B.7. Signage. No business identification signs are approved with this permit. All business identification signs shall obtain a sign permit in accordance with the Tracy Municipal Code.

C. Development Services Department Engineering Division Conditions

Contact: Al Gali

(209) 831-6425

al.gali@cityoftracy.org

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/ reports prepared for the Project listed as follows:

- 1) "Edgewood Commercial Site Preliminary Storm Drainage Evaluation and Recommendations" prepared by Storm Water Consulting, Inc., dated January 28, 2020. ("**Storm Drainage Analysis**")
- 2) "Edgewood Commercial Traffic Review – Final" prepared by Kimley Horn and Associates dated April 9, 2020. ("**Traffic Analysis**")
- 3) "Plan Line Study Corral Hollow Road" prepared by Ruggeri-Jensen-Azar dated June 25, 2015. ("**Corral Hollow Plan Line**")

C.2. NOT USED

C.3. NOT USED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. The City will not accept a Grading Permit application for the Project until Developer provides all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.4.1 Developer has completed all requirements set forth in this section.
- C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from PG&E or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.
- C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the project's limits.
- C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in

accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.

- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.
- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, slope recommendations, and elevation of the highest observed groundwater level.

C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil when the grade differential exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of three (3) horizontal feet to one (1) vertical feet unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

If required, slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading and Drainage Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).

C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) and Dust Control from San Joaquin Valley Air Pollution Control District (SJVAPCD).

C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation

district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others. Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans. Exempt from this condition is the high voltage power lines along the Project's northerly property line.

C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.4.16 Developer shall adhere to the recommendations of the referenced **Storm Drain Analysis**.

C.5. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed and notarized improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. The City will not start writing any improvement agreement or schedule any improvement agreement to be approved by City Council for the Project until the Developer provides all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.5.1. Off-site and/or Public Infrastructure Improvement Plans prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil,

Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

- C.5.1.a. All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.
- C.5.1.b. All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.
- C.5.1.c. A PDF copy of the Project's Geotechnical/Soils Report, prepared or signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to street pavement thickness, materials, compaction and other pertinent information.
- C.5.1.d. Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

As required by Item No. 15, Section V on page 94 of the 2008 Design Standards, storm drain run-off will not cross lot lines. Generally, the storm drain release point is a location at the boundary of the Project adjacent to the public right-of-way where storm water leaves the Property during a storm event and the Property's on-site storm drainage system fails to function or is clogged. Developer has requested that their site grading be designed such that the Project's storm water during a 100-year storm event with a non-functioning storm drain system be contained entirely within their private on-site basin (and thus not have an overland release point). The storm drain system shall be designed and improved to the satisfaction of the City Engineer.

The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable

requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.

No on-site runoff will discharge directly into the City's storm drain system without first flowing into a storm water quality treatment system.

- C.5.1.e. Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.

Project's sewer connection will be towards Middlefield Drive.

Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.

- C.5.1.g. Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be

used during the installation of the off-site water mains and connections.

The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.

After improvement acceptance, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

Fire Service Line(s) and Hydrant – Location and construction details of fire service line including fire hydrant(s) that are to serve the Project shall be approved by the Fire Marshal. Prior to the approval of the Improvement Plans by the City Engineer, the Developer shall obtain written approval from the Fire Marshal, for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed or planned to serve the Project.

- C.5.1.h. Streets – All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.

Developer shall use existing utility stubs from Corral Hollow Road or Middlefield Dive as feasible. If the stubs are not present or

additional utility connections are required, the pavement restoration shall conform to C.8.1 of these Conditions.

Corral Hollow Road - Developer shall construct or fund frontage improvements on Corral Hollow Road that conform to the **Traffic Analyses** prepared by Kimley Horn and Associates dated April 9, 2020 and the **Corral Hollow Plan Line** to the satisfaction of the City Engineer.

The Project's existing Corral Hollow Road frontage shall be removed and replaced to accommodate a twelve (12) feet wide right-turn pocket and six (6) feet wide bike lane as outlined in the **Corral Hollow Plan Line**. The sidewalk shall be five (5) feet six (6) inches wide and be located immediately behind the raised curb. The remaining right-of-way shall be the landscaped and irrigated parkway. The curb alignment shall be in substantial conformance to the exhibit labeled "Ultimate Concept Plan" in the **Corral Hollow Plan Line**. Developer shall construct curb, gutter, sidewalk, landscaping, street trees, irrigation systems, street lights, storm drain inlets, traffic striping signage, etc.

Developer shall modify the four way traffic signal located on Corral Hollow Road and Middlefield Drive. Traffic signal improvements shall include the signal, poles, mast arms, turn lanes, right-of way acquisition, and appurtenances such as control cabinet, detector loops, striping, etc. to allow the traffic signal to function. If any equipment is needed to be placed on Developer's property, then Developer shall provide the City with an easement dedications of rights of way. Said traffic signal will be a four (4) leg intersection. Developer shall provide traffic signal timing sheets to re-time the traffic signal.

Developer shall construct an asphalt-concrete dike to create a raised median. Developer shall also install reflective delineators on the asphalt concrete dike.

Middlefield Drive – Developer shall replace the raised landscaped and irrigated median with a four (4) feet wide raised median. Developer shall construct a left-turn pocket with a depth of two hundred and ten (210) feet and a shared left, through, and right-turn lane. Developer shall maintain the existing bike lane and existing left-turn lane into the existing apartment complex. As a result of these improvements, Developer shall reprogram/re-time the traffic signal.

Developer shall dedicate a Public Utility Easement on all public streets. The P.U.E. will be ten (10) feet wide.

Public Right-of-Way Landscaping - On the east side of Corral Hollow Road and the south side of Middlefield Drive, Developer shall landscape and irrigate the existing area as per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc. Developer shall also install street trees in the landscaped area between the existing meandering sidewalk and the curb and gutter. In the landscaping strip adjacent to the sidewalk, Developer shall install additional street trees, shrubs, ground cover, and other landscaping as required. The landscaping and irrigation shall conform to MWELo standards. If recommended, Developer shall use structural soil if the street trees' well is narrower than five (5) feet wide. Developer shall also remove existing sign monument and its appurtenances, and any other existing items such as bollards, mailboxes, etc. The easterly curb return of the neighbor's westerly driveway shall have a minimum curb radius of 60-feet.

- C.5.2. Joint Trench Plans and Composite Utility Plans, prepared on a 24-inch x 36-inch size 4-millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the ten (10) feet wide P.U.E. to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s). If necessary, the Developer shall dedicate 10-foot wide P.U.E. for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.
- C.5.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the

fee rate adopted and updated by the City Council. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.5.5. Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.5.6. No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.
- C.5.7. If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.
- C.5.8. Off-site Public Improvements, If Applicable - Prior to the Developer commencing construction of off-site public improvements, Developer shall possess a fully executed Off-site Improvement Agreement (OIA). Developer shall also complete all of the following requirements to the satisfaction of the City Engineer:

Developer has paid all required processing fees including plan check and inspection fees.

Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the

improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.6. Building Permit

No building permit within the Project boundaries will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.6.1 Developer has completed all requirements set forth in Condition C.1, through C.5, above.
- C.6.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, the fees outlined for the Northeast Industrial area as approved and updated by City Council, and City Regulations applicable at the time a building permit from the City is requested.

C.7 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Developer demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

- C.7.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.
- C.7.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.
- C.7.3 Developer has satisfactory completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).
- C.7.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.

- C.7.6 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to the Project.
- C.7.7 Developer has completed the 90-day public landscaping maintenance period.
- C.7.8 Release of Improvement Security – Release of improvement security shall be in accordance with the requirements of Title 12 of the TMC. Monumentation Bond will be released to the Developer after City Council's acceptance of the public improvements and if the Developer meets the terms set in Section 66497(c) of the Subdivision Map Act. All survey monuments shown on the Final Map, if applicable, must be installed. Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.
- C.7.9 Prior to the release of any occupancy (temporary or final) the frontage improvements shall be constructed.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2008 Design Standards and is required install a 2-inch thick asphalt concrete (AC) overlay with reinforcing fabric at least 25-feet from all sides of each utility trench. A 2-inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.
- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

- C.8.3 If water is required for the project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.
- C.8.4 Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department. Developer shall prepare and submit a map depicting the location of the water meter on a 8.5-inch X 11-inch sheet to Finance Department.
- C.8.5 Developer shall install on-site stop bars, stop legends, and keep clear legends as recommended by the **Traffic Analysis**.
- C.8.6 Prior to the release of the grading permit, Developer shall grant a public access easement to the property directly adjacent to the east.

D. Utilities Department Conditions

Contact: Stephanie Hiestand (209) 831-6333 stephanie.hiestand@cityoftracy.org

- D.1. Compliance with Codes. Before the approval of a building permit, the applicant shall demonstrate compliance with Tracy Municipal Code Chapter 11.34 Stormwater Management and Discharge Control and Chapter 11.28 Water Management and with the California Green Building Standards Code Chapter 5 for Non-Residential occupancies. A Stormwater Pollution Prevention Plan (SWPPP) and WDID number will be required prior to a grading permit issuance.
- D.2. Stormwater Quality. Before the approval of a building permit, the applicant shall demonstrate compliance with the 2015 Post-Construction Stormwater Standards (PCSWS) Manual and obtain approval through the following:
 - D.2.a. Develop a Project Stormwater Plan (PSP) that identifies the methods to be employed to reduce or eliminate stormwater pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, stormwater treatment control measures and hydromodification control measures.

Design and sizing requirements shall comply with PCSWS Manual. Demand Management Areas must be clearly designated along with identification of pollutants of concern.

Calculations of the Stormwater Design Volume and/or Design Flow with results from the Post-Construction Stormwater Runoff Calculator must be submitted in the PSP for approval.

Per the PCSWS Manual, include a hydromodification management plan ensuring the post-project runoff flow rate shall not exceed estimated pre-project flow rate for the 2-year, 24 hour storm.

Submit one (1) hard copy of the PSP and an electronic copy to the Utilities Department (WaterResources@cityoftracy.org), include the project name, address and Project # and/or Permit # in the title or subject line.

- D.2.b. A separate plan sheet(s) designated SW shall be submitted in the plan set that includes the identified methods for pollution prevention outlined in the submitted PSP. You must include all standards, cross sections and design specifications such as landscape requirement in treatment areas including type of irrigation installation and/or height of drain inlet above the flow line, etc. in these SW plan sheets along with legend.
- D.2.c. Develop and electronically submit to the Utilities Department for approval (WaterResources@cityoftracy.org) a preliminary Operations and Maintenance (O & M) Plan that identifies the operation, maintenance, and inspection requirements for all stormwater treatment and baseline hydromodification control measures identified in the approved PSP.
- D.2.d. No later than two (2) months after approval notification of the submitted PSP, applicant shall electronically submit the following information to the Utilities Department (WaterResources@cityoftracy.org) for development of a draft stormwater maintenance access agreement, in accordance with the MAPCSWS;
- i. Property Owner(s) name and title report; or Corporate name(s) and binding documents (resolutions, etc) designating ability to sign agreement
 - ii. Property Address
 - iii. Exhibit A – legal property description
 - iv. Exhibit B – approved O & M Plan
- D.3. Prior to issuance of a grading permit, applicant shall provide proof of permit coverage under the Construction General Permit shall be required and submittal of an electronic Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to WaterResources@cityoftracy.org
- D.4. Prior to approval for Certificate of Occupancy, applicant shall:
- 4.a. Return to the City Clerk, a legally signed and notarized copy of the final maintenance access agreement including all exhibits and approved O & M plan received from the Utilities Department.
 - 4.b. Obtain final approval by the Utilities Department of the constructed and installed Stormwater pollution prevention methods outlined in the PSP.
 - i. Frequent inspections of the Post-Construction treatment measures should occur during the construction phase by calling 209-831-6333.
 - 4.c. If applicable, the project shall be in full compliance with Construction General Permit including 70% stabilization of the project with Notice of Termination approval.

- D.5. Prior to issuance of a construction or building permit, applicant shall demonstrate compliance with the 2015 Model Water Efficient Landscape Ordinance and obtain approval by the Utilities Department through the following:
- 5.a. Develop and submit electronically and by hard copy, a Landscape Document Package (LDP) that identifies the methods to be employed to reduce water usage through proper landscape design, installation and maintenance. This LDP shall consist of:
 - i. A project information sheet that includes the checklist of all documents in the LDP;
 - ii. The Water Efficient Landscape Worksheets that include a hydrozone information table and the water budget calculations – Maximum Applied Water Allowance and Estimate Total Water Use;
 - iii. A soil management report, after compaction and from various locations throughout the project;
 - iv. A landscape design plan that includes the statement, "I agree to comply with the requirements of the 2015 water efficient landscape ordinance and shall submit for approval a complete Landscape Document Package;
 - v. An irrigation design plan with schedule; and
 - vi. A grading design plan.
 - 5.b. A Certificate of Completion must be completed, signed, and submitted to the Utilities Department prior to Final approval for Occupancy.

E. Building Safety Division Conditions

Contact: Phillip Rainone (209) 831-6413 phillip.rainone@cityoftracy.org

- E.1. Prior to the construction of the project, applicant shall submit construction documents, plans, specifications and/or calculations to the Building Safety Division, which meet all requirements of Title 24 California Code of Regulations and City of Tracy Municipal Codes, as applicable.

F. South San Joaquin County Fire Authority Conditions

Contact: Courtney Wood (209) 831-6707 courtney.wood@cityoftracy.org

- F.1. Prior to construction, the applicant shall submit building construction plans to South San Joaquin County Fire Authority for review and approval. All submittals shall be in electronic format, accompanied by an application for a building permit.
- F.2. Prior to submittal of construction permit applications, applicant shall incorporate the following into the construction drawings:
- F.2.a. All fire apparatus access roads shall have an unobstructed height of not less than 13'-06".
 - F.2.b. Ensure all deferred submittal items are listed on the coversheet, including, but not limited to, underground storage tanks, hazardous materials, fire sprinklers systems, fire alarm systems, if any.
 - F.2.c. Specify if building has fire suppression systems installed.

- F.3. Prior to prior to construction and after grading, the applicant shall ensure the fire apparatus access roads are installed, and all hydrants have been flushed and are operational.
- F.4. Prior to occupancy, applicant is responsible to have the emergency responder radio coverage tested. If coverage is limited and extended radio coverage is required, applicant must submit construction documents prior to installation.

**CITY OF TRACY – OFFSITE IMPROVEMENT AGREEMENT
EDGEWOOD COMMERCIAL CENTER PHASE 1 FUEL ISLAND & CONVENIENCE STORE
PUBLIC IMPROVEMENTS**

EXHIBIT C
PAGE 1 OF 1

Name of Person

Harpreet Singh
Varinder Pal Singh
Steve Ruggles

Company Name

Bodal Company
Bodal Company
Hibers Inc.

email

harmashiana@yahoo.com
mvarinder@hotmail.com
sruggles@hilersinc.com

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Attachment B

RESOLUTION 2020-122

APPROVING A DEVELOPMENT REVIEW PERMIT FOR A RETAIL CONVENIENCE STORE, AN AUTOMOBILE SERVICE STATION WITH ELECTRIC VEHICLE CHARGING STATION, AND ASSOCIATED PARKING AND LANDSCAPING IMPROVEMENTS AT ASSESSOR'S PARCEL NUMBER 244-020-31, LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW ROAD AND MIDDLEFIELD DRIVE - THE APPLICANT IS SCHACK AND COMPANY AND THE PROPERTY OWNERS ARE HARPREET SINGH & VARINDER PAL SINGH. APPLICATION NUMBER D19-0031

WHEREAS, On October 1, 2019, the City received a Development Review Permit application for a 3,884 sf convenience store building, an automotive service station with twelve pumps and a 2,880 sf canopy, an electric vehicle charging station consisting of seven stations, and associated parking area and landscaping improvements on the approximately 2.44-acre northwestern portion of an approximately 10.92-acre site located at the southeast corner of Corral Hollow Road and Middlefield Drive, which is associated with application for a Rezone of the site (R19-0001) and a Conditional Use Permit (CUP19-0013) received on December 2, 2019 (the "Project"), and

WHEREAS, The Project is consistent with the City of Tracy General Plan, in that the site is designated Commercial by the General Plan, and the proposed Project is allowed under the Commercial land use designation, and

WHEREAS, The City Council is authorized to take final action on a Tier 1 Development Review Permit following a Planning Commission recommendation pursuant to Tracy Municipal Code Section 10.08.3950, and

WHEREAS, Section 15183 of the California Environmental Quality Act (CEQA) Guidelines provides that projects which are consistent with the development density established by existing Community Plan, General Plan, or Zoning policies for which an Environmental Impact Report was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which a peculiar to the Project or its site, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on June 10, 2020, and recommended approval of the Project, and

WHEREAS, The City Council conducted a public hearing to review and consider the Project on July 7, 2020;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy does hereby approve development review permit for the retail convenience store, automotive service station, electric vehicle charging station, and associated parking and landscaping improvements described in application number D19-0031, subject to (1) the conditions contained in Exhibit 1, and (2) that it will not take effect until the project site is rezoned to the Neighborhood Shopping Zone, based on the following findings:

1. The proposal increases the quality of the Project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed Project will improve the undeveloped site with

structures embodying high-quality design and substantial landscaping throughout the development area. The retail building employs varying roof heights and materials, building popouts and wall movement, substantial stonework, decorative trims and accent lighting, and application of warm colors. The mansard tile roof and exposed rafter tails complement the residential character of the adjacent subdivision. The fueling area canopy and the trash enclosure will architecturally match the building. All onsite structures are designed with a complementary level of architectural detailing, and utility equipment will largely be screened behind decorative screen walls and/or landscaping. Furthermore, the project is conditioned such that should any outdoor display of retail propane tanks or similar product occur, it shall be screened from general view, such as behind a screen wall. The site is designed with good through circulation, and landscaping in excess of minimum requirements is provided.

2. The proposal, as conditioned, conforms to the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes, including land use, building design, off-street parking and circulation, and landscaping design.

The foregoing Resolution 2020-122 was adopted by the City Council on the 7th day of July, 2020, by the following vote:

AYES:	COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTAIN:	COUNCIL MEMBERS: NONE


MAYOR

ATTEST:


CITY CLERK

Attachment C

RESOLUTION 2021-037

ACCEPTING AN AWARD FOR THE \$500,000 GRANT FROM SJCOG'S JOBS BALANCING INVESTMENT FUND FOR OFF-SITE IMPROVEMENTS TO THE MIDDLEFIELD PROJECT

WHEREAS, Staff recommends receiving a grant award of \$500,000 from San Joaquin Council of Governments (SJCOG) to award a Middlefield Project up to \$500,000 for construction of off-site improvements along Corral Hollow Road, and

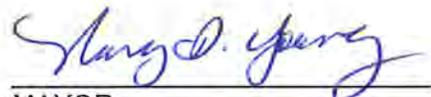
WHEREAS, This Project will create new employment in the County along regional transportation infrastructure improvements and funds the Developer's offsite requirement for improvement of Corral Hollow Road along the property frontage, and

WHEREAS, This Project would create 175 jobs at buildout;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves an award for the \$500,000 grant from SJCOG's Jobs Balancing Investment Fund for off-site improvements to the Middlefield project.

The foregoing Resolution 2021-037 was passed and adopted by the Tracy City Council on the 6th day of April 2021, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

TRACY CITY COUNCIL

RESOLUTION NO. _____

RESOLUTION 1) AUTHORIZING THE CITY OF TRACY TO ENTER INTO A DISBURSEMENT AGREEMENT WITH DEVELOPER, BODAL PROPERTIES, LLC. TO DISBURSE GRANT FUNDING IN THE AMOUNT OF \$500,000 AWARDED TO THE CITY OF TRACY THROUGH THE SAN JOAQUIN COUNCIL OF GOVERNMENT (“SJCOG”)’S JOB BALANCING INVESTMENT FUND (“JBIF”) PROGRAM FOR THE EDGEWOOD COMMERCIAL CENTER OFF-SITE IMPROVEMENTS AND 2) AUTHORIZING THE CITY MANAGER TO SIGN THE DISBURSEMENT AGREEMENT ON BEHALF OF THE CITY

WHEREAS, In April of 2015, the SJCOG’s Board approved the creation of the JBIF program, which is intended to serve as a local economic development incentive tool to fund the transportation improvements needed to attract job-creating firms to San Joaquin County; and

WHEREAS, On October 1, 2019, the City received a Development Review Permit application for the Edgewood Commercial Center Project located on the southeast corner of Corral Hollow Road and Middlefield Drive. The Project consists of a convenience store, automotive service and gas station, electric vehicle charging station, and parking area on 2.44-acres. The Project is being developed by Bodal Properties, LLC (Developer); and

WHEREAS, The Developer requested assistance with public improvements requirements to help offset higher-than-anticipated Project costs; and

WHEREAS, In June of 2020, the City of Tracy Economic Development staff engaged SJCOG regarding a grant opportunity to fund the City’s off-site requirements for the Edgewood Commercial Center Project located on the RTIF roadway network; and

WHEREAS, City of Tracy staff worked with SJCOG and the developer to meet the requirements of the JBIF program in which funding was approved by the SJCOG Board in August 2020; and

WHEREAS, On October 1, 2019, the City received a Development Review permit application for the Edgewood Commercial Center Project. The Project was approved for a Conditional Use Permit (CUP19-0013) and a Rezone (R19-0001) by Council Resolution No. 2020-122; and

WHEREAS, On September 24, 2020, the City of Tracy and SJCOG entered into a Cooperative Agreement establishing guidelines for the disbursement of the JBIF program grant funds; and

WHEREAS, On April 6, 2021, the City of Tracy was awarded and accepted, by City Council Resolution 2021-037, a \$500,000 grant to fund the off-site improvements of the Edgewood Commercial Center Project; and

WHEREAS, Developer entered into an Offsite Improvement Agreement with the City of Tracy, executed on March 18, 2022; and

WHEREAS, The City of Tracy will serve as a pass-through agency of funding between SJCOG and developer, in which this Disbursement Agreement will establish the procedures for disbursement of grant funds; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby authorizes the City of Tracy to enter into a Disbursement Agreement with Bodal Properties, LLC. to disburse grant funding in the amount of \$500,000 awarded to the City of Tracy through the San Joaquin Council of Government (“SJCOG”)’s Job Balancing Investment Fund (“JBIF”) Program for the Edgewood Commercial Center off-site improvements; and

FURTHER RESOLVED: That the City Council of the City of Tracy hereby authorizes City Manager to sign the Disbursement Agreement on behalf of the City.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on November 15, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 1.J

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving Amendment No. 1 to the Professional Services Agreement with LPA, Inc. for additional design and planning services for the Multi-Generational Recreation Center (CIP 78178), increasing the not to exceed amount by \$3,250,239 for a total not to exceed amount of \$6,593,758.

EXECUTIVE SUMMARY

The City of Tracy entered into a Professional Services Agreement (Agreement) with LPA, Inc., a California Corporation (LPA), to lead site feasibility studies as well as the design and development of construction documents for the Multi-Generational Recreation Center (Project). On October 18, 2022, staff received direction from the City Council to expand the scope for the Project, which also includes improvements to El Pescadero Park. This contract is for the design of the improvements and the funding is included in the capital improvement budget for the Project. However, the amendment to include the design of the expanded elements of the Project requires Council approval.

BACKGROUND AND LEGISLATIVE HISTORY

On February 15, 2022, the City Council approved a Professional Services Agreement with LPA, Inc., a California Corporation (LPA), to lead site feasibility studies as well as the design and development of construction documents for the MGRC (Resolution 2022-019).

On July 5, 2022, the City Council adopted a resolution (Resolution 2022-015) declaring El Pescadero Park as the site location for the MGRC. At the same time, Council also provided direction to staff to begin conceptual design of El Pescadero Park to address the condition of the park in association with the MGRC improvements.

On October 18, 2022, a motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to receive the informational report regarding the concept, design, and cost options for the Multi-Generational Recreation Center (CIP 78178) including providing specific direction to include a three-court gymnasium, elevated running track, a bouldering wall and incorporation of all park improvements shown in the El Pescadero Park Conceptual Plan. Council Member Arriola added a friendly amendment to the motion to include a full basketball court (lighted) to the park improvements. Direction was given only for design of these elements and not the construction. Decisions on funding the construction of this project will come at a future Council date.

ANALYSIS

Based on the City Council direction received on October 18, 2022, staff analyzed the current Agreement with LPA and has determined that an amendment to the current PSA between the City of Tracy and LPA will be the best path forward. This approach will keep continuity with the design team and City staff as well as assist in delivering the Project on time and on budget.

Amendment No. 1 (Attachment A) to the Agreement will incorporate new scope items as follows:

- Increased documentation of improvements related to the increased program and budget for the Project (Cost Option 3) Basic Services including, but not limited to:
 - General increase in overall square footage and program
 - Inclusion of Parks and Recreation Offices
 - Elevated Running Track
 - Bouldering Wall
 - Three Court Gymnasium
- Design and documentation of El Pescadero Park improvements as identified in the approved master plan.
- Addition of a full-size basketball court in the park with lighting.
- Expanded community outreach to include a presentation to the Parks and Recreation Commission at the end of Schematic Design, one (1) focus group meeting for the dog park, and one focus group meeting for the skate park. The skate park focus group will be included in the Skate Park Consultant scope.
- Increased documentation for Fire Alarm
- Increased documentation for Low Voltage / Technology
- Increased documentation for Basic Commissioning
- Increased documentation for Photovoltaic Design
- Expanded SWPPP scope
- Expanded WQMP scope
- An allowance for the Skate Park Consultant. Since the scope and the design of that skate park is still to be determined, an allowance has been provided as a placeholder until a specific scope and fee can be determined.
- A contingency for design services to be utilized only if needed and pending authorization by the City.
- These services include Planning and Evaluation, Schematic Design, Design Development, Construction Documents, Bidding and Construction Contract Observation as identified in the original contract between the City and LPA for the MGRC. All other aspects of the project will remain unchanged.

This is a request to amend the current Agreement in order to allow LPA to complete the additional design work necessary to finalize the design for the Project. Decisions on funding the construction of this Project will come at a future Council date.

COORDINATION

The MGRC project has an established Steering Committee, as well as an Executive Committee. The Steering Committee meets very regularly and consists of LPA and City staff from both Parks & Recreation and Utilities & Operations departments. The Executive Team meets quarterly and consists of LPA, Tracy Unified School District and City staff from the following departments: City Manager's Office, Finance, Parks & Recreation, Police, and Utilities & Operations. There is also ongoing coordination with Tracy Interfaith Ministries and South County Fire Authority since both entities occupy space within El Pescadero Park.

CEQA DETERMINATION

The environmental and traffic consultants for the MGRC project have been secured as sub-consultants under LPA's contract. Amendment No. 1 includes additional scope of work for LPA's sub-consultants to conduct the necessary environmental review for the added features of the building and park improvements. The CEQA work will be completed as the design for the building and the park are further refined through design development.

FISCAL IMPACT

The additional \$3,250,239 requested for this amendment is included in the Council approved budget for CIP 78178.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority, and specifically implements the following goals:

Goal 2: Facilitate the Completion of Measure V Amenities; Objective 2: Advance Measure V amenity planning.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving Amendment No. 1 to the Professional Services Agreement with LPA, Inc. for additional design and planning services for the Multi-Generational Recreation Center (CIP 78178), increasing the not to exceed amount by \$3,250,239 for a total not to exceed amount of \$6,593,758.

Prepared by: Richard Joaquin, Parks Planning & Development Manager

Reviewed by: Brian MacDonald, Director of Parks and Recreation
Sara Cowell, Interim Director of Finance
Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachments:

- Attachment A – Amendment No. 1 to Professional Services Agreement with LPA, Inc.

CITY OF TRACY
Amendment No. 1 To
Professional Services Agreement
Multi-Generational Recreation Center
Feasibility Study, Conceptual Planning, and Design with LPA, Inc.

This Amendment No. 1 (**Amendment**) to the Professional Services Agreement is entered into between the City of Tracy, a municipal corporation (**City**), and LPA, Inc., a California Corporation (**Consultant**). City and Consultant are referred to individually as “**Party**” and collectively as “**Parties**.”

Recitals

- A.** The City and LPA, Inc. entered into a Professional Services Agreement (**Agreement**) for the Multi-Generational Recreation Center Feasibility Study, Conceptual Planning, and Design, which was approved by the City Council on February 15, 2022, under Resolution No. 2022-019.
- B.** On October 18, 2022, the City Council received an informational report regarding the concept, design, and cost options for the Multi-Generational Recreation Center (CIP 78178) and provided specific direction to include a three-court gym, a lighted full basketball court, elevated running track, a bouldering wall, and incorporation of all park improvements shown in the El Pescadero Park Conceptual Plan.
- C.** The Parties desire to expand the scope of work and compensation for the Agreement to align with the new scope of work required for design of the Multi-Generational Recreation Center project.
- D.** This Amendment is being executed pursuant to Resolution No. 2022 - ____ approved by Tracy City Council on November 15, 2022.

Now therefore, the Parties mutually agree as follows:

- 1. Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment will remain in effect.
- 2. Terms of Amendment.**
 - A. Section 1, Scope of Work**

Section 1 is hereby amended to read as follows:

“Consultant shall perform the services described in Exhibit “A” and expanded upon in Exhibit “A-1” attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representative: **Arash Izadi**. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit “B”, nor shall Consultant use or replace any subcontractor or subconsultant, without City’s prior written consent. A failure to obtain the City’s prior written

City of Tracy – Amendment No. 1 to Agreement with LPA, Inc.

consent for any change or replacement in personnel or subcontractors/subconsultants may result in termination of this Agreement.

B. Section 3, Compensation

Section 3.1 Not to Exceed Amount is hereby amended to read as follows:

“Consultant’s total compensation under this Agreement shall not exceed \$6,593,758. For Additional Services performed on a time and expense basis, Consultant’s billing rates shall cover all costs and expenses for Consultant’s performance of Additional Services. No work shall be performed by Consultant in excess of the total compensation amount provided in this section without the City’s prior written approval.”

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

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

5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

Two blue DocuSign boxes containing the handwritten initials 'dl' and 'MH' respectively.

City of Tracy

LPA, Inc.

By: _____
Nancy D. Young

By:
John Mills
D086A967286F48C...

Title: Mayor
Date: _____

Title: Chief Operating Officer
Date: November 4, 2022

Attest:
By: _____
Adrienne Richardson, City Clerk

By:
James A. Kelly
BC5D3925BC2CA47...

Title: Principal, Executive Vice
President/Treasurer
Date: November 4, 2022

Approved as to form

By: _____
Bijal M. Patel, City Attorney



IRVINE • SACRAMENTO • SAN DIEGO • SAN JOSE • DALLAS • SAN ANTONIO

October 25, 2022

Mr. Richard Joaquin
Parks Planning & Development Manager
CITY OF TRACY PARKS & RECREATION DEPARTMENT
333 Civic Center Plaza
Tracy, CA 95376

Re: Fee Augmentation and El Pescadero Park
LPA Project No. 3069901 – PSA 03

Dear Richard:

The following outlines the proposed services and compensation/fee augmentation as a result of the increased scale and scope of the Multi-Generational Recreation Center (MGRC) as described in Option 3 as well as the inclusion of the design and documentation of the El Pescadero Park, both as presented to and approved by the City Council on October 18, 2022 and referenced in the email by Richard Joaquin to LPA dated October 19, 2022 and "Follow Up to City Council Direction on 10/18".

Proposed Scope of Services:

- Increased documentation of improvements related to the increased program and budget for the MGRC (Option 3) "Basic Services including but not limited to:
 - General increase in overall square footage and program.
 - Inclusion of Parks and Recreation Offices.
 - Elevated Running Track.
 - Bouldering Wall.
 - Three court gymnasium.
- Design and documentation of the El Pescadero Park improvements as identified in the approved master plan.
- Addition of a full-size basketball court in the park with lighting.
- Expanded community outreach to include a presentation to the Parks and Recreation Commission at the end of Schematic Design, one (1) focus group meeting for the dog park, and one focus group meeting for the skate park. The skate park focus group will be included in the Skate Park Consultant scope.
- Increased documentation for Fire Alarm.
- Increased documentation for Low Voltage / Technology.
- Increased documentation for Basic Commissioning.
- Increased documentation for LEED Services.
- Increased documentation for Photovoltaic Design.
- Expanded SWPPP scope.
- Expanded WQMP scope.
- An allowance for the Skate Park Consultant. Since the scope and the design of the skate park is still to be determined, an allowance has been provided as a placeholder until a specific scope and fee can be determined.
- A contingency for design services to be utilized only if needed and pending authorization by the City.
- These services include Planning and Evaluation, Schematic Design, Design Development, Construction Documents, Bidding and Construction Contract Observation as identified in the original contract between the City and LPA for the MGRC. All other aspects of the project will remain unchanged.



Construction Budget

LPA will perform the services outlined on the previous page and in accordance with the current agreement with the City of Tracy based on the following construction budget assumptions:

- Original construction budget: \$26,000,000.
- Revised construction budget: \$60,750,000.
- Change in construction budget: \$34,750,000.

Proposed Additional Compensation

• Basic Services (8% of \$34,750,000):	\$ 2,780,000	
• Fire Alarm:	\$ 22,000	
• Low Voltage / Technology:	\$ 27,500	
• Basic Commissioning:	\$ 27,500	
• LEED Services:	\$ 40,000	
• Photovoltaic Design:	\$ 20,000	
• SWPPP:	\$ 5,000	
• WQMP:	\$ 5,000	
• Skate Park Allowance:	\$ 100,000	
• Additional Community Outreach:	<u>\$ 10,000</u>	
Subtotal		\$ 3,037,000
• Design Services Contingency (@15%):	\$ 455,550	
• Reimbursables (@3%):	\$ 105,000	
Subtotal		<u>\$ 560,550</u>
Total Fee Augmentation		\$ 3,597,550

Additional Compensation Per Phase:

• Planning and Evaluation:	\$ 139,000
• Schematic Design:	\$ 333,600
• Design Development:	\$ 695,000
• Construction Documents:	\$ 834,000
• Bidding:	\$ 83,400
• Const. Contract Observation:	\$ 695,000
• Supplemental Services:	\$ 257,000
• Design Serv. Contingency:	\$ 456,000
• Reimbursables:	\$ 105,000

All Supplemental, Contingencies and Reimbursables will be billed as incurred.



Assumptions:

- The fees noted are in addition to existing compensation.
- All services are as described in the original scope of services unless specifically modified in this document.
- Meeting quantities remain unchanged unless specifically noted.
- All meetings for the park and MGRC are concurrent.
- Additional community outreach is not included unless specifically noted.
- The "Design Services Contingency" will only be utilized, when and if directed by the City.
- All improvements for the MGRC and El Pescadero Park will be developed as one set of documents, as one submittal to the City, with a single phase of bidding and construction, as one package.
- Since the scope and the design of the skate park is still to be determined, an allowance has been provided as a placeholder until a specific scope and fee can be determined.
- The splash pad will be limited in size and scale to meet the requirements of the fixtures currently provided in the existing restroom building. Expansion and or augmentation of the existing restroom building is not included.
- The proposed services do not include changes in scope to the topographic survey, traffic design allowance, financial analysis (operational report), or environmental / CEQA fees and allowance. If services are required beyond those noted in the original agreement, they will be submitted as an additional service.
- The additional services for Planning and Evaluation are complete. The services for Schematic Design are partially complete and will be finalized in accordance with the revised schedule. All billing for these services will be retroactive and will be billed prior December 2022.
- The revised schedule will be as mutually agreed upon with adequate time for proper design and documentation.
- No other services are included unless specifically identified in this letter.
- All other provisions of the original agreement between the City and LPA remain unchanged unless specifically modified by amendment or previous PSA's.

Sincerely,

LPA, Inc.

A handwritten signature in black ink, appearing to read "Arash Izadi".

Arash Izadi, ASLA, LEED® BD+C
Principal
Director of Sport and Recreation

cc: Michael Davis - LPA

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH LPA, INC. FOR ADDITIONAL DESIGN AND PLANNING SERVICES FOR THE MULTI-GENERATIONAL RECREATION CENTER (CIP 78178), INCREASING THE NOT TO EXCEED AMOUNT BY \$3,250,239 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$6,593,758

WHEREAS, in February 2022, the Tracy City Council approved a Professional Services Agreement with LPA, Inc., to lead site feasibility studies as well as the design and development of construction documents for the Multi-Generational Center, CIP 78178 (Resolution 2022-2019); and

WHEREAS, in July 2022, City Council adopted Resolution 2022-2015 declaring El Pescadero Park as the site location for the Multi-Generational Center; and

WHEREAS, in October 2022, City Council provided direction regarding the concept, design, and cost options for the Multi-Generational Recreation Center, including specific direction to include a three-court gymnasium, lighted full basketball court, elevated running track, a bouldering wall, and incorporation of all park improvements shown in the El Pescadero Park Conceptual Plan; and

WHEREAS, in order to streamline the design and planning process and carry out the specific direction of the City Council, the City has determined the best path forward was to amend the current Professional Services Agreement to incorporate the additional scope of work required; and

WHEREAS, this amendment to the Professional Services Agreement will allow LPA, Inc., to complete the additional design work necessary to finalize the design; now, therefore, be it

RESOLVED: That the Tracy City Council hereby approves Amendment No. 1 to the Professional Services Agreement with LPA, Inc. for additional design and planning services for the Multi-Generational Recreation Center (CIP 78178), increasing the not to exceed amount by \$3,250,239 for a total not to exceed amount of \$6,593,758.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.A

RECOMMENDATION

Staff recommends that the City Council adopt a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fee for 2023.

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 have been updated annually since 2007 based on SJMSCP's five-year financial analysis, land sales comparables, and the Consumer Price Index. This agenda item asks the City Council to adopt the 2023 SJMSCP Development Fee to continue participation in the SJMSCP. The development fees for year 2023 is an overall 1.6 percent decrease from the fees collected in 2022 in the most impacted categories of Agricultural and Natural habitat classifications.

BACKGROUND AND LEGISLATIVE HISTORY

The San Joaquin Council of Government's (SJCOG, Inc.) 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 of Tracy adopted the SJMSCP on February 6, 2001 (Resolution No. 2001-050) as a means to streamline the development process for projects constructed in Tracy. While participation is voluntary on behalf of developers, paying a fee to SJCOG, Inc. and having them administer the SJMSCP (e.g. procure easements, maintain preserves) enables developers and the City to avoid costly and lengthy negotiations with the US and California Fish and Wildlife Service agencies.

On November 6, 2001, the City Council adopted Resolution No. 2001-398 authorizing the collection of a development fee for participation in the SJMSCP. The SJMSCP 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., which has been subsequently updated in 2006, 2011, 2016, and 2020. 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.

ANALYSIS

The Development Fee is updated annually by the SJCOG, Inc. Board to keep current with the associated costs of implementing the SJMSCP. On August 25, 2022, the SJCOG, Inc. Board approved the Development Fee for 2023 as shown in the table below and in Attachment B – 2023 Updated Habitat Fees. Each participating local agency must adopt the updated fees to continue participation in the SJMSCP.

2023 SJMSCP Development Fees - Proposed

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee
Other Open Space	\$6,358.00	\$2,885.00	\$385.55	\$9,628.55	\$9,629
Natural/Ag Lands	\$12,716.00	\$5,769.00	\$769.97	\$19,254.97	\$19,255
Vernal Pool Grasslands	\$58,927.00	\$14,491.00	\$1,901.76	\$75,319.76	\$75,320
Vernal Pool Wetted	\$57,912.00	\$117,102.00	\$1,864.45	\$176,878.45	\$176,878

The proposed 2023 SJMSCP development fees were adjusted using the recommended 2020 SJMSCP 5-Year Financial Analysis Model Update for the respective categories. The development fees for year 2023 is an overall 1.6 percent decrease from the fees collected in 2022 in the most impacted categories of Agricultural and Natural habitat classifications. The decrease is due primarily to a dip in the land acquisition component (Category A) for agricultural land price values of comparable sales even though there was an unusually robust rise in the reported Consumer Price Index (CPI) for Categories B and C. 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.

Category A (acquisition) – Comparable Land Sales

This category is directly related to land valuation based on comparable land sales in San Joaquin County in specific zones of the plan area (Central Zone, Central Southwest Transition Zone and Delta Zone) over a two-year period meeting the established criteria used for comparable land sales. Cost estimates for this category will continue to be evaluated on a yearly basis by taking all qualified fee title comparable sales in each zone to set a weighted cost per acre. The percentage of easement value to fee title value percentage used in the fee model for this category rose from 56% to 58%, which will be incorporated going forward until the next five-year review process.

The fee model update results in a 6.5% decrease in the Agricultural/Natural Habitat types of Category A (Acquisition) component to be \$12,716. The reason for the decrease is the small dip in overall comparable fee title land sale values from prior year jumps.

Category B (assessment & enhancement) - Consumer Price Index w/ Model Data Update

The Category B component of the fee is adjusted using several factors including the California Consumer Price Index (CPI), as reported by the California Department of Finance for the preceding 12-month fiscal year (June 2021 – June 2022) and from the updated model numbers completed annually based on the SJMSCP Annual Report.

The unit cost factors (per acre or per year for some items) are adjusted only by the CPI (the California CPI calculation was an increase of 8.3%). The total cost for Category B is also a function of the SJMSCP Annual Report data updated annually (acres remaining to be acquired and the number of years remaining in the permit term; the fee per acre is a function of those total calculated costs and the land conversion acres remaining). These factors feed into the fee model.

The model update results in a 9.8% increase in the Agricultural/Natural Habitat types of

Category B (Assessment and Enhancement) component to be \$5,769.

Category C (management & administration) – Consumer Price Index

Annual cost updates use the California Consumer Price Index (CPI), as reported by the California Department of Finance, for the preceding 12-month fiscal year (June 2021 – June 2022) to keep up with inflation on an annual basis.

The model update results in an 8.3% increase in the Agricultural/Natural Habitat types of Category C (Management, Monitoring and Administration) component from prior years to be \$769.97.

As previously mentioned, participation in the SJMSCP is voluntary. Projects participating under the SJMSCP benefit from pre-determined streamlined processing of the project rather than navigating through a potentially very long, cumbersome, and expensive regulatory process outside the habitat plan. By opting for participation, the project can choose any number of ways to provide mitigation for the impacts of the project through the plan and even control much of the mitigation costs if desired. The options are:

1. Pay the applicable fee;
2. Redesign the project to avoid/minimize impacts;
3. Provide land in lieu of the SJMSCP fee which the project will negotiate the easement/fee title costs (Category A component); or
4. Any combination of the above options.

Alternatively, the project proponent can choose to not participate in the plan (opt-out) and fulfill mitigation requirements on their own with state and federal permitting agencies independently.

FISCAL IMPACT

Development fees provide funding for SJCOG, Inc. to mitigate project impacts covered under the SJMSCP permits for the subsequent calendar year beginning January 1, 2023. The City of Tracy does not retain any of these fees.

COORDINATION

This staff report and resolution were prepared in coordination with SJCOG, Inc. staff.

STRATEGIC PLAN

This agenda item does not relate to any of the Council's Strategic Plans.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fee for 2023.

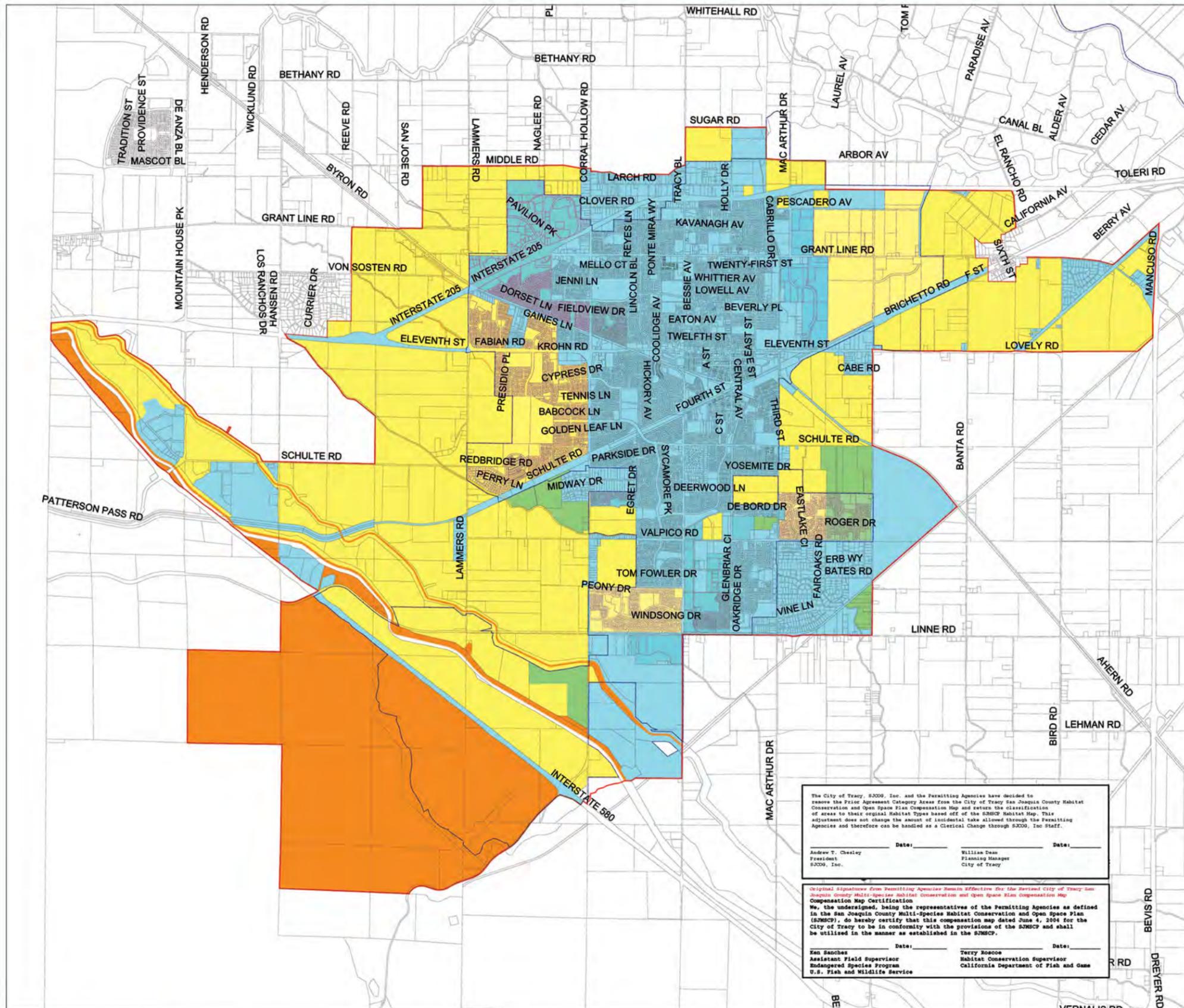
Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: William Dean, Assistant Development Services Director
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

ATTACHMENTS

Attachment A – City of Tracy Land Category / Pay Zones Map
Attachment B – 2023 Updated Habitat Fees



- 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

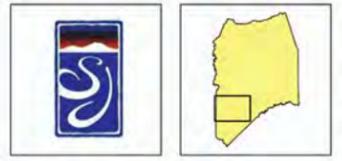
The City of Tracy, 2006, Inc. and the Permitting Agencies have decided to remove the Prior Agreement Category Areas from the City of Tracy San Joaquin County Habitat Conservation and Open Space Plan Compensation Map and return the classification of areas to their original Habitat Types based off of the 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 SJ006, Inc Staff.

Date: _____ Date: _____
 Andrew T. Chesley, President, SJ006, Inc. 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 Certification

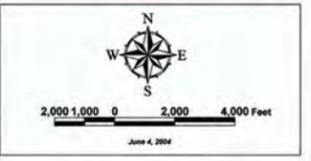
We, the undersigned, being the representatives of the Permitting Agencies as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), do hereby certify that this compensation map dated June 4, 2006 for the City of Tracy to be in conformity with the provisions of the SJMSCP and shall be utilized in the manner as established in the SJMSCP.

Date: _____ Date: _____
 Ken Sanchez, Assistant Field Supervisor, Endangered Species Program, U.S. Fish and Wildlife Service 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





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)*

Robert Rickman

CHAIR

David Bellinger

VICE CHAIR

Diane Nguyen

EXECUTIVE DIRECTOR

Member Agencies

CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

2023 Updated Habitat Fees*

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$9,629
Natural	\$19,255
Agriculture	\$19,255
Vernal Pool - uplands	\$75,320
Vernal Pool - wetted	\$176,878

* Effective January 1, 2023 – December 31, 2023

2023 Endowment Fees with In-lieu Land**

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$5,769.00	\$769.97	\$6,539
Natural Lands	\$5,769.00	\$769.97	\$6,539
Vernal Pool Habitat			
<i>Vernal Pool Grasslands</i>	\$14,491.00	\$1,901.76	\$16,393
<i>Vernal Pool Wetted</i>	\$117,102.00	\$1,864.45	\$118,966

** Effective January 1, 2023 – December 31, 2023 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.

TRACY CITY COUNCIL

RESOLUTION 2022-_____

**ADOPTING THE 2023 DEVELOPMENT FEE FOR THE SAN JOAQUIN COUNTY
MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN**

WHEREAS, the Tracy City Council approved Resolution No. 2001-050 on February 6, 2001 adopting the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP), and Resolution No. 2001-398 on November 6, 2001 to establish the authority for collection of a Development Fee for all new developments within the City of Tracy pursuant to the SJMSCP; and

WHEREAS, participation in the SJMSCP is voluntary; 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, 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, after considering the Fee Study and the testimony received at the public hearing, the Tracy City Council approved said report and further found that the future development in the City of Tracy will need to compensate cumulative impacts to threatened, endangered, rare and unlisted SJMSCP Covered Species and other wildlife and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses; and

WHEREAS, the SJMSCP Development Fees are divided into three categories: Category A – Acquisition; Category B – Enhancement; and Category C – Land Management/Administration; and

WHEREAS, Category A – Acquisition, directly relates to land valuations based on comparable land sales in the San Joaquin County in specific zones of plan areas (Central Zone, Central Southwest Transition Zone and Delta Zone) over a two year period meeting the established criteria used for comparable land sales; and

WHEREAS, Category B – Assessment & Enhancement, is calculated using several factors including California Consumer Price Index (CPI) with updates from model numbers completed annual based on the SJMSCP Annual Report; and

WHEREAS, Category C – Management, Monitoring and Administration, this category uses the California Consumer Price Index to calculate how much money to allocate to Management, Monitoring and Administration; and

WHEREAS, an “Updated Fee Study” was prepared in 2006, 2011, 2016 and 2020 which analyzed and identified the costs and funding of the SJMSCP; and

WHEREAS, to ensure that the SJMSCP development fees keep pace with inflation, annual adjustments are made to the fees based on the method previously adopted by the City Council, starting from 2007 (Resolution No. 2007-021); and

WHEREAS, the method of annual adjustments was modified in 2011, 2016, and again in 2020; and

WHEREAS, on August 25, 2022, the SJCOG, Inc. Board approved the Development Fee for 2023 as shown in Attachment B to the staff report; and

WHEREAS, each local agency must adopt the updated fees to continue participation in the SJMSCP; and

WHEREAS, the City Council conducted a Public Hearing on November 15, 2022, to consider an amendment to the SJMSCP development fees for 2023; and

WHEREAS, the updated fees were available for public inspection and review in the office of the City Clerk for more than 10 days prior to the date of this Public Hearing; now, therefore, be it

RESOLVED: That the City Council finds and declares that the purposes and uses of the SJMSCP 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. 2001-398 and No. 2007-021 and remain valid, and the City Council therefore adopts such determinations; and be it

FURTHER RESOLVED: That the City Council finds and declares that since adoption of Resolution No. 2001-398 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. 2001-398 and Resolution No. 2007-021, it is necessary to adjust the Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan; and be it

FURTHER RESOLVED: That the City Council adopts the 2023 Development Fee as set forth in the following table; and be it

2023 SJMSCP Development Fees

Habitat Type	Fee Per Acre
Open Space	\$9,629
AG/Natural	\$19,255
Vernal Pool (uplands)	\$75,320
Vernal Pool (wetted)	\$176,878

FURTHER RESOLVED: That the 2023 Development Fee provided in this resolution shall be effective on January 14, 2023, which is at least sixty days after the adoption of this resolution, through December 31, 2023.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on the 15th day of November 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.B

RECOMMENDATION

Staff recommends the City Council Conduct a Public Hearing, and Upon Conclusion, Adopt, for the Valpico Glenbriar Apartment Project Located at Valpico Road and MacArthur Drive (Apartments Project), as recommended by the Planning Commission:

(1) An Ordinance:

(A) Adopting a Negative Declaration for the expansion of the Apartments Project parking lot to include a portion of the rear yard of the property located at 2625 S. Macarthur Drive (Parking Site) in accordance with the California Environmental Quality Act (CEQA);

(B) Approving a General Plan Amendment redesignating the Parking Site from Commercial to Residential High (GPA22-0003);

(C) Amending the Zone District of the Parking Site from Community Shopping Center to High Density Residential (R22-0002);

(D) Approving a Development Review Permit expanding the Valpico Glenbriar Apartment Parking Lot to include a portion of the rear yard at 2625 S. MacArthur Drive (D22-0013);

And (2) A Resolution denying a Development Review Permit for the addition of a perimeter fence and gates to the Apartments Project site (D22-0005)

EXECUTIVE SUMMARY

The City Council approved a Development Review Permit for the 264-unit Valpico Glenbriar Apartment project on October 1, 2019 (Apartments Project). The Apartments Project is currently under construction. The developer is requesting City approval to construct a perimeter fence (with pedestrian and vehicle gates) around the apartment complex, and expand the parking area of the apartment complex by approximately 13,440 square feet, to construct 25 additional off-street parking spaces (Project).

BACKGROUND

The City Council approved the 264-unit Valpico Glenbriar Apartments Project (now called The Vela Apartments) through Development Review Permit (D19-0018), on October 1, 2019 (Resolution No. 2019-195). The approximately 11 and one-half-acre site is located on the north side of Valpico Road at Glenbriar Drive, just west of and sharing a driveway with the former Rite Aid store at the northwest corner of Valpico Road and MacArthur Drive (Apartments Site).

Shortly after construction of the apartments began, the original developer, Katerra, sold the Apartments Project to Guardian Capital. Guardian Capital continued construction and is now nearing completion of this project. Guardian Capital represents they intend to maintain

ownership and operation of the Apartments Project for the foreseeable future.

Attachment A identifies the location of the Valpico Glenbriar Apartment Project Site.

ANALYSIS

This new Project includes two components, each with its own Development Review Permit application: (1) expansion of the apartment's parking area and (2) construction of a fence with gates around the perimeter of the Apartments Site. Each of the two Development Review Permit applications was submitted separately, but they are combined in this report because they each effectively become amendments to the City Council's approval of the Valpico Glenbriar Apartments Project on October 1, 2019. After acquiring the Apartments Project, Guardian Capital presented these two proposed changes from Katerra's original proposal.

Parking Lot Expansion

The Valpico Glenbriar Apartments Project was approved with 417 off-street parking spaces, approximately 1.58 parking spaces per unit. The number of spaces meets City parking requirements. However, Guardian Capital secured an interest in approximately 13,440 square feet (just under one-third of an acre) of vacant property adjacent to the east side of the Site in order to develop additional off-street parking spaces. Guardian Capital indicates they wish to increase the number of off-street parking spaces as part of the amenities for tenants. A higher number of off-street parking spaces will help ensure sufficient on-site spaces are available during peak parking demand times. It could also result in some tenants being able to park closer to their own apartment units if demand for parking spaces is higher in some portions of the complex than other areas.

The adjacent property proposed for the parking area expansion is identified in Attachment A, labeled Subject Property. It includes a portion of the rear yard of the adjacent house at 2625 S. MacArthur Drive. The shaded area in Attachment B, a site plan of the proposed expanded parking area, identifies the area proposed to be acquired and depicts the proposed design of the expanded parking area (Parking Site). The inset on Attachment B illustrates the proximity of the proposed expanded parking area to the existing residence on the lot into which the parking area will be expanded. After the parking lot is expanded, the house will be approximately 70 feet from the parking area's perimeter fence; and the remaining size of the lot with the existing house will be just over 1.3 acres.

A lot line adjustment application (MS22-0003) has been submitted to relocate the property line between the Apartments Site and the adjacent single-family home lot, resulting in the Parking Site becoming a part of the Apartments Site. If the parking lot expansion proposal receives City approval, the lot line adjustment will undergo its normal review process through the Development Services Department with final review and approval by the City Engineer and the Development Services Director pursuant to Section 10.04.070 of the Tracy Municipal Code (TMC).

The first component of the Project requesting the parking lot expansion on an approximately 13,440 square foot area requires three actions to be considered and approved by the City Council, which is recommended here as one Ordinance for Council consideration:

- (1) an amendment to the General Plan designation of the Parking Site; and

- (2) a zoning map amendment of the Parking Site; and
- (3) a Development Review Permit.

Attachments C and D identify the existing General Plan designation and zoning, respectively, of the Parking Site; and Attachments E and F show the proposed General Plan designation and zoning.

The Parking Site is part of an approximately 4.07-acre site designated Commercial by the General Plan Map and zoned Community Shopping Center (CS) at the northwest corner of Valpico Road and MacArthur Drive. This site was designated Commercial when it was annexed to the City in 1994. This CS site currently includes the former Rite Aid store and three single-family homes (constructed prior to annexation to the City) adjacent to the north of the former Rite Aid site.

In order to make the General Plan designation and zoning of the Parking Site consistent with the General Plan designation and zoning of the Apartments Site, and consistent with the proposed use of the Parking Site for residential purposes, General Plan amendment and rezoning applications for the Parking Site are part of this Project. As indicated in Attachments E and F, the proposed General Plan and zoning designations for the Parking Site are Residential High and High Density Residential, respectively.

The purpose of the CS Zone is to provide limited business, service and office facilities for the convenience of local neighborhoods. Historically, CS-zoned sites have been the grocery store/drug store shopping centers in Tracy. In accordance with TMC Section 10.08.2090, when a CS Zone is established over a site with nonconforming buildings and uses, the site should have a development plan including the potential traffic circulation, parking, and arrangement of buildings when the nonconforming uses and buildings are replaced. The three existing single-family homes on this CS site are nonconforming and are expected eventually to be replaced by conforming uses and buildings – commercial buildings that meet the CS Zone requirements. Attachment G is a proposed development plan for this CS site. It indicates how the site can be developed without inclusion of the Parking Site. Although the size of this CS site will be reduced from just over four acres to approximately 3.75 acres, Attachment G indicates the remaining site has sufficient size to accommodate retail, office, or other commercial uses consistent with the CS Zone.

Perimeter Fence and Gates

This Project's second component is a proposal to enclose the entire Valpico Glenbriar Apartments Site with a perimeter fence with gates for vehicles and pedestrians. The Apartments Project approved by the City Council in 2019 identifies the fences adjacent to the single-family homes to the north and along a portion of the east property line adjacent to the existing residential uses. But the approved project does not include a perimeter fence or gates to exclude access by visitors, passersby, or other non-residents. In general, the City discourages gated communities, citing General Plan Policy P6 of Goal CC-2 in the Community Character Element:

New development projects shall not be gated communities or constructed with walls surrounding individual projects (i.e., single developer or builder). Gated communities and walls should only be allowed on a case-by-case basis and will generally be considered only for projects such as "estate" developments where the minimum lot size

is at least one acre or in housing with specialized clientele such as senior citizens.

Nevertheless, Guardian Capital wishes to construct a perimeter fence, with gates for vehicles and pedestrians. Guardian Capital represents the fence and gates will add a sense of security for the tenants and property owner and have a positive effect on the marketability of the apartments. Attachment H is a four-page set identifying the locations of the fences and gates on the first sheet, details and images of the proposed fences and gates on the second sheet, and enlargements of the proposed vehicle entrance gate locations on the last two sheets.

Some potential concerns related to fences and gates around residential developments relate to appearance of the fence(s), height, materials, emergency vehicle access, and stacking distances at vehicle entrances. The Project applicant addressed each of these concerns by the proposed location and design of the fences and gates, as follows:

- (1) the height of the fence along the east, west, and north (west of Glenbriar Drive) property lines is six feet (instead of a taller height that could attract more attention);
- (2) the fence height along the Valpico Road frontage is a more discreet, five-foot height;
- (3) the fence is reasonably setback from the Valpico Road property line to deemphasize its appearance;
- (4) the clubhouse building is 'used as a fence', in that the proposed perimeter fence will extend across the front of the site and connect to two corners of the clubhouse building, without being constructed across the front of the building, allowing the view of the building's architecture to be unobstructed by a new fence;
- (5) the fences and gates will be constructed of decorative tubular steel, allowing free-through passage of vision and light;
- (6) gate openings will be sufficiently wide to provide for emergency vehicle access at driveways and accessibility at pedestrian gates; and
- (7) vehicle gates will be constructed sufficiently deep into the site to provide for generous vehicle stacking (six vehicles or more) at site entrances.

Based on the above modifications proposed by the Project applicant, City staff had recommended the Planning Commission recommend that the City Council approve the fence/gates Development Review Permit based on the conclusion that there is sufficient evidence to support approval of the gates for this Apartments Site. However, as indicated below, the Planning Commission recommended that the City Council deny the Development Review permit for the fence/gates proposal. The denial of the Development Review Permit is presented as a separate Resolution for Council consideration.

Planning Commission Recommendation

The Planning Commission conducted a public hearing to review the Project on September 28, 2022. The Project applicant responded to Planning Commissioners' questions and was the only party to address the Commission during the public hearing.

Following discussion, on a vote of 5-0, the Planning Commission recommended that the City Council approve the Apartments Project's parking lot expansion and related General Plan Amendment and Rezoning (actions which are reflected in the consolidated Ordinance).

Conversely, on a vote of 3-2, the Planning Commission recommended the City Council deny the Development Review Permit for the fence/gates proposal. In recommending denial, the

Commission majority expressed that the fence would not enhance the design of the site, the fence/gates proposal would interfere with connectivity with adjacent residential neighborhoods and commercial site, and the inconsistency with City General Plan Policy P6 of Goal CC-2, cited above.

Attachment I is a redlined (strikethrough/underline) version of the Planning Commission Resolution, reflecting the changes adopted by the Planning Commission compared to the initial City staff recommendation.

The Planning Commission's recommendation to deny the Development Review Permit for the fence/gates is presented as a separate Resolution.

FINDINGS

In accordance with TMC Section 10.08.3960, before approving a Development Review Permit, the reviewing body must make written findings that:

- (1) the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (2) the proposal conforms to the Zoning Regulations (TMC Chapter 10.08), the General Plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

As noted in the proposed Ordinance, the recommended findings for the Parking Lot Expansion Project Development Review Permit are as follow:

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy because the number of additional parking spaces will be above and beyond minimum requirements of City regulations to help reduce potential effects of peak parking demand times and potentially allow tenants and guests to park closer to their tenant spaces or building destinations.
2. The proposal conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, City Standard Plans, and other City regulations in that it is consistent with the Storm Drainage Technical Memorandum prepared for the project by Wood Rodgers, it is consistent with City Off-Street parking area landscape requirements (Tracy Municipal Code Section 10.08.3560), and is consistent with City of Tracy Standard Plan 141 regarding parking space and drive aisle dimension requirements.

Findings to deny the Apartment Project's perimeter fence/gates proposal, noted in the Resolution include the following:

The perimeter fence and gates would not enhance the appearance of the site, but instead, would detract from the view of the on-site landscaping, open spaces, and buildings' architecture. The fence and gates would interrupt and interfere with connectivity with adjacent residential neighborhoods and the adjacent commercial site. The proposed fence and gates would be inconsistent with the following City General

Plan Goal, Objective, and Policies:

Goal CC-2: A high level of connectivity within the City of Tracy.

Objective CC-2.1: Maximize direct pedestrian, bicycle and vehicle connections in the City.

Policy 3: As existing areas redevelop and change over time, new and increased connections to focal points and retail areas shall be developed.

Policy 5: Streets shall be continuous within and between neighborhoods, including those that are built by different developers or builders.

Policy 6: New development projects shall not be gated communities or constructed with walls surrounding individual projects (i.e., single developer or builder). Gated communities and walls should only be allowed on a case-by-case basis and will generally be considered only for projects such as “estate” developments where the minimum lot size is at least one acre or in housing with specialized clientele such as senior citizens.

FISCAL IMPACT

This agenda item does not request any expenditure of funds. The applicant paid the application processing fees established by the City Council and entered into a cost recovery agreement to pay for the City’s storm drain and CEQA consultants. The applicant will pay applicable grading, building and other construction permit fees upon commencement of project improvements.

PUBLIC OUTREACH / INTEREST

The California Environmental Quality Act (CEQA) Notice of Intent to Adopt a Negative Declaration and notice for the Planning Commission September 28, 2022 and City Council November 15, 2022 public hearings were published in the local newspaper, mailed to owners of property within over 300 feet of the project site, posted to the City web site, and at the Tracy Branch Library in accordance with public hearing notice requirements. The CEQA Notice of Intent to Adopt a Negative Declaration was also posted with the County Clerk in accordance with CEQA noticing requirements.

COORDINATION

Upon development application submittal to the City, the application was routed to the normal reviewers of development applications: City departments, South San Joaquin County Fire Authority, PG&E, Tracy Delta Solid Waste Management, Air Pollution Control District, AT&T, Comcast, Tracy Unified School District, and San Joaquin Council of Governments. The primary interaction and coordination for this Project occurred after review and comments from the South San Joaquin County Fire Authority, the City Building Division, the City Engineering Division, and the City Police Department. The developer’s plans were revised from the original submittal and conditions of approval were developed in response to coordination with City departments and outside agencies. Project coordination was organized by the Development Services Department Planning Division.

CEQA DETERMINATION

The City's environmental consultant, De Novo Planning Group, prepared an Initial Study (Attachment J) in accordance with the California Environmental Quality Act (CEQA). Substantial supporting evidence contained in the Initial Study demonstrates the Project will not have a significant effect on the environment. Therefore, in accordance with CEQA Guidelines Section 15074, a Negative Declaration is proposed for adoption for the parking lot expansion. As the Planning Commission recommended that the perimeter fence/gate proposal be denied, no CEQA review is needed for that permit application.

STRATEGIC PLAN

This is a routine development application that does not directly relate to the City Council's Strategic Plans.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council Conduct a Public Hearing, and upon conclusion, Adopt, for the Valpico Glenbriar Apartment Project Located at Valpico Drive and MacArthur Drive (Apartments Project) as recommended by the Planning Commission:

(1) An Ordinance:

(A) Adopting a Negative Declaration for the expansion of the Apartments Project parking lot to include a portion of the rear yard of the property located at 2625 S. Macarthur Drive (Parking Site) in accordance with the California Environmental Quality Act (CEQA)

(B) Approving a General Plan Amendment redesignating the Parking Site from Commercial to Residential High (GPA22-0003);

(C) Amending the Zone District of the Parking Site from Community Shopping Center to High Density Residential (R22-0002);

(D) Approving a Development Review Permit expanding the Valpico Glenbriar Apartment Parking Lot to include a portion of the rear yard at 2625 S. MacArthur Drive (D22-0013); and

(2) A Resolution denying a Development Review Permit for the addition of a perimeter fence and gates to the Apartments Project site (D22-0005).

Prepared by: Alan Bell, Senior Planner

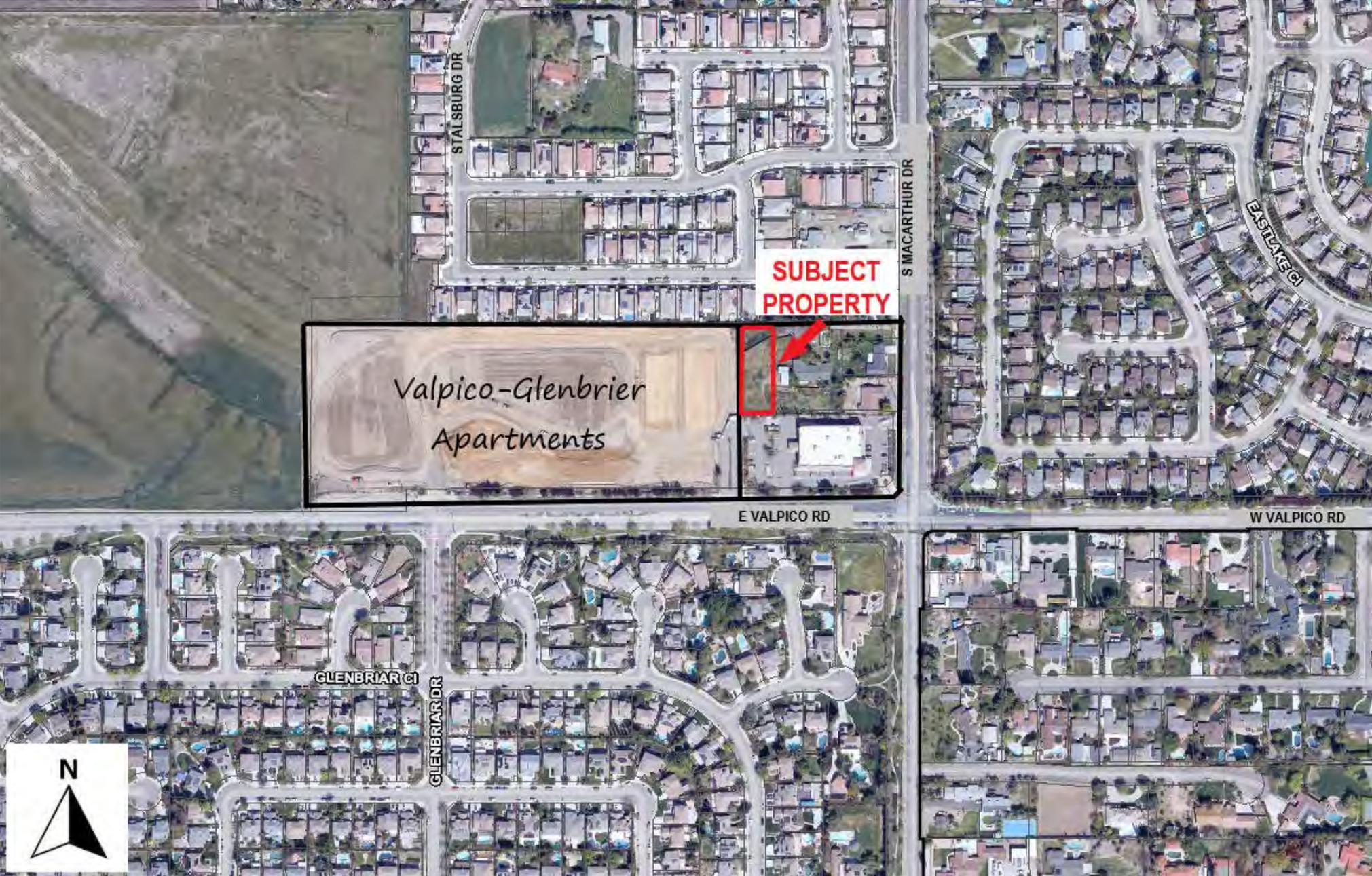
Reviewed by: Bill Dean, Assistant Director of Development Services
Kris Balaji, PMP, PE, Development Services Director
Sara Cowell, Interim Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

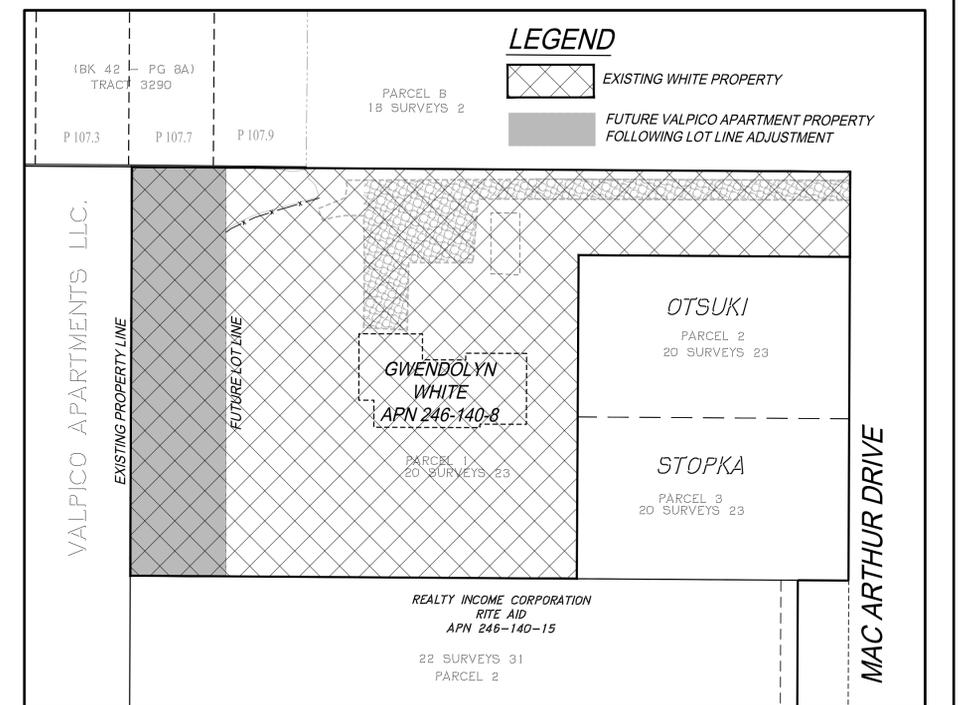
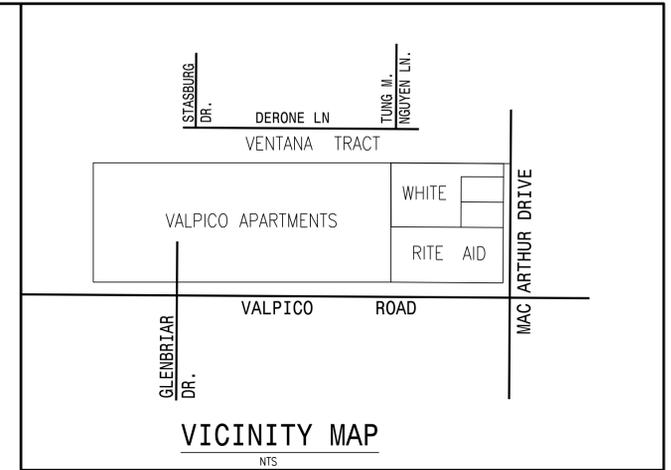
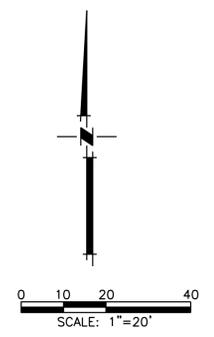
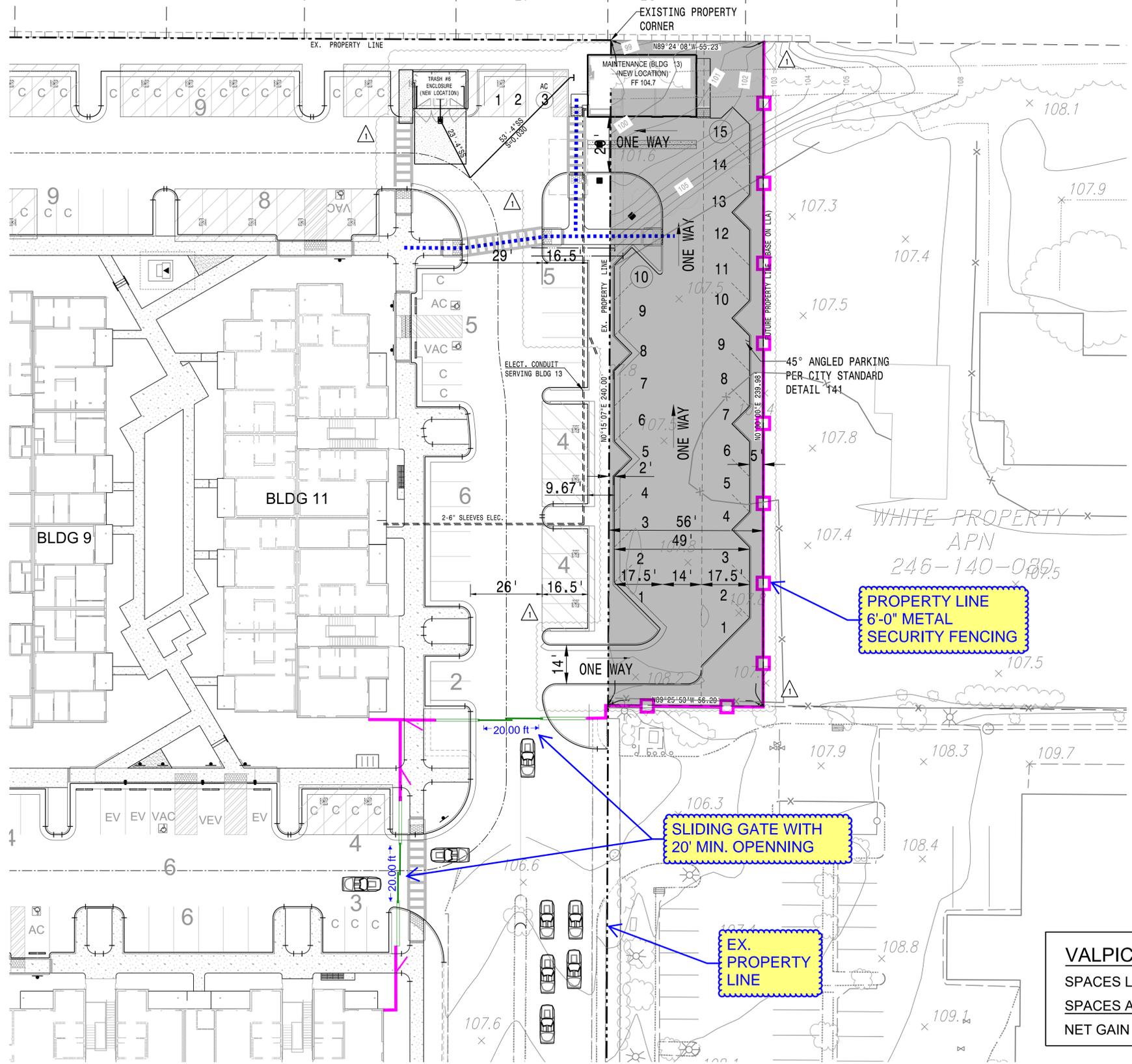
Attachments:

- Attachment A – Project Vicinity
- Attachment B – Proposed Expanded Parking Area Design
- Attachment C – Existing General Plan Designations
- Attachment D – Existing Zoning
- Attachment E – Proposed General Plan Designations
- Attachment F – Proposed Zoning
- Attachment G – CS Zone Potential Development Plan
- Attachment H - Proposed Fence and Gate Locations and Fence and Gate Details (Four Pages)
- Attachment I – Redlined (strikethrough/underline) version of the September 28, 2022 Planning Commission Resolution
- Attachment J – California Environmental Quality Act Initial Study and Proposed Negative Declaration
- Attachment K - Powerpoint Presentation

VALPICO-GLENBRIAR APARTMENTS EXPANDED PARKING AREA



NAWABI 246-360-020 24
 CHEA 246-360-030 25
 HOFMANN 246-360-040 26 P 106.9
 BEASLEY 246-360-050 27 P 107.3
 MAUZY 246-360-060 28 P 107.7
 JENNER 246-360-070 29 P 107.9



PROPERTY LINE
6'-0" METAL SECURITY FENCING

SLIDING GATE WITH
20' MIN. OPENNING

EX. PROPERTY LINE

AREA SUMMARY

9,666 SF PARKING AND DRIVE ISLE
3,021 SF LANDSCAPE AREA (31% OF PARKING)
695 SF BUILDING WITHIN LLA
13,382 SF LOT LINE ADJUSTMENT (LLA)

▲ CHANGES AND ADDITIONS TO THE ORIGINAL IMPROVEMENT PLANS HAVE BEEN MADE TO THE AREA WITHIN THE CLOUDED REGION.

 THE MAINTENANCE BUILDING (#13) WAS INITIALLY APPROVED WITH THE VALPICO GLENBRIAR PROJECT AND IS BEING MOVED TO THE LOCATION SHOWN ON THIS SITE PLAN. IT IS STRICTLY BEING MOVED WITH NO CHANGES TO THE EXTERIOR COLORS OR MATERIALS.

VALPICO APARTMENTS PARKING SUMMARY

SPACES LOST (-2 GATE -3 TE)	-5
SPACES ADDED (5+10+15)	25
NET GAIN	+20

SHEET 1 OF 2

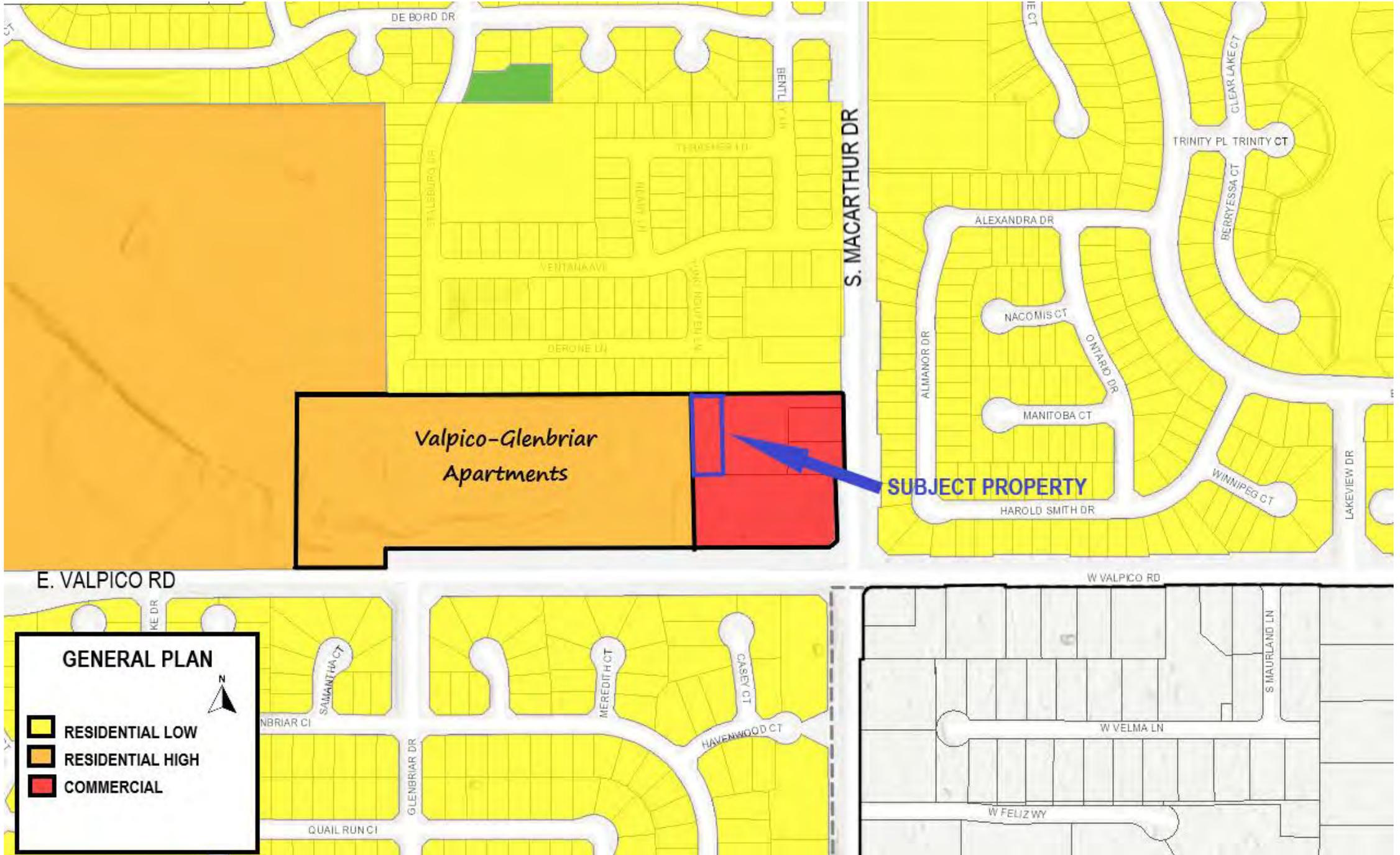
VALPICO APARTMENTS EXPANDED PARKING AREA WHITE PROPERTY - SITE PLAN

CITY OF TRACY CALIFORNIA

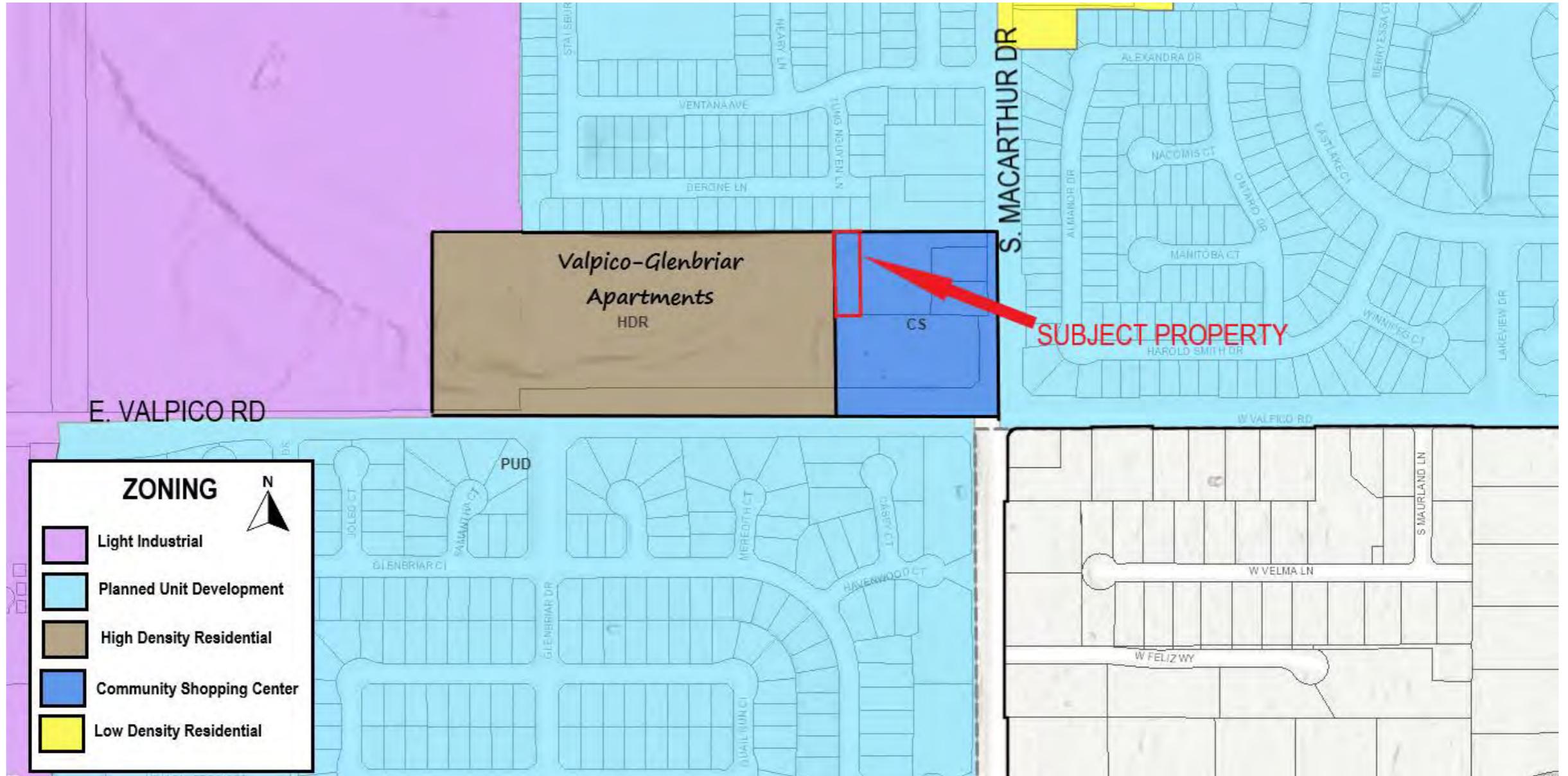
Mackay & Somp
ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR., PLEASANTON, CA 94588 (925)225-0690

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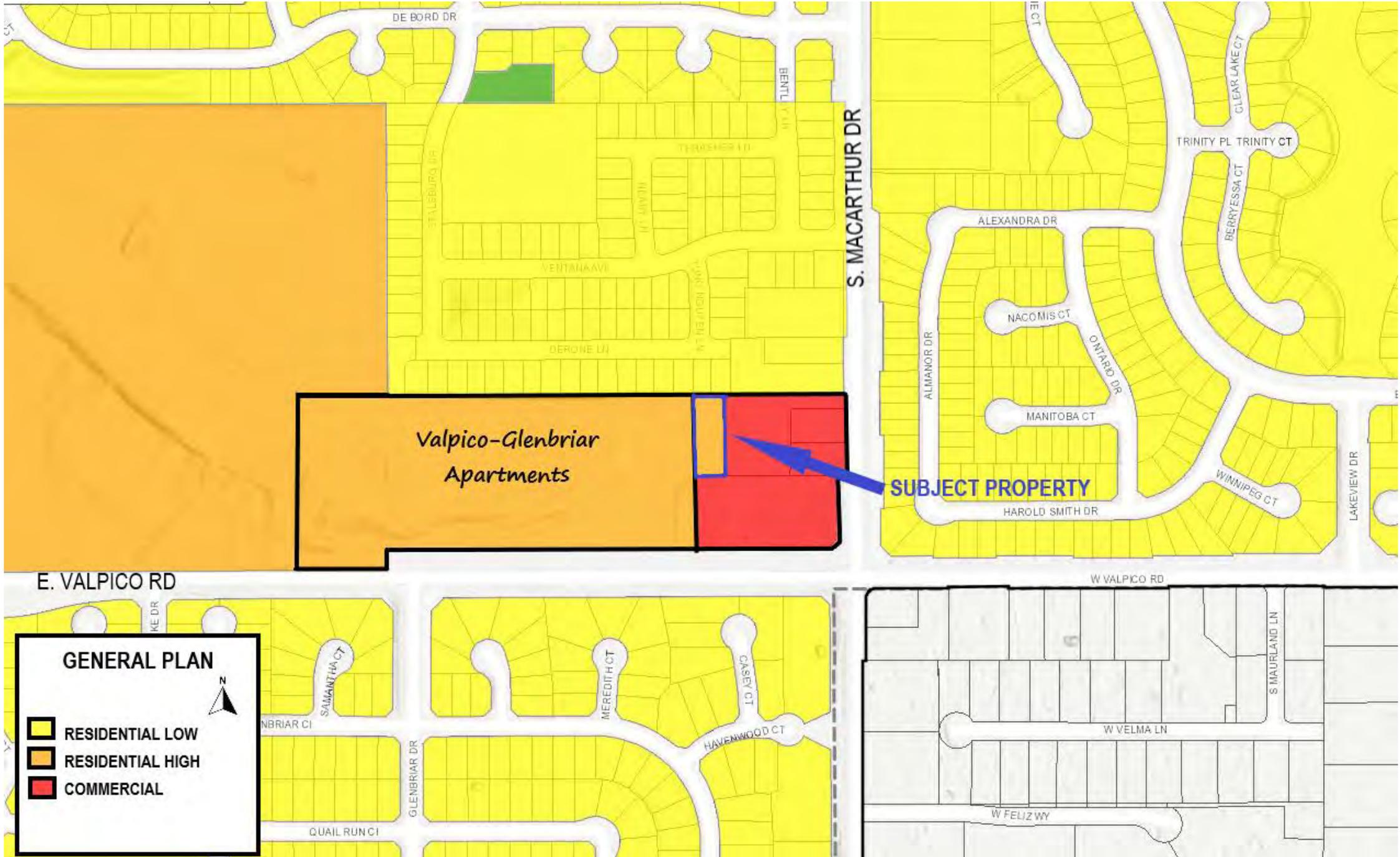
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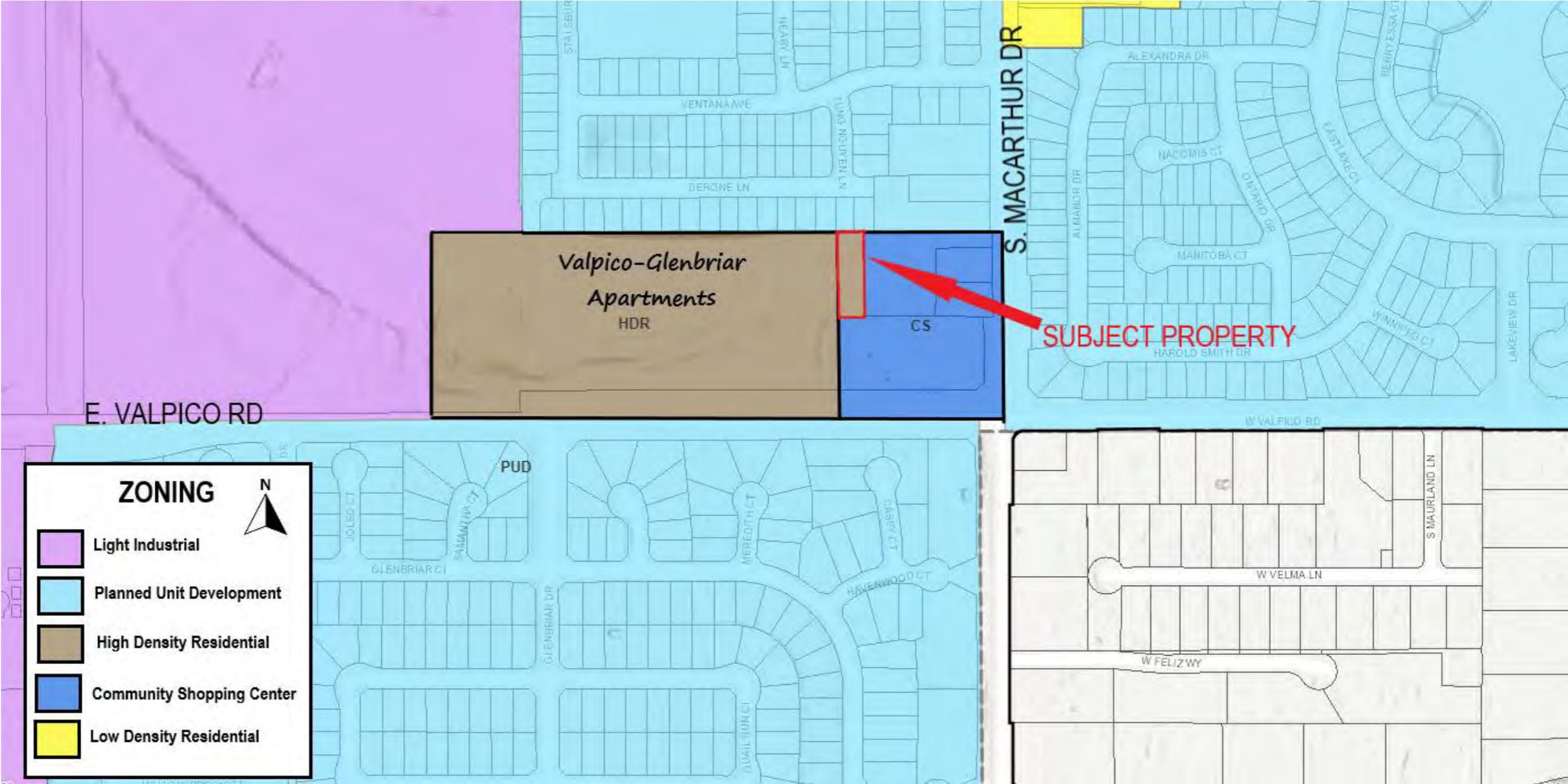
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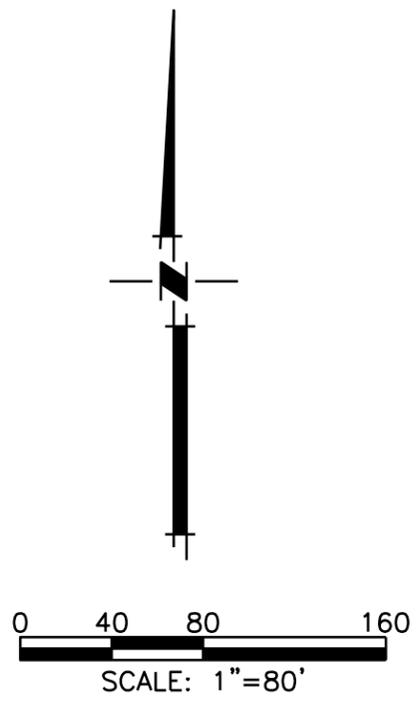
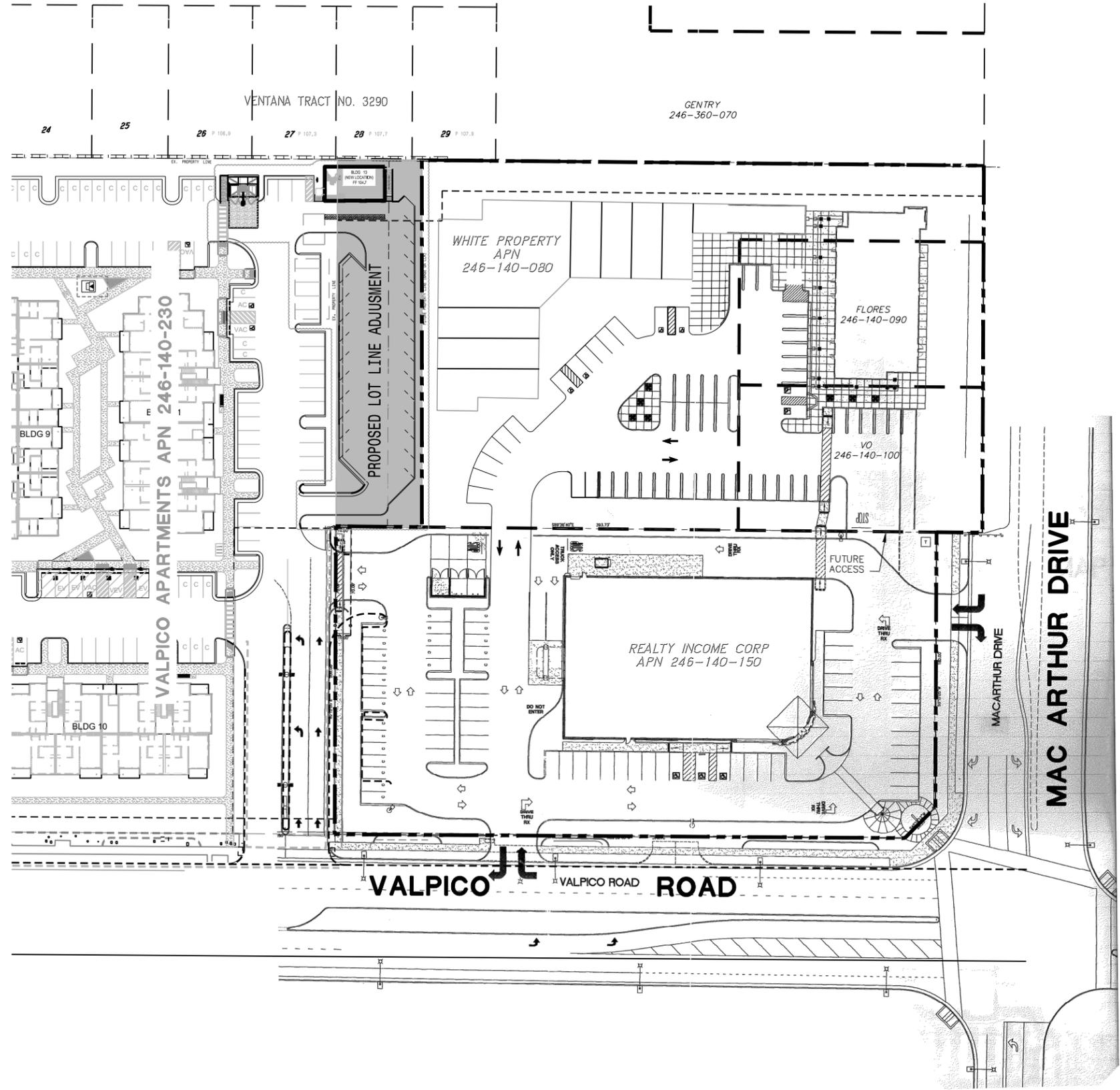


PROPOSED GENERAL PLAN



PROPOSED ZONING





SHEET 1 OF 1

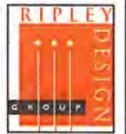
MODIFIED SITE DEVELOPMENT PLAN
CS ZONING
WHITE LOT LINE ADJUSTMENT

CS ZONING CALIFORNIA

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Landscape Architects
Land Planning
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Walnut Creek, California 94598
Tel 925.938.7377

CLIENT:

GUARDIAN CAPITAL

1601 RESPONSE ROAD
SUITE 390
SACRAMENTO, CA
95815

TEL (925) 925-2887

PROJECT:

VALPICO APARTMENTS

TRACY, CALIFORNIA

OVERALL FENCING PLAN



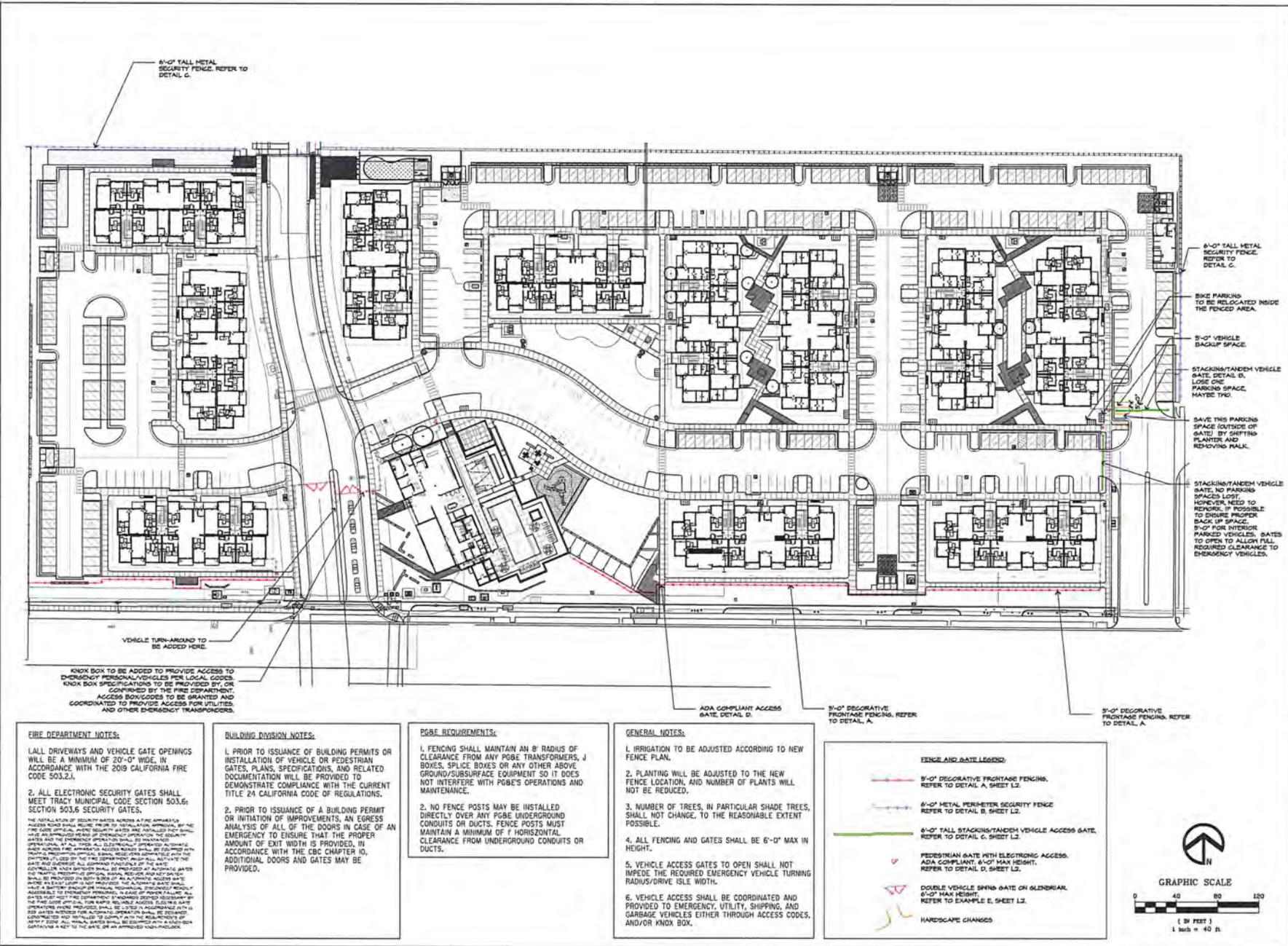
PROJECT #: 1601R-2022-01
DATE: APR. 12, 2022
SCALE: 1"=10'
DRAWN BY: WFG
CHECKED BY: AIC

REVISIONS:

NO.	DESCRIPTION

SHEET

LI



FIRE DEPARTMENT NOTES:

1. ALL DRIVEWAYS AND VEHICLE GATE OPENINGS WILL BE A MINIMUM OF 20'-0" WIDE, IN ACCORDANCE WITH THE 2019 CALIFORNIA FIRE CODE 503.2.1.

2. ALL ELECTRONIC SECURITY GATES SHALL MEET TRACY MUNICIPAL CODE SECTION 503.6; SECTION 503.6 SECURITY GATES.

THE INSTALLATION OF SECURITY GATES ACCESS AT FIRE APPROXIMATE ACCESS KNOX BOXES SHALL BE PROVIDED PER THE APPROVAL, BY THE CITY OF TRACY, CALIFORNIA. FIRE DEPARTMENT APPROVAL IS REQUIRED FOR ALL SECURITY GATES AND SHALL BE PROVIDED BY THE FIRE DEPARTMENT. ALL SECURITY GATES SHALL BE PROVIDED WITH A KNOX BOX. ALL SECURITY GATES SHALL BE PROVIDED WITH A KNOX BOX. ALL SECURITY GATES SHALL BE PROVIDED WITH A KNOX BOX. ALL SECURITY GATES SHALL BE PROVIDED WITH A KNOX BOX.

BUILDING DIVISION NOTES:

1. PRIOR TO ISSUANCE OF BUILDING PERMITS OR INSTALLATION OF VEHICLE OR PEDESTRIAN GATES, PLANS, SPECIFICATIONS, AND RELATED DOCUMENTATION WILL BE PROVIDED TO DEMONSTRATE COMPLIANCE WITH THE CURRENT TITLE 24 CALIFORNIA CODE OF REGULATIONS.

2. PRIOR TO ISSUANCE OF A BUILDING PERMIT OR INITIATION OF IMPROVEMENTS, AN EGRESS ANALYSIS OF ALL OF THE DOORS IN CASE OF AN EMERGENCY TO ENSURE THAT THE PROPER AMOUNT OF EXIT WIDTH IS PROVIDED, IN ACCORDANCE WITH THE CBC CHAPTER 10, ADDITIONAL DOORS AND GATES MAY BE PROVIDED.

PG&E REQUIREMENTS:

1. FENCING SHALL MAINTAIN AN 8' RADIUS OF CLEARANCE FROM ANY PG&E TRANSFORMERS, J BOXES, SPLICE BOXES OR ANY OTHER ABOVE GROUND/SUBSURFACE EQUIPMENT SO IT DOES NOT INTERFERE WITH PG&E'S OPERATIONS AND MAINTENANCE.

2. NO FENCE POSTS MAY BE INSTALLED DIRECTLY OVER ANY PG&E UNDERGROUND CONDUITS OR DUCTS. FENCE POSTS MUST MAINTAIN A MINIMUM OF 8' HORIZONTAL CLEARANCE FROM UNDERGROUND CONDUITS OR DUCTS.

GENERAL NOTES:

1. IRRIGATION TO BE ADJUSTED ACCORDING TO NEW FENCE PLAN.

2. PLANTING WILL BE ADJUSTED TO THE NEW FENCE LOCATION, AND NUMBER OF PLANTS WILL NOT BE REQUIRED.

3. NUMBER OF TREES, IN PARTICULAR SHADE TREES, SHALL NOT CHANGE, TO THE REASONABLE EXTENT POSSIBLE.

4. ALL FENCING AND GATES SHALL BE 6'-0" MAX IN HEIGHT.

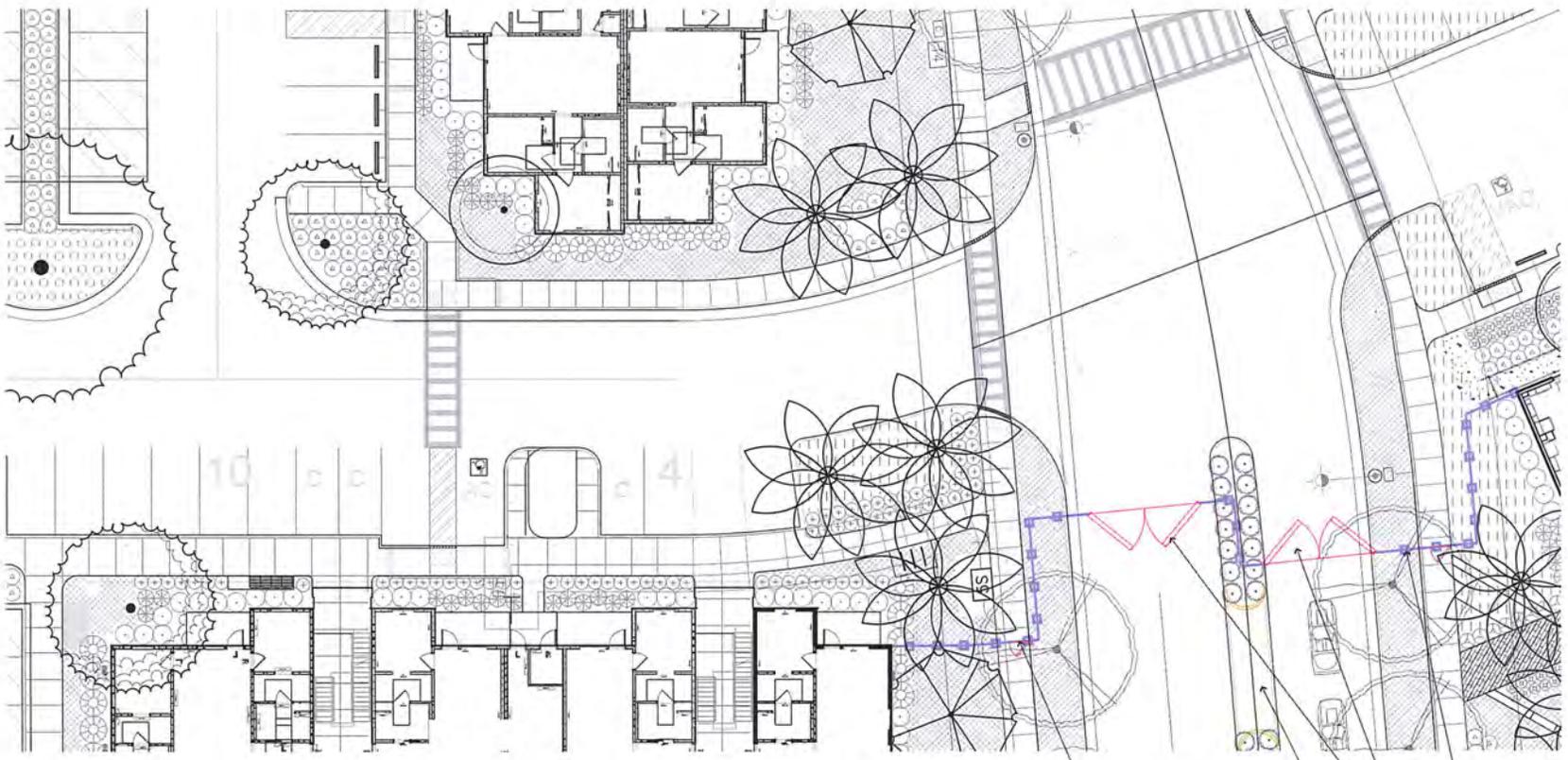
5. VEHICLE ACCESS GATES TO OPEN SHALL NOT IMPED THE REQUIRED EMERGENCY VEHICLE TURNING RADIUS/DRIVE ISLE WIDTH.

6. VEHICLE ACCESS SHALL BE COORDINATED AND PROVIDED TO EMERGENCY, UTILITY, SHIPPING, AND GARBAGE VEHICLES EITHER THROUGH ACCESS CODES, AND/OR KNOX BOX.

FENCE AND GATE LEGEND:

- 3'-0" DECORATIVE FRONTAGE FENCING. REFER TO DETAIL A, SHEET L2.
- 6'-0" METAL PERIMETER SECURITY FENCE. REFER TO DETAIL C, SHEET L2.
- 6'-0" TALL STACKING/TANDEM VEHICLE ACCESS GATE. REFER TO DETAIL B, SHEET L2.
- PEDESTRIAN GATE WITH ELECTRONIC ACCESS. ADA COMPLIANT. 6'-0" MAX HEIGHT. REFER TO DETAIL D, SHEET L2.
- DOUBLE VEHICLE SPIN-OUT GATE ON GLENBRIAR. 6'-0" MAX HEIGHT. REFER TO EXAMPLE E, SHEET L2.
- HARDSCAPE CHANGES



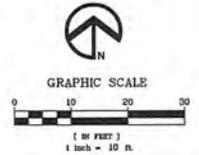


NOTE:
KNOX BOX WILL BE PROVIDED PER LOCAL CODES
TO PROVIDE ACCESS FOR EMERGENCY VEHICLES.

PROPOSED 6' SECURITY
FENCING WITH ADA
ACCESSIBLE GATES AT THE
WALKS.

PROPOSED 6' SECURITY
FENCING TO CROSS
OLENBIARIK.
DOUBLE SWING GATES
8'-0" MAX HEIGHT.

VEHICLE TURN-AROUND



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PROJECT:

**VALPICO
APARTMENTS**

TRACY,
CALIFORNIA

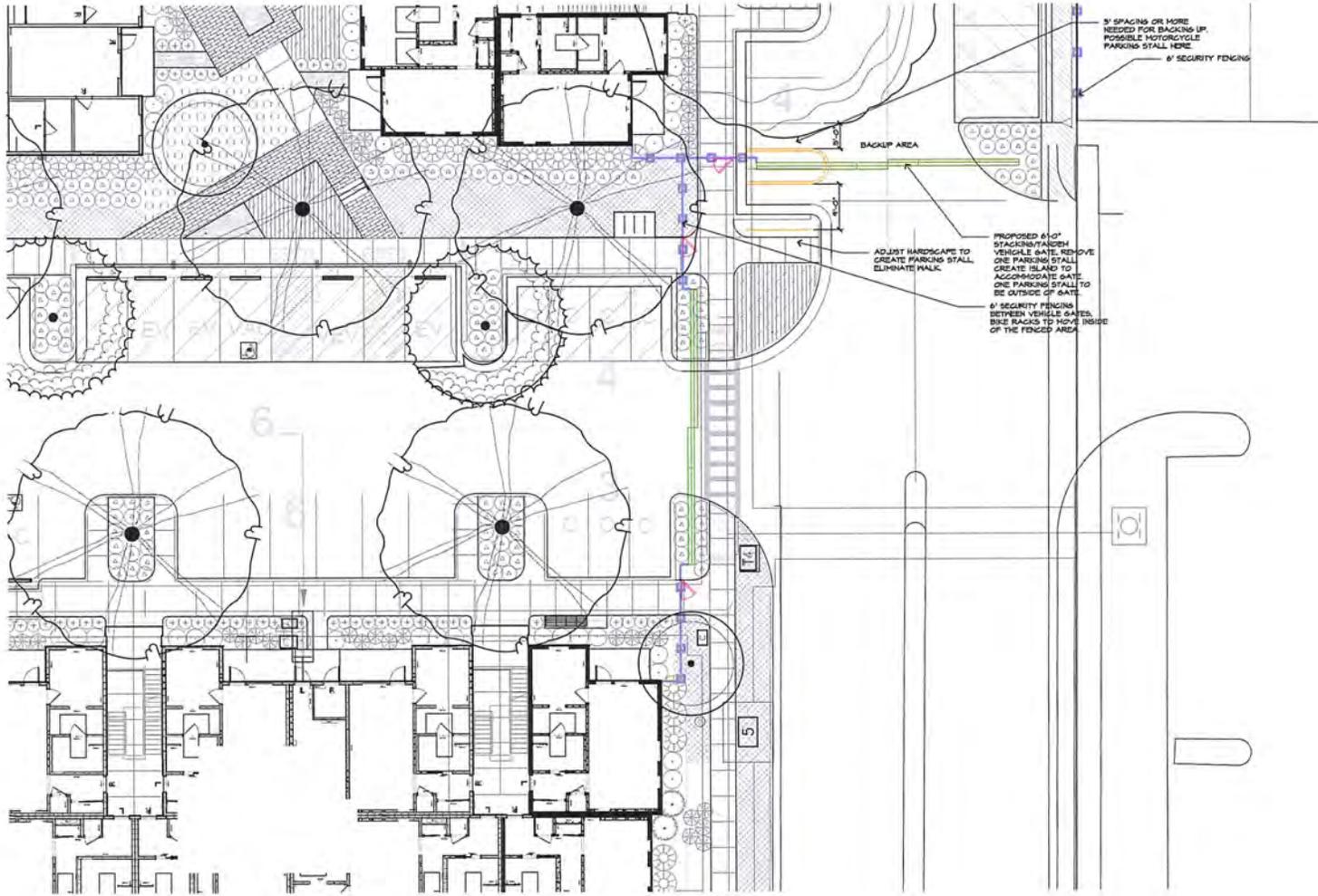
**FENCING
EXHIBIT
ENLARGEMENT**



PROJECT #: _____
DATE: APR. 12, 2022
SCALE: 1"=10'
DRAWN BY: WPG
CHECKED BY: AMC

REVISIONS:

SHEET
L3



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PROJECT:
VALPICO APARTMENTS
 TRACY,
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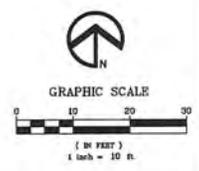
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PROJECT #: _____
 DATE: APR. 12, 2022
 SCALE: 1"=10'
 DRAWN BY: WPG
 CHECKED BY: AMC

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SHEET
L4



APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY PLANNING COMMISSION

RESOLUTION NO. _____

(1) RECOMMENDING THAT THE CITY COUNCIL APPROVE A RESOLUTION (A) APPROVING A CEQA NEGATIVE DECLARATION FOR THE EXPANSION OF THE VALPICO GLENBRIAR APARTMENT PARKING LOT A TO INCLUDE A PORTION OF THE REAR YARD AT 2625 S. MACARTHUR DRIVE (PARKING SITE) AND (B) DETERMINE THE ADDITION OF A PERIMETER FENCE/GATE TO THE VALPICO GLENBRIAR APARTMENTS PROJECT LOCATED AT 351 E. VALPICO ROAD (APARTMENTS SITE) IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15303(E);

(2) RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE APPROVING A GENERAL PLAN AMENDMENT REDESIGNATING THE PARKING SITE FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA22-0003);

(3) RECOMMENDING THAT THE CITY COUNCIL APPROVE AN ORDINANCE AMENDING THE ZONE DISTRICT OF THE PARKING SITE FROM COMMUNITY SHOPPING CENTER TO HIGH DENSITY RESIDENTIAL (R22-0002);

(5) RECOMMENDING THAT THE CITY COUNCIL APPROVE A RESOLUTION APPROVING A DEVELOPMENT REVIEW PERMIT EXPANDING THE VALPICO GLENBRIAR APARTMENT PARKING LOT TO INCLUDE A PORTION OF THE REAR YARD AT 2625 S. MACARTHUR DRIVE (D22-0013)

WHEREAS, The 264-unit Valpico Glenbriar Apartments project was approved by the City Council on October 1, 2019, Resolution Number 2019-195; and

WHEREAS, During construction, the project was sold from the original developer (Kattera) to Guardian Capital, which intends to complete construction, own, and manager the project; and

WHEREAS, The Valpico Glenbriar Apartments project was approved with 417 off-street parking spaces, which is consistent with City standards; and

WHEREAS, Guardian Capital wishes to provide additional off-street parking spaces for tenants and guests beyond the existing number of parking spaces; and

WHEREAS, Guardian Capital has acquired an interest in approximately 13,440 square feet of adjacent property on which to develop additional parking; and

WHEREAS, Guardian Capital submitted a Development Review Permit (Application Number D22-0013) to develop the adjacent property as additional parking, connected to the existing apartments site; and

WHEREAS, The Valpico Glenbriar Apartments site has a General Plan designation of Residential High and is zoned High Density Residential, and

WHEREAS, The adjacent property, on which the parking lot will be expanded, has a General Plan designation of Commercial and is zoned Community Shopping Center; and

WHEREAS, Guardian Capital has requested the General Plan and zoning designations of the expanded parking area be amended from Commercial and Community Shopping Center, respectively, to Residential High and High Density Residential, respectively, in order to be consistent with the General Plan and zoning designations of the apartments site; and

WHEREAS, Guardian Capital submitted a Development Review Permit (Application Number D22-0005) to construct a fence and gates around the perimeter of the apartments site; and

WHEREAS, A California Environmental Quality Act (CEQA) Initial Study/Negative Declaration has been prepared for the parking lot expansion portion of the project finding no significant effect on the environment; and

WHEREAS, The Planning Commission conducted a public hearing to review the project on September 28, 2022; now, therefore, be it

RESOLVED: That the Planning Commission recommends that the City Council adopt a resolution adopting a Negative Declaration for the Valpico Glenbriar Apartments parking lot expansion project because the City of Tracy has reviewed and considered the proposed project and has determined, based on the whole record before it, including the Initial Study and comments received, there is no substantial evidence that the project will have a significant effect on the environment, with substantial supporting evidence provided in the Initial Study, dated September 2022.

FURTHER RESOLVED: That the Planning Commission recommends that the City Council adopt an ordinance approving a General Plan Map amendment for the approximately 13,440 square foot site for the Valpico Glenbriar Apartments parking area expansion, from Commercial to Residential High, as indicated in Exhibit 1.

FURTHER RESOLVED: That the Planning Commission recommends that the City Council adopt an ordinance amending the zone district of the approximately 13,440 square foot site for the Valpico Glenbriar Apartments parking area expansion, from Community Shopping Center to High Density Residential, as indicated in Exhibit 2.

FURTHER RESOLVED: That the Planning Commission recommends that the City Council adopt a resolution approving Development Review Permit Application Number D22-0013 for the Valpico Glenbriar Apartments parking lot expansion project, subject to the conditions of approval in Exhibit 3 and based on the following findings:

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and

the citizens of Tracy because the number of additional parking spaces will be above and beyond minimum requirements of City regulations to help reduce potential effects of peak parking demand times and potentially allow tenants and guests to park closer to their tenant spaces or building destinations.

- 2. The proposal conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, City Standard Plans, and other City regulations in that it consistent with the Storm Drainage Technical Memorandum prepared for the project by Wood Rodgers, it is consistent with City Off-Street parking area landscape requirements (Tracy Municipal Code Section 10.08.3560), and is consistent with City of Tracy Standard Plan 141 regarding parking space and drive aisle dimension requirements.

* * * * *

The foregoing Resolution 2022-_____ regarding approval of the (1) CEQA Negative Declaration, (2) General Plan amendment (GPA22-0003), (3) Zoning Map amendment (R22-0002), and (5) parking area expansion (D22-0013) was adopted by the Planning Commission on September 28, 2022, by the following vote:

AYES: COMMISSION MEMBERS: ATWAL, AUGUSTUS, BOAKYE-BOATENG, HUDSON, ORCUTT
 NOES: COMMISSION MEMBERS:
 ABSENT: COMMISSION MEMBERS:
 ABSTENTION: COMMISSION MEMBERS:

And the foregoing Resolution 2022-_____ regarding (4) denial of the perimeter fence and gates was adopted by the Planning Commission on September 28, 2022, by the following vote:

AYES: COMMISSION MEMBERS: ATWAL, AUGUSTUS, ORCUTT
 NOES: COMMISSION MEMBERS: BOAKYE-BOATENG, HUDSON
 ABSENT: COMMISSION MEMBERS:
 ABSTENTION: COMMISSION MEMBERS:

CHAIR

ATTEST: _____
STAFF LIAISON

- Exhibit 1 – Proposed General Plan Designation
- Exhibit 2 – Proposed Zoning District
- Exhibit 3 – Project Conditions of Approval



INITIAL STUDY

FOR THE

VALPICO GLENBRIAR APARTMENTS PARKING LOT EXPANSION PROJECT

SEPTEMBER 2022

Prepared for:

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

Prepared by:

De Novo Planning Group
1020 Suncoast Lane, Suite 106
El Dorado Hills, CA 95762

D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



INITIAL STUDY
FOR THE
VALPICO GLENBRIAR APARTMENTS PARKING LOT EXPANSION
PROJECT

SEPTEMBER 2022

Prepared for:

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

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INITIAL STUDY CHECKLIST

PROJECT TITLE

Valpico Glenbriar Apartments Parking Lot Expansion Project

LEAD AGENCY NAME AND ADDRESS

City of Tracy
Planning Division
333 Civic Center Plaza
Tracy, CA 95376

CONTACT PERSON AND PHONE NUMBER

Alan Bell, Senior Planner
City of Tracy
Planning Division
333 Civic Center Plaza
Tracy, CA 95376
Alan.Bell@cityoftracy.org
(209) 831-6426

PROJECT SPONSOR'S NAME AND ADDRESS

Valpico Tracy Apartments LLC.
5780 Fleet Street
Carlsbad, Ca 92008

PURPOSE OF THE INITIAL STUDY

An Initial Study (IS) is a preliminary analysis which is prepared to determine the relative environmental impacts associated with a proposed project. It is designed as a measuring mechanism to determine if a project will have a significant adverse effect on the environment, thereby triggering the need to prepare an Environmental Impact Report (EIR). It also functions as an evidentiary document containing information which supports conclusions that the project will not have a significant environmental impact or that the impacts can be mitigated to a "Less Than Significant" or "No Impact" level. If there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, the lead agency shall prepare a Negative Declaration (ND). If the IS identifies potentially significant effects, but: (1) revisions in the project plans or proposals would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (2) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment, then a Mitigated Negative Declaration (MND) shall be prepared.

This IS has been prepared consistent with California Environmental Quality Act (CEQA) Guidelines Section 15063, to determine if the proposed Tracy Valpico Apartments Parking Lot Expansion (Project) may have a significant effect upon the environment. Based upon the findings and mitigation measures contained within this report, a Negative Declaration will be prepared.

PROJECT LOCATION AND SETTING

The Project site consists of approximately 13,440 square feet located at 2625 South MacArthur Drive in the City of Tracy, and the Valpico Glenbriar Apartments site at 351 E. Valpico Road. The Project site encompasses Assessor Parcel Numbers (APNs) 246-140-080 and 246-140-230. The Project's regional location is shown in Figure 1, and the Project vicinity is shown in Figure 2.

The project site is currently developed with a single-family residence on the parcel. Landscaping trees are located along the southern and northern edges of the project site. Lands to the north, east and south of the project site consist of single-family residential uses. There is a Rite Aid store located immediately southeast of the project site, along the project site's southern boundary. The Rite Aid store closed in 2021 and the building is unoccupied. The parcel immediately west of the project site is currently under construction to develop the 264-unit Valpico-Glenbriar Apartment Complex. Commercial, industrial, and vacant land uses are located further to the west of the project site. Single-family residential land uses are located further north and south of the project site.

BACKGROUND AND RELATIONSHIP TO OTHER PROJECTS

In 2012, the City of Tracy received development applications for two adjacent apartment projects: the Valpico Apartments and the MacDonald Apartments.

An IS/MND was prepared to address construction-level and operational impacts of the Valpico Apartment project, which was approved concurrently with the adjacent MacDonald Apartments project by the Tracy City Council at the same public hearing on December 18, 2022.

While the Valpico project relied on the above-referenced IS/MND for CEQA clearance, the MacDonald Apartments project relied on a CEQA Guidelines Section 15183 exemption.

The previously approved Valpico project included plans to construct 184 apartments, while the previously approved MacDonald project proposed 60 apartment units. Together, these projects would consist of 244 multi-family housing units with associated parking and onsite residential amenities. The two project sites are adjacent to each other on approximately 11.62 total acres. The two projects were planned and designed to serve as a single development project with consistent design and shared amenities and utilities.

Subsequent revisions to the combined projects were approved by the City of Tracy in 2016, that slightly increased the total number of housing units from 244 to 252 multi-family housing units. However, no additional CEQA review was necessary because of the projects' similarity to the original approvals.

The 2012 IS/MND (Valpico) and the 15183 exemption (MacDonald) evaluated potential environmental effects associated with full development of each residential multi-family apartment project. The environmental analysis in the 2012 Valpico IS/MND addressed the following topics: aesthetics, agriculture and forestry resources, air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, utilities and service systems, and mandatory findings of significance. All impacts in the IS/MND were mitigated to below a level of significance through the implementation of mitigation measures.

Following adoption of the 2012 IS/MND and the subsequent 2016 revisions, the Project Applicants for both the Valpico and MacDonald projects decided to combine their projects into a single cohesive multifamily residential development.

This combined project, which includes 264 residential units, a 6,500 square foot clubhouse amenity and onsite parking, was analyzed under an Addendum to the 2012 IS/MND. The IS/MND Addendum was approved by the Tracy City Council on October 1, 2019.

The above-referenced residential project is currently under construction, and has been the subject of extensive review under CEQA.

The proposed project, which is the subject of the analysis in this Initial Study, is limited to a lot line adjustment, a General Plan Land Use Designation Amendment, and the construction of 25 parking spaces to serve the above-referenced residential project, as described in greater detail below. The project also includes the construction of a perimeter fence to enclose the apartment complex and new parking area, with vehicle and pedestrian gates at project entries. The fence construction is exempt from CEQA review in accordance with CEQA Guidelines Section 15303(e), new construction of small structures/accessory structures.

There are no “operational impacts” associated with the proposed parking lot project that have not already been analyzed under previous CEQA documents. The proposed parking lot would not increase the number of approved residential units in the adjacent Valpico-Glenbriar Apartments project, nor would it increase vehicle trips or other operational aspects of the previously-approved residential project. The proposed project would simply provide for additional parking spaces to serve the approved, and now under construction, residential project. As such, the analysis in this Initial Study focuses primarily on the potential construction-related impacts of the proposed parking lot.

PROJECT DESCRIPTION

The project would include a lot line adjustment in order to acquire the westerly portion (56' x 240') of the property east of the Valpico Apartments complex in order to expand the parking lot for the apartments that are currently under construction.

This will result in approximately 25 additional standard parking spaces, in addition to relocating the maintenance building #13 (40'x22') over a portion of adjusted parcel. Existing utilities will be extended to the new building location. The fence and gates, mentioned in the section above, will also enclose the expanded parking area. The project site plan is shown on Figure 3.

REQUESTED ENTITLEMENTS AND OTHER APPROVALS

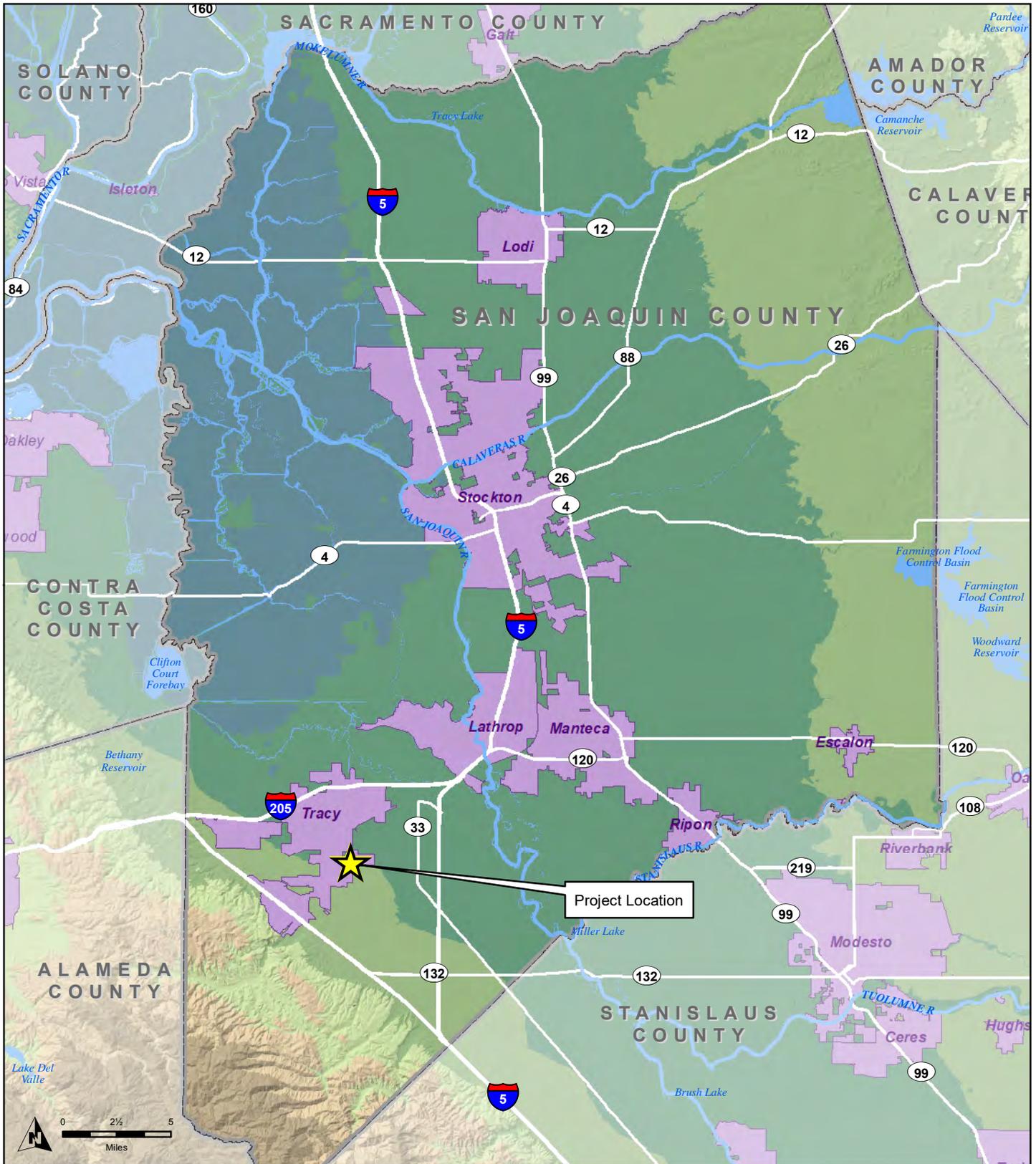
The City of Tracy is the Lead Agency for the proposed Project, pursuant to the State Guidelines for Implementation of CEQA, Section 15050.

This document will be used by the City of Tracy to take the following actions:

- Adoption of the ND;
- Approval of a lot line adjustment;
- Approval of a rezone to amend the zoning district from Community Shopping Center to High Density Residential; and
- Approval of a General Plan Amendment to amend the land use designation of the eastern portion of the site from Commercial to Residential High.

- Approve Development Review Permit and related construction permits for the construction of the approximately 13,440 square foot parking lot expansion.

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LEGEND

-  Project Location
-  Incorporated Area
-  County Boundary

**CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT**

Figure 1. Regional Location Map

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LEGEND

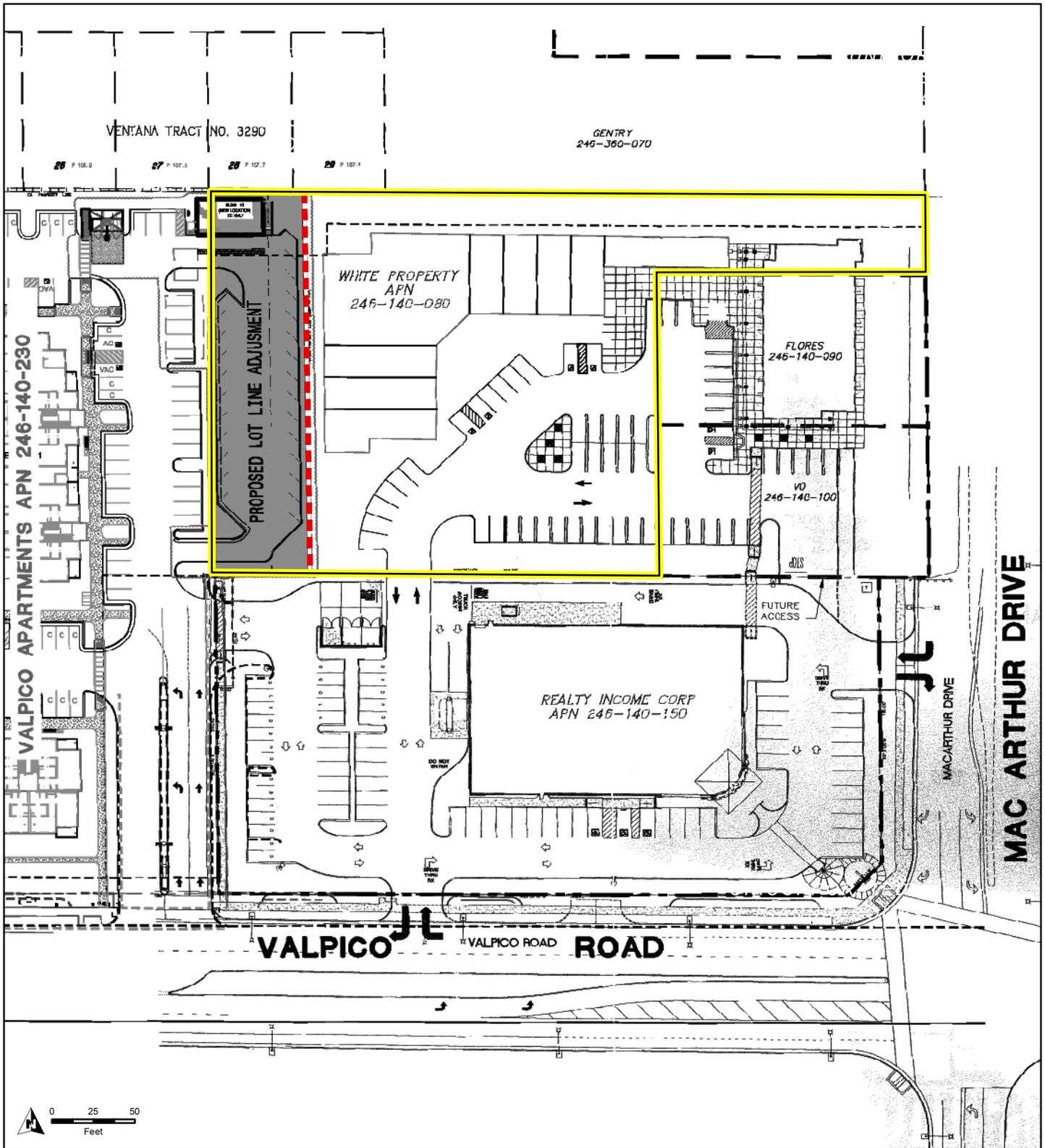
- Project Location
- Tracy City Limits
- School
- Park

**CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT**

Figure 2. Project Vicinity

Sources: San Joaquin County GIS; ArcGIS Online World Imagery Map Service, 3/30/2021. Map date: July 14, 2022.

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LEGEND

- Existing Parcel Boundary
- Proposed Lot Line Adjustment

CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT

Figure 3. Site Plan

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture and Forestry Resources		Air Quality
	Biological Resources		Cultural Resources		Energy
	Geology/Soils		Greenhouse Gases		Hazards and Hazardous Materials
	Hydrology/Water Quality		Land Use/Planning		Mineral Resources
	Noise		Population/Housing		Public Services
	Recreation		Transportation		Tribal Cultural Resources
	Utilities/Service Systems		Wildfire		Mandatory Findings of Significance

DETERMINATION

On the basis of this initial evaluation:

X	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

EVALUATION INSTRUCTIONS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significant.

EVALUATION OF ENVIRONMENTAL IMPACTS

In each area of potential impact listed in this section, there are one or more questions which assess the degree of potential environmental effect. A response is provided to each question using one of the four impact evaluation criteria described below. A discussion of the response is also included.

- **Potentially Significant Impact.** This response is appropriate when there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries, upon completion of the Initial Study, an EIR is required.
- **Less than Significant With Mitigation Incorporated.** This response applies when the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The Lead Agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.
- **Less than Significant Impact.** A less than significant impact is one which is deemed to have little or no adverse effect on the environment. Mitigation measures are, therefore, not necessary, although they may be recommended to further reduce a minor impact.
- **No Impact.** These issues were either identified as having no impact on the environment, or they are not relevant to the project.

ENVIRONMENTAL CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form contained in the CEQA Guidelines. Impact questions and responses are included in both tabular and narrative formats for each of the 21 environmental topic areas.

I. AESTHETICS

<i>Except as provided in Public Resources Code Section 21099, would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with the applicable zoning and other regulations governing scenic quality?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Responses to Checklist Questions

Responses a) Less than Significant. The City of Tracy is an urbanized area located within the southern section of San Joaquin County. There are no scenic vistas located on or adjacent to the project site. The proposed project is considered an infill project, and the proposed uses on the site are consistent and compatible with the surrounding land uses. Lands to the north and south of the project site consist of single-family residential uses. There is a Rite Aid store located immediately southeast of the project site, along the project site's eastern boundary. The parcel to the west is currently under construction in order to develop the Valpico Glenbriar Apartment complex.

Implementation of the proposed project would provide for additional parking in an area of the City that is largely developed. The project site is not topographically elevated from the surrounding lands, and is not highly visible from areas beyond the immediate vicinity of the site. There are no prominent features on the site, such as trees, rock outcroppings, or other visually distinctive features that contribute to the scenic quality of the site. The project site is not designated as a scenic vista by the City of Tracy General Plan. Implementation of the proposed project would not significantly change the existing visual character of the project area, as much of the areas immediately adjacent to the site are used for residential and commercial purposes.

Implementation of the proposed project would introduce paved parking development to the project area, and would be generally consistent with the surrounding residential and commercial development. Therefore, this impact is considered **less than significant**.

Response b) No Impact. As described in the Tracy General Plan EIR, there are two Officially Dedicated California Scenic Highway segments in the Tracy Planning Area, which extend a total length of 16 miles. The first designated scenic highway is the portion of I-580 between I-205 and I-5, which offers views of the Coast Range to the west and the Central Valley's urban and agricultural lands to the east. The second scenic highway is the portion of I-5 that starts at I-205 and continues south to Stanislaus County, which allows for views of the surrounding agricultural lands and the Delta-Mendota Canal and California Aqueduct. The project site is not visible from any of the above-referenced scenic highways. Development of the proposed project would not result in the removal of any trees, rock outcroppings, or buildings of historical significance, and would not result in changes to any of the viewsheds from the designated scenic highways in the vicinity of the City of Tracy. There is **no impact**.

Response c) Less than Significant. As described under Response a), above, the proposed project would add additional paved parking development to an area that currently contains numerous residential and commercial uses. The proposed project would be visually compatible with the surrounding land uses and would not significantly degrade the existing visual quality of the site or the surrounding area. Additionally, the project is subject to the City of Tracy's development and design review criteria, which would ensure that the parking area landscaping, streetscape improvements and exterior lighting improvements are compatible with the surrounding land uses. This is a **less than significant impact**.

Response d) Less than Significant. Daytime glare can occur when the sunlight strikes reflective surfaces such as windows, vehicle windshields and shiny reflective building materials. The proposed project would not introduce new residential structures. Reflective building materials are not proposed for use in the project, and as such, the project would not result in increases in daytime glare.

The project site contains no existing lighting. There is a potential for the proposed project to create new sources of light, but not glare. Examples of lighting would include construction lighting, landscape, and parking lighting. However, nighttime construction activities are not anticipated to be required as part of on-site construction. Operational light sources from street lighting may be required to provide for safe travel.

The City of Tracy Standard Plan #154 establishes minimum requirements for light illumination. Exterior lighting on new projects is also regulated by the Tracy Municipal Code, Off-Street Parking Requirements, Section 10.08.3530(h). The City addresses light and glare issues on a case-by-case basis during project approval and typically adds requirements as a condition of project approval to shield and protect against light spillover from one property to the next. The proposed project is subject to these regulations, which would ensure that this is a **less than significant impact**.

II. AGRICULTURE AND FORESTRY RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1222(g)) or timberland (as defined in Public Resources Code section 4526)?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

Responses to Checklist Questions

Responses a) No Impact. The project site consists of a small portion of the backyard of an existing single-family residential property. The project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The project site is surrounded by urban land uses, and there are no agricultural land uses or agricultural operations on or adjacent to the site. The project site is not irrigated for agricultural use, and the site is not viable for agricultural uses or activities. There is **no impact** related to this environmental topic, and no mitigation is required.

Response b) No Impact. The project site is not under a Williamson Act Contract, nor are any of the parcels immediately adjacent to the project site under a Williamson Act Contract. Therefore, implementation of the proposed project would not conflict with a Williamson Act Contract. The project site is currently zoned Community Shopping by the City's Zoning Map. As such, the proposed project would not conflict with any agricultural zoning or Williamson Act Contract. There is no impact.

Responses c) and d) No Impact. The project site is located in an area predominantly consisting of commercial and residential development. There are no forest resources on the project site or in the vicinity of the project site. Therefore, there is **no impact**.

Response e) No Impact. As described under Responses (a) and (b) above, the proposed project is not currently used for agricultural purposes, nor is it designated or zoned for agricultural uses. There are no agricultural lands or operations adjacent to the project site. There is **no impact** related to this environmental topic.

III. AIR QUALITY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X	
c) Expose sensitive receptors to substantial pollutant concentrations?			X	
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?			X	

Existing Setting

The project site is located within the SJVAPCD. This agency is responsible for monitoring air pollution levels and ensuring compliance with federal and state air quality regulations within the San Joaquin Valley Air Basin (SJVAB) and has jurisdiction over most air quality matters within its borders.

The SJVAPCD has primary responsibility for compliance with both the federal and state standards and for ensuring that air quality conditions are maintained. They do this through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues.

Activities of the SJVAPCD include the preparation of plans for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations concerning sources of air pollution, issuance of permits for stationary sources of air pollution (i.e., Authority to Construct and Permit to Operate), inspection of stationary sources of air pollution and response to citizen complaints, monitoring of ambient air quality and meteorological conditions, and implementation of programs and regulations required by the Federal Clean Air Act and California Clean Air Act.

The SJVAPCD has prepared the *2007 Ozone Plan* to achieve Federal and State standards for improved air quality in the SJVAB regarding ozone. The *2007 Ozone Plan* provides a comprehensive list of regulatory and incentive-based measures to reduce emissions of ozone and particulate matter precursors throughout the SJVAB. The *2007 Ozone Plan* calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution. The *2007 Ozone Plan* calls for a 75-percent reduction in ozone-forming oxides of nitrogen emissions.

The SJVAPCD has also prepared the *2007 PM₁₀ Maintenance Plan and Request for Redesignation* (2007 PM₁₀ Plan). On April 24, 2006, the SJVAPCD submitted a Request for Determination of PM₁₀ Attainment for the Basin to the California Air Resources Board (CARB). CARB concurred with the request and submitted the request to the U.S. EPA on May 8, 2006. On October 30, 2006, the EPA issued a Final Rule determining that the Basin had attained the National Ambient Air Quality Standards (NAAQS) for PM₁₀. However, the EPA noted that the Final Rule did not constitute a

redesignation to attainment until all of the Federal Clean Air Act requirements under Section 107(d)(3) were met.

The SJVAPCD has prepared the *2008 PM_{2.5} Plan* to achieve Federal and State standards for improved air quality in the San Joaquin Valley Air Basin. The *2008 PM_{2.5} Plan* provides a comprehensive list of regulatory and incentive-based measures to reduce PM_{2.5}.

In addition to the *2007 Ozone Plan*, the *2008 PM_{2.5} Plan*, and the *2007 PM₁₀ Plan*, the SJVAPCD prepared the *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). The GAMAQI is an advisory document that provides Lead Agencies, consultants, and project applicants with analysis guidance and uniform procedures for addressing air quality impacts in environmental documents. Local jurisdictions are not required to utilize the methodology outlined therein. This document describes the criteria that SJVAPCD uses when reviewing and commenting on the adequacy of environmental documents. It recommends thresholds for determining whether or not projects would have significant adverse environmental impacts, identifies methodologies for predicting project emissions and impacts, and identifies measures that can be used to avoid or reduce air quality impacts. An update of the GAMAQI was approved on March 19, 2015, and is used as a guidance document for this analysis.

The GAMAQI notes that, for CEQA purposes, a sensitive receptor is generically defined as a location where human populations, especially children, seniors, and sick persons are found, and there is reasonable expectation of continuous human exposure according to the averaging period for the Ambient Air Quality Standards (e.g., 24-hour, 8-hour, 1-hour). These typically include residences, hospitals, and schools. Locations of sensitive receptors may or may not correspond with the location of the maximum off-site concentration. The sensitive receptors in the vicinity of the project site include single-family residences located north, east, south, and west of the site.

Responses to Checklist Questions

Responses a)-b) Less than Significant. Air quality emissions would be generated during construction of the proposed project. However, unlike a typical development project, this proposed parking lot project does not have a traditional daily trip generation associated with project operations. Vehicle trips to and from the proposed parking lot would be limited exclusively to residents, and possibly visitors, to the Valpico Apartments project, located immediately adjacent to the project site. Operational air quality emissions associated with the Valpico Apartments projects have already been analyzed under CEQA. The proposed project would not generate any new or modified vehicle trips. The proposed project would simply provide for additional parking spaces for an already-approved project. As such, there are no air quality impacts associated with project operations. Further discussion of construction-related air quality impacts is provided below.

The SJVAPCD's approach to analysis of construction impacts is to require implementation of effective and comprehensive control measures, rather than to require detailed quantification of emission concentrations for modeling of direct impacts. PM₁₀ emitted during construction can vary greatly depending on the level of activity, the specific operations taking place, the equipment being operated, local soils, weather conditions, and other factors, making quantification difficult. Despite this variability in emissions, experience has shown that there are a number of feasible control measures that can be reasonably implemented to significantly reduce PM₁₀ emissions from construction activities. The SJVAPCD has determined that, on its own, compliance with Regulation VIII for all sites and implementation of all other control measures indicated in Tables 6-2 and 6-3 of the SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (as

appropriate) would constitute sufficient mitigation to reduce construction PM₁₀ impacts to a level considered less than significant.

Construction would result in numerous activities that would generate dust. The fine, silty soils in the project area and often strong afternoon winds exacerbate the potential for dust, particularly in the summer months. Impacts would be localized and variable. Construction impacts would last for a period of a few weeks to a few months. The initial phase of project construction would involve grading and site preparation activities, followed by paving. Construction activities that could generate dust and vehicle emissions are primarily related to grading, soil excavation, and other ground-preparation activities.

Control measures are required and enforced by the SJVAPCD under Regulation VIII. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM₁₀ fugitive dust rules and equipment exhaust emissions controls are implemented. The proposed project would be required to comply with all applicable measures from SJVAPCD Rule VIII. Therefore, the proposed project would have a ***less than significant*** impact related to the potential to conflict with or obstruct implementation of the applicable air quality plan, or to result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

Response c): Sensitive receptors are those parts of the population that can be severely impacted by air pollution. Sensitive receptors include children, the elderly, and the infirm. The closest sensitive receptor is the Tom Hawkins Elementary School located approximately 0.5 miles south of the project site. As noted above, the only new emissions that would be generated by the proposed project would be short-term, temporary emissions associated with site grading and paving during the construction phase. The project would not increase vehicle travel, vehicle trips, or vehicle miles travelled.

The construction phase of the project would be temporary and short-term, and the implementation of all State, Federal, and SJVAPCD requirements would greatly reduce pollution concentrations generated during construction activities. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM₁₀ fugitive dust rules and equipment exhaust emissions controls are implemented. The proposed project would be required to comply with all applicable measures from SJVAPCD Rule VIII. Therefore, dust from construction of the proposed project would be reduced and would be consistent with SJVAPCD guidance on this topic.

Therefore, implementation of the proposed project would not expose these sensitive receptors to substantial pollutant concentrations. The proposed project would not generate significant concentrations of air emissions. Therefore, impacts to sensitive receptors would be negligible and this is a ***less than significant*** impact.

Response d) The proposed project would not generate objectionable odors that would adversely affect substantial numbers of people. People in the immediate vicinity of construction activities may be subject to temporary odors typically associated with construction activities (diesel exhaust, hot asphalt, etc.). However, any odors generated by construction activities would be minor and would be short and temporary in duration. Additionally, as previously described under Response c), the proposed project is not anticipated to increase operational air emissions on this community, since average daily traffic (ADT) is not anticipated to increase along the nearest roadways due to implementation of the proposed project.

Examples of facilities that are known producers of operational odors include: Wastewater Treatment Facilities, Chemical Manufacturing, Sanitary Landfill, Fiberglass Manufacturing, Transfer Station, Painting/Coating Operations (e.g. auto body shops), Composting Facility, Food Processing Facility, Petroleum Refinery, Feed Lot/Dairy, Asphalt Batch Plant, and Rendering Plant. If a project would locate receptors and known odor sources in proximity to each other further analysis may be warranted; however, if a project would not locate receptors and known odor sources in proximity to each other, then further analysis is not warranted.

The project does not include any of the aforementioned uses. Additionally, construction activities would be temporary and minor, and average daily traffic along the roadways nearest to the neighboring residential communities not increase compared to the existing condition. As such, implementation of the proposed project would have a ***less than significant*** impact relative to this topic.

IV. BIOLOGICAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

Responses to Checklist Questions

Responses a) Less than Significant. No special-status species are expected to be affected by the proposed project. The project involves the expansion of the parking area of the Valpico Glenbriar Apartments currently under construction, immediately adjacent to the west of the project site, within a highly urbanized area of the City of Tracy.

The site consists of a small portion of the fenced-in area of a residential backyard. The site has been highly disturbed and is void of native vegetation and natural habitat. The site is not suitable to support any protected or special-status species. Therefore, this is a ***less than significant*** impact.

Responses b) No Impact. There is no riparian habitat or other sensitive natural communities located on the project site. As such, the proposed project would have ***no impact*** on these resources, and no mitigation is required.

Responses c) No Impact. A wetland is an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal

circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are defined by regulatory agencies as having special vegetation, soil, and hydrology characteristics. Hydrology, or water inundation, is a catalyst for the formation of wetlands. Frequent inundation and low oxygen causes chemical changes to the soil properties resulting in what is known as hydric soils. The prevalent vegetation in wetland communities consists of hydrophytic plants, which are adapted to areas that are frequently inundated with water. Hydrophytic plant species have the ability to grow, effectively compete, reproduce, and persist in low oxygen soil conditions.

Below is a list of wetlands that are found in the Tracy planning area:

- **Farmed Wetlands:** This category of wetlands includes areas that are currently in agricultural uses. This type of area occurs in the northern portion of the Tracy Planning Area.
- **Lakes, Ponds and Open Water:** This category of wetlands includes both natural and human-made water bodies such as that associated with working landscapes, municipal water facilities and canals, creeks and rivers.
- **Seasonal Wetlands:** This category of wetlands includes areas that typically fill with water during the wet winter months and then drain enough to become ideal plant habitats throughout the spring and summer. There are numerous seasonal wetlands throughout the Tracy Planning Area.
- **Tidal Salt Ponds and Brackish Marsh:** This category of wetlands includes areas affected by irregular tidal flooding with generally poor drainage and standing water. There are minimal occurrences along some of the larger river channels in the northern portion of the Tracy Planning Area.

There are no wetlands located on the project site. Therefore, there is **no impact** and no mitigation is required.

Responses d) Less than Significant. The California Natural Diversity Data Base (CNDDB) record search did not reveal any documented wildlife corridors or wildlife nursery sites on or adjacent to the project site. Furthermore, the field survey did not reveal any wildlife corridors or wildlife nursery sites on or adjacent to the project site. Implementation of the proposed project would have a **less than significant**. No mitigation is necessary.

Responses e), f) Less than Significant. The proposed project is classified as Urban Habitat under the SJMSCP. The City of Tracy and the project applicant have consulted with SJCOG and agreed to allow coverage of the project pursuant to the SJMSCP. SJCOG staff has determined that the proposed project is consistent with the SJMSCP and coverage under the plan has been obtained. Therefore, this is a **less than significant** impact and no additional mitigation is required.

V. CULTURAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource pursuant to '15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?			X	
c) Disturb any human remains, including those interred outside of formal cemeteries?			X	

Responses to Checklist Questions

Response a) - c): Less than Significant. A review of literature maintained by the Central California Information Center of the California Historical Resources Information System at California State University, Stanislaus identified that no previously identified prehistoric period cultural resources are known within, or within a 0.25-mile radius of the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site.

Furthermore, the location of the project site indicates that it and the surrounding area have been previously excavated. The project site is currently developed with a single-family residence and surrounded by existing or future urban development. No cultural, historical, or archaeological resources are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project. Therefore, project implementation would have a ***less than significant*** impact relative to this topic

VI. ENERGY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X	

Responses to Checklist Questions

Responses a)-b) Less than Significant. Appendix F of the State CEQA Guidelines requires consideration of the potentially significant energy implications of a project. CEQA requires mitigation measures to reduce “wasteful, inefficient and unnecessary” energy usage (Public Resources Code Section 21100, subdivision [b][3]). According to Appendix F of the CEQA Guidelines, the means to achieve the goal of conserving energy include decreasing overall energy consumption, decreasing reliance on natural gas and oil, and increasing reliance on renewable energy sources. In particular, the proposed project would be considered “wasteful, inefficient, and unnecessary” if it were to violate state and federal energy standards and/or result in significant adverse impacts related to project energy requirements, energy inefficiencies, energy intensiveness of materials, cause significant impacts on local and regional energy supplies or generate requirements for additional capacity, fail to comply with existing energy standards, otherwise result in significant adverse impacts on energy resources, or conflict or create an inconsistency with applicable plan, policy, or regulation.

The proposed project consists of a lot line adjustment in order to expand the parking area for the Valpico apartment site that is currently under construction. The proposed project will result in approximately 25 additional standard parking spaces, in addition to the development of a maintenance building. Existing utilities will be extended to the new building location. The amount of operational energy used at the project site would directly correlate to the amount of outdoor lighting and landscape equipment. Operational energy would be negligible as the project does not propose uses that would increase energy use, trip generation, or VMT's. Overall, proposed project energy consumption would be temporary and minor, given the nature of the proposed project (a parking lot extension with installation of a maintenance building), and given the size and scope of proposed project activities.

The proposed project would comply with all existing energy standards, including those established by the City of Tracy and San Joaquin County, and would not result in significant adverse impacts on energy resources. Therefore, the proposed project would not be expected cause an inefficient, wasteful, or unnecessary use of energy resources nor cause a significant impact on any of the threshold as described by Appendix G of the CEQA Guidelines. This is a **less than significant** impact.

VII. GEOLOGY AND SOILS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X

Responses to Checklist Questions

Responses a.i)-a.ii) Less than Significant. The project site is located in an area of low to moderate seismicity. No known active faults cross the project site, and the site is not located within an Alquist-Priolo Earthquake Fault Zone; however, relatively large earthquakes have historically occurred in the Bay Area and along the margins of the Central Valley. Many earthquakes of low magnitude occur every year in California. The nearest earthquake fault zoned as active by the State of California Geological Survey is the Black Butte fault, located approximately 2.7 miles southwest of the site.

The Tracy area has a low-to-moderate seismic history. The largest recorded measurable magnitude earthquake in Tracy measured 3.9 on the Richter scale. The greatest potential for significant ground shaking in Tracy is believed to be from maximum credible earthquakes occurring on the Calaveras, Hayward, San Andreas, or Greenville faults. Further seismic activity can be expected to continue along the western margin of the Central Valley, and as with all projects in the area, the Project will be designed to accommodate strong earthquake ground shaking, in compliance with the applicable California building code standards.

Other faults capable of producing ground shaking at the site include the San Joaquin fault, 6.7 miles southwest; the Midway fault, 6.9 miles southwest; and the Corral Hollow-Carnegie fault, 10.7 miles southwest of the site. Any one of these faults could generate an earthquake capable of causing strong ground shaking at the subject site. Earthquakes of Moment Magnitude (M_w) 7 and larger have historically occurred in the region and numerous small magnitude earthquakes occur every year.

Since there are no known active faults crossing the project site and the site is not located within an Earthquake Fault Special Study Zone, the potential for ground rupture at the site is considered low.

An earthquake of moderate to high magnitude generated within the San Francisco Bay Region and along the margins of the central valley could cause considerable ground shaking at the site, similar to that which has occurred in the past. In order to minimize potential damage to the proposed project caused by groundshaking, all construction would comply with the latest California Building Code standards, as required by the City of Tracy Municipal Code 9.04.030.

Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead-and-live loads. The code-prescribed lateral forces are generally considered to be substantially smaller than the comparable forces that would be associated with a major earthquake. Therefore, structures should be able to: (1) resist minor earthquakes without damage, (2) resist moderate earthquakes without structural damage but with some nonstructural damage, and (3) resist major earthquakes without collapse but with some structural as well as nonstructural damage.

Implementation of the California Building Code standards, which include provisions for seismic building designs, would ensure that impacts associated with groundshaking would be less than significant. Building new structures for human use would increase the number of people exposed to local and regional seismic hazards. Seismic hazards are a significant risk for most property in California.

The Safety Element of the Tracy General Plan includes several goals, objectives and policies to reduce the risks to the community from earthquakes and other geologic hazards. In particular, the following policies would apply to the project site:

SA-1.1, Policy P2: Geotechnical reports shall be required for development in areas where potentially serious geologic risks exist. These reports should address the degree of hazard, design parameters for the project based on the hazard, and appropriate mitigation measures.

SA-1.2, Policy P1: All construction in Tracy shall conform to the California Building Code and the Tracy Municipal Code including provisions addressing unreinforced masonry buildings.

The City reviews all proposed projects for consistency with the General Plan policies and California Building Code provisions identified above, as applicable. This review occurs throughout the project application review and processing stage, and throughout plan check and building inspection phases prior to the issuance of a certificate of occupancy. Since the majority of work under the scope of this project involves roadway and bridges, the relevant Caltrans, state, and FHWA codes and requirements will be enforced.

Consistency with the requirements of the California Building Code and the Tracy General Plan policies identified above would ensure that impacts on humans associated with seismic hazards would be *less than significant*.

Responses a.iii), c), d): Liquefaction normally occurs when sites underlain by saturated, loose to medium dense, granular soils are subjected to relatively high ground shaking. During an earthquake, ground shaking may cause certain types of soil deposits to lose shear strength, resulting in ground settlement, oscillation, loss of bearing capacity, landsliding, and the buoyant rise of buried structures. The majority of liquefaction hazards are associated with sandy soils, silty soils of low plasticity, and some gravelly soils. Cohesive soils are generally not considered to be susceptible to liquefaction. In general, liquefaction hazards are most severe within the upper 50 feet of the surface, except where slope faces or deep foundations are present.

Expansive soils are those that undergo volume changes as moisture content fluctuates; swelling substantially when wet or shrinking when dry. Soil expansion can damage structures by cracking foundations, causing settlement and distorting structural elements. Expansion is a typical characteristic of clay-type soils. Expansive soils shrink and swell in volume during changes in moisture content, such as a result of seasonal rain events, and can cause damage to foundations, concrete slabs, roadway improvements, and pavement sections.

Soil expansion is dependent on many factors. The more clayey, critically expansive surface soil and fill materials will be subjected to volume changes during seasonal fluctuations in moisture content. According to the City of Tracy General Plan Draft EIR, portions of the Tracy Planning Area have a moderate to high risk for expansive soils. The General Plan EIR indicates that with the implementation of objectives, policies, and actions from the General Plan Safety Element, this potentially significant impact would be reduced to a *less than significant* level. It is further noted that the project would not introduce new people or habitable structures to the site. There would be no risk related to this topic associated with the construction of a parking lot and maintenance shed.

Responses a.iv): The project site is relatively flat. According to the City's General Plan EIR, the landslide risk in Tracy is low in most areas. In the wider Tracy Planning Area, some limited potential for risk exists for grading and construction activities in the foothills and mountain terrain of the upland areas in the southwest. The potential for small scale slope failures along river banks also exists. The project site is not located in the foothills, mountain terrain, or along a river bank. As such, the project site is exposed to little or no risk associated with landslides. This is a *less than significant* impact and no mitigation is required.

Responses b): According to the project site plans prepared for the proposed project, development of the proposed project would result in the creation of new impervious surface areas in portions of the project site. The development of the project site would also cause ground disturbance of top soil. The ground disturbance would be limited to the areas proposed for grading and excavation. During any construction and land preparation processes within the Project site, exposed surfaces could be susceptible to erosion from wind and water. Effects from

erosion include impacts on water quality and air quality. Exposed soils that are not properly contained or capped increase the potential for increased airborne dust and increased discharge of sediment and other pollutants into nearby stormwater drainage facilities. Risks associated with erosive surface soils can be reduced by using appropriate controls during construction and properly re-vegetating exposed areas. The implementation of various dust control measures during site preparation and construction activities would reduce the potential for soil erosion and the loss of topsoil. Additionally, once the grading activities are completed, the site would immediately be paved, which would cap any exposed soil and eliminate the potential for erosion. Therefore, the impact is *less than significant*.

Response e): The proposed project would not require the use of septic tanks or alternative waste water disposal systems for the disposal of waste water. Implementation of the proposed project would result in *no impact* relative to this topic.

Response f): Known paleontological resources or sites are not located on the project site. Additionally, unique geologic features are not located on the site. The site is currently developed with a single-family residence and surrounded by existing or future urban development. No paleontological resources or geologic features are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project. Therefore, *no impact* would occur.

VIII. GREENHOUSE GAS EMISSIONS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?			X	

Responses to Checklist Questions

Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation.

Naturally occurring greenhouse gases include water vapor (H₂O), carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and ozone (O₃). Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but they are, for the most part, solely a product of industrial activities. Although the direct greenhouse gases CO₂, CH₄, and N₂O occur naturally in the atmosphere, human activities have changed their atmospheric concentrations. From the pre-industrial era (i.e., ending about 1750) to 2011, concentrations of these three greenhouse gases have increased globally by 40, 150, and 20 percent, respectively (Intergovernmental Panel on Climate Change [IPCC], 2013).

Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO₂), methane (CH₄), ozone (O₃), water vapor, nitrous oxide (N₂O), and chlorofluorocarbons (CFCs).

The emissions from a single project will not cause global climate change, however, GHG emissions from multiple projects throughout the world could result in a cumulative impact with respect to global climate change. Therefore, the analysis of GHGs and climate change presented in this section is presented in terms of the proposed project's contribution to cumulative impacts and potential to result in cumulatively considerable impacts related to GHGs and climate change.

Cumulative impacts are the collective impacts of one or more past, present, and future projects that, when combined, result in adverse changes to the environment. In determining the significance of a proposed project's contribution to anticipated adverse future conditions, a lead agency should generally undertake a two-step analysis. The first question is whether the *combined* effects from *both* the proposed project *and* other projects would be cumulatively significant. If the agency answers this inquiry in the affirmative, the second question is whether "the proposed project's *incremental* effects are cumulatively considerable" and thus significant in and of themselves. The cumulative project list for this issue (climate change) comprises anthropogenic (i.e., human-made) GHG emissions sources across the globe and no project alone would reasonably be expected to contribute to a noticeable incremental change to the global

climate. However, legislation and executive orders on the subject of climate change in California have established a statewide context and process for developing an enforceable statewide cap on GHG emissions. Given the nature of environmental consequences from GHGs and global climate change, CEQA requires that lead agencies consider evaluating the cumulative impacts of GHGs. Small contributions to this cumulative impact (from which significant effects are occurring and are expected to worsen over time) may be potentially considerable and, therefore, significant.

Significance Thresholds

Governor's Office of Planning and Research's (OPR's) Guidance does not include a quantitative threshold of significance to use for assessing a project's GHG emissions under CEQA. Moreover, the California Air Resources Board (CARB) has not established such a threshold or recommended a method for setting a threshold for project-level analysis. In the absence of a consistent statewide threshold, a threshold of significance for analyzing the project's GHG emissions was developed. The issue of setting a GHG threshold is complex and dynamic, especially in light of the California Supreme Court decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (referred to as the Newhall Ranch decision hereafter). The California Supreme Court ruling also highlighted the need for the threshold to be tailored to the specific project type, its location, and the surrounding setting. Therefore, the threshold used to analyze the project is specific to the analysis herein and the City retains the ability to develop and/or use different thresholds of significance for other projects in its capacity as lead agency and recognizing the need for the individual threshold to be tailored and specific to individual projects.

The SJVAPCD provides guidance for addressing GHG emissions under CEQA. The SJVAPCD requires quantification of GHG emissions for all projects which the lead agency has determined that an EIR is required. Although an EIR is not required for the proposed project, the GHG emissions are quantified below, followed by a consistency analysis with the SJCOG RTP/SCS.

Responses to Checklist Questions

Responses a) and b):

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors. Therefore, the cumulative global emissions of GHGs contributing to global climate change can be attributed to every nation, region, and city, and virtually every individual on Earth. A project's GHG emissions are at a micro-scale relative to global emissions, but could result in a cumulatively considerable incremental contribution to a significant cumulative macro-scale impact. Implementation of the proposed project would contribute to increases of GHG emissions that are associated with global climate change. Estimated GHG emissions attributable to future development would be primarily associated with increases of CO₂ and other GHG pollutants, such as CH₄ and N₂O, from construction. These construction GHG emissions are a one-time release and are comparatively much lower than emissions associated with operational phases of a project. Cumulatively, these construction emissions would not generate a significant contribution to global climate change.

As noted previously, the proposed parking lot expansion would not result in operational emissions, given that the project would not increase vehicle trips or vehicle miles travelled. The only GHG emissions that would be emitted by the proposed project would occur during the relatively short construction phase. These emissions would be negligible, and would not contribute to global climate change. This is a less than significant impact.

IX. HAZARDS AND HAZARDOUS MATERIALS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?			X	

Responses to Checklist Questions

Responses a)-c) No Impact. The proposed project would not involve the use of any hazardous materials. There would be no hazardous materials used, stored or transported as a result of project implementation. The project is a residential parking lot. There is **no impact**.

Response d) No Impact. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, project implementation would have **no impact** relative to this topic.

Response e) No Impact. The Federal Aviation Administration (FAA) establishes distances of ground clearance for take-off and landing safety based on such items as the type of aircraft using the airport.

The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Mobility and Housing Division of the City Manager's Office. The City of Tracy

adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The probability of an aircraft accident is highest along the extended runway centerline, and within one mile of the runway end. The Airport Master Plan designates four safety zones in which land use restrictions apply due to proximity to the airport:

1. Runway Protection Zone (RPZ)
2. Inner Approach Zone (PAZO)
3. Outer Approach Zone (OAZ)
4. Overflight Zone (OZ)

Land use constraints in these four zones become progressively less restrictive from the RPZ to the OZ. The proposed project is not located in any of these four safety zones. The proposed project is not within the Tracy Airport zone, nor is it within any area identified as impacted by the Tracy Municipal Airport in the San Joaquin County Airport Land Use Compatibility Plan (i.e. it is not within the Airport Influence Area). Therefore, **no impact** associated with private airstrips and airport land use plans would occur.

Response f) No Impact. The project site currently connects to an existing network of City streets. The proposed parking area expansion would allow for greater emergency access relative to existing conditions. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, there is **no impact** relative to this topic.

Response g) Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point. The project would not result in development of structures or housing which would subject residents, visitors, or workers to long-term wildfire danger. Therefore, impacts from project implementation would be considered **less than significant** relative to this topic.

X. HYDROLOGY AND WATER QUALITY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X	
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:			X	
(i) result in substantial erosion or siltation on- or off-site;			X	
(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;			X	
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems to provide substantial additional sources of polluted runoff; or			X	
(iv) impede or redirect flood flows?			X	
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?				X
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X	

Responses to Checklist Questions

Responses a), c(i) – c(iv)) Less than Significant. The proposed project does not contain any drainage connectivity to Waters of the US, nor is it located within a flood plain or flood hazard zone. The proposed project would not generate wastewater which would require treatment. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan and the previously-approved Valpico Glenbriar Apartments project.

In order to ensure that stormwater runoff from the project site does not adversely increase pollutant levels in adjacent surface waters, or exceed the capacity of the City's nearby stormwater conveyance infrastructure, the project is required to adhere to the standards and requirements contained in Chapter 11.34 of the Tracy Municipal Code – Stormwater Management and Discharge Control. A technical memo addressing the proposed project's stormwater design requirements was prepared (MacKay & Somps Civil Engineers, Inc., March 16, 2022). As noted in the technical memo, the stormwater infiltration trench facilities for the adjacent Valpico

Glenbriar Apartments project were sized for the 100-year, 24-hour storm event based on the City of Tracy's criteria for volume-based stormwater quality treatment. Relative to overall development of the adjacent apartment project, this additional proposed parking area adds less than 3% new impervious surface area of the previously-approved project. The addition of the proposed parking area increases the design surface water elevation in the infiltration trench by only 0.2', which is a negligible increase. This minor increase in water surface elevation meets the water quality requirements for the City of Tracy with no additional infrastructure, and is already included in Operation and Maintenance agreements between the developer and the City. On July 20, Wood Rogers, hired by the City, published a Technical Memorandum to evaluate the apartments' storm drainage system's capacity to accommodate the expanded parking area. Wood Rogers evaluated the storm drainage system's design and concluded that the expanded parking area would increase the risk of overland release, as designed, onto the adjacent parcel; and the potential hazard associated with this overland release is negligible.

Implementation of the proposed project would result in a *less than significant* impact relative to this topic.

Responses b) and e) Less than Significant. The proposed project would not require ground water supplies, and would not interfere with groundwater recharge. The project area is not located within a key groundwater recharge area, and would introduce a negligible increase in impervious surfaces. As such, impacts from project implementation would be *less than significant* relative to this topic.

Response d) No Impact. The project site is not within a 100-year or 200-year flood zone as delineated by FEMA. The project site is not within a tsunami or seiche zone. Development of the proposed project would not place housing or structures in a flood hazard area. Therefore, *no impact* from project implementation relative to flood hazard, tsunami, or seiche zones would occur.

XI. LAND USE AND PLANNING

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?				X
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

Responses to Checklist Questions

Response a) No Impact. The project site would result in the expansion of the parking area for the Valpico Glenbriar Apartments, located immediately west of the project site. Development of the project would not result in any physical barriers, such as a wall, or other division, that would divide an existing community, but would serve as an orderly extension of a planned parking area. The project would have **no impact** in regards to the physical division of an established community.

Response b) Less than Significant. The key planning documents that are directly related to, or that establish a framework within which the proposed project must be consistent, include:

- City of Tracy General Plan; and
- City of Tracy Zoning Ordinance.

The project site is currently designated Commercial by the City of Tracy General Plan Land Use Map and is zoned Community Shopping Center (CS). The project applicant is requesting a Rezone to amend the existing zoning designation for a portion of APN 246-140-080 from CS to High Density Residential (HDR). In addition, the project applicant is requesting a General Plan Amendment to change the current designation from "Commercial" to "Residential High" for a portion of APN 246-140-080. The proposed parking area is consistent with the "Residential High" designation.

The proposed Project would not conflict with any goals, policies, or implementing actions contained within the General Plan or other regulations adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, impacts to land use compatibility would be **less than significant**

XII. MINERAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Responses to Checklist Questions

Response a)-b) No Impact. As described in the Tracy General Plan EIR, the main mineral resources found in San Joaquin County, and the Tracy Planning Area, are sand and gravel (aggregate), which are primarily used for construction materials such as asphalt and concrete. According to the California Geological Survey (CGS) evaluation of the quality and quantity of these resources, the most marketable aggregate materials in San Joaquin County are found in three main areas:

- In the Corral Hollow alluvial fan deposits south of Tracy;
- Along the channel and floodplain deposits of the Mokelumne River; and
- Along the San Joaquin River near Lathrop.

Figure 4.8-1 of the General Plan EIR identifies Mineral Resource Zones (MRZs) throughout the Tracy Planning Area. The project site is located within an area designated as MRZ-3. The MRZ-3 designation applies to areas containing mineral deposits the significance of which cannot be evaluated from available data. There are no substantial aggregate materials located within the project site. Therefore, the project would not result in the loss of availability of a known mineral resource or locally-important mineral resources recovery site. Therefore, there is ***no impact*** related to mineral resources.

XIII. NOISE

<i>Would the project result in:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generation of a temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Generation of excessive groundborne vibration or groundborne noise levels?			X	
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	

Responses to Checklist Questions

Responses a) Less than Significant. The proposed project is located in an area consisting predominately of residential land uses, with some limited commercial uses nearby as well. The primary sources of noise currently present in the project area are from vehicle traffic along MacArthur Drive and Valpico Road.

Operation of the proposed parking lot would not result in an increase in traffic on area roadways. Traffic noise associated with the adjacent Valpico Apartments project would not increase as a result of approval and operation of the proposed project. Additionally, the proposed project not not introduce new sensitive receptors to the area.

Construction activities have the potential to create temporary, or periodic increases in ambient noise levels in the project vicinity above levels existing without the project. During the construction stage of the project, noise from construction activities would add to the noise environment in the project vicinity. Construction activities would include the use of heavy equipment including grading and compacting that can generate noise. Noise would also be generated during the construction phase by increased truck traffic on area roadways. This noise increase would be of short duration and would occur primarily during daytime hours.

Table 1 provides a list of the types of equipment which may be associated with construction activities and the associated noise levels. The nearest residential receptors would be located roughly 27 feet or further from construction activities.

Table 1: Construction Equipment Noise

Type of Equipment	Predicted Noise Level (L _{max} Db)				Distances To Noise Contours (Feet)	
	Noise Level At 50'	Noise Level At 100'	Noise Level At 50'	Noise Level At 100'	Noise Level At 50'	Noise Level At 100'
Backhoe	78	72	66	60	126	223
Compactor	83	77	71	65	223	397
Compressor (air)	78	72	66	60	126	223
Dozer	82	76	70	64	199	354
Dump Truck	76	70	64	58	100	177
Excavator	81	75	69	63	177	315
Generator	81	75	69	63	177	315

SOURCE: ROADWAY CONSTRUCTION NOISE MODEL USER'S GUIDE. FEDERAL HIGHWAY ADMINISTRATION. FHWA-HEP-05-054. JANUARY 2006.

Noise sensitive receptors near the construction site would, at times, experience elevated noise levels from construction activities; however, construction-related noise generally would occur during daytime hours only. General Plan Noise Element Policy 4 (Goal N-1.2) establishes the following construction requirements:

All construction in the vicinity of noise sensitive land uses, such as residences, hospitals, or convalescent homes, shall be limited to daylight hours or 7:00 a.m. to 7:00 p.m. In addition, the following construction noise control measures shall be included as requirements at construction sites to minimize construction noise impacts:

- *Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.*
- *Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction area.*
- *Utilize "quiet" air compressors and other stationary noise sources where technology exists.*

Implementation of these required measures (i.e., engine muffling, placement of construction equipment, and strategic stockpiling and staging of construction vehicles), and compliance with the City Municipal Code requirements, would serve to further reduce exposure to construction noise levels. Adherence to City's General Plan, as well as City Municipal Code Title 4.12, Article 9 (Noise Control Ordinance), would minimize any impacts from noise during construction. Requirements stated above are adopted by the City as Conditions of Approval (COAs) for all new projects prior to project approval

Therefore, implementation of the proposed project would have a ***less than significant*** impact relative to this topic.

Responses b) Less than Significant. No major stationary sources of groundborne vibration were identified in the project area that would result in the long-term exposure of proposed onsite land uses to unacceptable levels of ground vibration. In addition, the proposed project would not involve the use of any major equipment or processes that would result in potentially significant levels of ground vibration that would exceed these standards at nearby existing land uses. However, construction activities associated with the proposed project would require the use of

various tractors, trucks, and potentially jackhammers that could result in intermittent increases in groundborne vibration levels. The use of major groundborne vibration-generating construction equipment/processes (i.e., blasting, pile driving) is not anticipated to be required for construction of the proposed project.

Groundborne vibration levels commonly associated with construction equipment are summarized in Table 2.

Table 2: Representative Vibration Source Levels for Construction Equipment

<i>EQUIPMENT</i>	<i>PEAK PARTICLE VELOCITY AT 25 FEET (IN/SEC)</i>
Large Bulldozers	0.089
Loaded Trucks	0.076
Jackhammer	0.035
Small Bulldozers	0.003

SOURCE: FTA 2006, CALTRANS 2004.

Based on the levels presented in Table 2, groundborne vibration generated by construction equipment would not be anticipated to exceed approximately 0.09 inches per second ppv at 25 feet. Predicted vibration levels would not be anticipated to exceed recommended criteria for structural damage and human annoyance (0.2 and 0.1 in/sec ppv, respectively) at nearby land uses. As a result, short-term groundborne vibration impacts would be considered ***less than significant*** and no mitigation is required.

Response c) Less than Significant. The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Mobility and Housing Division of the City Manager's Office. The City of Tracy adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The San Joaquin County Airport Land Use Plan establishes noise contours surrounding the Tracy Municipal Airport. As shown on Figure 4.14-3 of the Tracy General Plan Final Supplemental EIR (Certified on February 1, 2011), the project site is located outside of both the 65 dBCNEL and the 60 dBCNEL noise contours for the Tracy Municipal Airport. As such, the project site would not be exposed to excessive noise from the Tracy Municipal Airport. This is a ***less than significant*** impact, and no mitigation is required.

XIV. POPULATION AND HOUSING

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X

Responses to Checklist Questions

Response a) Less than Significant. The project does not propose any housing that would result in direct population growth. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan. The project will expand the parking area for the Valpico Glenbriar Apartments. No population increases would result from implementation of the proposed project. Therefore, implementation of the proposed project would have a ***less than significant*** impact relative to this topic.

Response b) No Impact. The project site is located within the Tracy City limit. The proposed project would not displace housing or people. Implementation of the proposed project would have ***no impact*** relative to this topic.

XV. PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?				X
ii) Police protection?				X
iii) Schools?				X
iv) Parks?				X
v) Other public facilities?				X

Responses to Checklist Questions

Responses ai), aii), aiii), aiv): The project site is currently under the jurisdiction of the South San Joaquin County Fire Authority. The proposed project would not include additional residential units, or people to the City of Tracy. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan or previously-approved projects. No additional demand for fire protection would be created by the project. Therefore, implementation of the proposed project will have **no impact** to this topic.

The project site is currently under the jurisdiction of the Tracy Police Department. The proposed project would not include additional residential units, or add people to the City of Tracy. The proposed project would not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan or previously-approved projects. No additional demand for police protection would be created by the project. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

Schools within the City of Tracy are part of the Tracy Unified School District. The proposed project does not include any residential units, or any other type of use that would directly, or indirectly increase the student population in the area. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

The proposed project does not include any residential units or any other type of use that would directly, or indirectly increase the population, or park demand in the area, or include any other type of use that would directly increase the park needs. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan. Therefore, the proposed project would not have the potential to require construction of additional park and recreational facilities which may cause substantial adverse physical environmental impacts. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

XVI. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Responses to Checklist Questions

Response a)-b) No Impact. The proposed project does not include any residential units or any other type of use that would increase the population, or park and recreation facility demand in the area, or include any other type of use that would directly increase the use of park and recreation facilities. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan. Therefore, the proposed project would not significantly increase the use of existing facilities. Furthermore, it is not anticipated that any substantial physical deterioration of existing facilities would occur, or be accelerated. Implementation of the proposed project would have a **no impact** relative to this topic.

XVII. TRANSPORTATION

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?				X
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?				X
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
d) Result in inadequate emergency access?			X	

Responses to Checklist Questions

Response a) No Impact. No new residential structures, uses, or visitor serving areas are included in the project. Therefore, the project is not expected to result in any increase in vehicle trips within the area. The project would not result in any changes to roadway configurations or driveway access points for the approved Valpico Glenbriar Apartments Project, nor would the project conflict with any adopted plans or programs, nor would it interfere with any transit, roadway, bicycle or pedestrian facilities. The temporary gates restricting access to the future Glenbriar Drive through the project site will be removed and all improvements consistent with City standards prior to acceptance of Glenbriar Drive as a public right-of-way. There is **no impact** relative to this topic.

Response b) No Impact. The proposed project would not add any new vehicle trips to any area roadways, nor would it increase the length of any existing or future vehicle trips. No change in VMT would occur as a result of project implementation. The project would simply add additional parking spaces to a previously-approved project. There is **no impact**.

Response c) and d) Less than Significant. No site circulation or access issues have been identified that would cause a traffic safety problem/hazard or any unusual traffic congestion or delay that could impede emergency vehicles or emergency access. The project does not include any design features or incompatible uses that pose a significant safety risk. The project would create no adverse impacts to emergency vehicle access or circulation. Therefore, project implementation would have a **less than significant** impact relative to this topic.

XVIII. TRIBAL CULTURAL RESOURCES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?			X	
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resources to a California Native American tribe.			X	

Responses to Checklist Questions

Responses a)-b) Less than Significant. Known tribal cultural resources or sites are not located on the project site. Additionally, unique geologic features are not located on the site. The site is currently developed with a single-family residence and surrounded by existing or future urban development. No tribal cultural resources or geologic features are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project.

There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. Therefore, project implementation would have a *less than significant* impact relative to this topic

XIX. UTILITIES AND SERVICE SYSTEMS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?				X
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?				X
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?				X
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reductions goals?				X
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?				X

Responses to Checklist Questions

Responses a)-e) No Impacts. The project includes the expansion of the parking area for the Valpico Glenbriar Apartments project. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the previously-approved Valpico Apartments project. No additional demand for water, wastewater, electric power, natural gas, solid waste disposal or telecommunications facilities would be created by the project. The minor increase in the amount of impervious surfaces added by the project would not require the expansion of any off-site drainage infrastructure. There are **no impacts** related to this topic.

XX. WILDFIRE

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?			X	
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X	
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X	
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X	

Response a) and d) Less than Significant. The project includes the expansion of the parking area for the Valpico Glenbriar Apartments complex. The proposed parking improvements would allow for decreased fire risk relative to existing conditions. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, nor would it expose people or structures to significant risks associated with flooding or slope failure. Therefore, impacts from project implementation would be considered *less than significant* relative to this topic.

Responses b) and c) Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point. The project would not result in development of structures or housing which would subject residents, visitors, or workers to long-term wildfire danger. The site is essentially flat, and is not surrounded by fuels or other conditions conducive to wildfire risks, and no fuel breaks or other associated wildfire infrastructure would be required. Therefore, impacts from project implementation are *less than significant* relative to this topic.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

Responses to Checklist Questions

Responses a)-c) Less than Significant. As described throughout the analysis above, the proposed project would not result in any significant impacts to the environment. The project would not result in any cumulative impacts, impacts to biological resources or impacts to cultural and/or historical resources. These are *less than significant* impacts.

REFERENCES

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City of Tracy
CEQA Negative Declaration
For Valpico Glenbriar (aka Vela) Apartments Parking Lot Expansion

Project Name: Valpico Glenbriar Apartments Parking Lot Expansion Project

Project Location: The project (expansion of the Valpico Glenbriar Apartments parking lot) site consists of approximately 13,440 square feet (just under 1/3 of an acre) located in the rear yard of the single-family home at 2625 S. MacArthur Drive, Tracy (APN 246-140-08); and the Valpico Glenbriar (Vela) Apartments, currently under construction at 351 E. Valpico Road, Tracy (APN 246-140-23).

Project Proponent: Valpico Tracy Apartments, LLC., represented by Rich Alexander, Guardian Capital.

Project Description: The project includes the construction of approximately 25 additional parking spaces for the Valpico Glenbriar apartment complex. The apartment complex (currently under construction) will enlarge its parking lot by an area of approximately 56 feet by 240 feet to the east into what is currently a portion of the vacant, rear yard of the house at 2625 S. MacArthur Drive. A proposed 880 square-foot maintenance building will also be relocated to the enlarged parking area. The project includes the following development applications: General Plan Amendment from Commercial to Residential High (GPA22-0003), Zoning Map Amendment from Community Shopping Center to High Density Residential (R22-0002), Development Review Permit (D22-0013), and a lot line adjustment (MS22-0003). Final review of the lot line adjustment will be considered separately, in accordance with City standards. The project also includes the construction of a perimeter fence to enclose the apartment complex and new parking area, with vehicle and pedestrian gates at project entries (Development Review Permit Number D22-0005). The fence construction is exempt from CEQA review in accordance with CEQA Guidelines Section 15303(e), new construction of small structures/accessory structures.

CEQA Finding/Determination: The City of Tracy has reviewed and considered the proposed project and has determined that the project will not have a significant effect on the environment, with substantial supporting evidence provided in the Initial Study.

Initial Study: A copy of the Initial Study for the Valpico Glenbriar Apartments Parking Lot Expansion Project, dated September 2022, is attached and a part of this Negative Declaration.

TRACY CITY COUNCIL

ORDINANCE NO. _____

FOR THE VALPICO GLENBRIAR APARTMENT PROJECT LOCATED AT VALPICO ROAD AND MACARTHUR DRIVE (APARTMENTS PROJECT):

(A) ADOPTING A NEGATIVE DECLARATION FOR THE EXPANSION OF THE APARTMENTS PROJECT PARKING LOT TO INCLUDE A PORTION OF THE REAR YARD OF THE PROPERTY LOCATED AT 2625 S. MACARTHUR DRIVE (PARKING SITE) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

(B) APPROVING A GENERAL PLAN AMENDMENT REDESIGNATING THE PARKING SITE FROM COMMERCIAL TO RESIDENTIAL HIGH (GPA22-0003);

(C) AMENDING THE ZONE DISTRICT OF THE PARKING SITE FROM COMMUNITY SHOPPING CENTER TO HIGH DENSITY RESIDENTIAL (R22-0002); AND

(D) APPROVING A DEVELOPMENT REVIEW PERMIT EXPANDING THE APARTMENTS PROJECT PARKING LOT TO INCLUDE A PORTION OF THE REAR YARD LOCATED AT 2625 S. MACARTHUR DRIVE (D22-0013)

WHEREAS, The 264-unit Valpico Glenbriar Apartments Project was approved by the City Council on October 1, 2019, Resolution Number 2019-195; and

WHEREAS, During construction, the Apartments Project was sold from the original developer (Kattera) to Guardian Capital, which intends to complete construction, own, and manage the project; and

WHEREAS, The Apartments Project was approved with 417 off-street parking spaces, which is consistent with City standards; and

WHEREAS, Guardian Capital wishes to provide additional off-street parking spaces for tenants and guests beyond the existing number of parking spaces; and

WHEREAS, Guardian Capital has acquired an interest in approximately 13,440 square feet of adjacent property on which to develop additional parking; and

WHEREAS, Guardian Capital submitted a Development Review Permit (Application Number D22-0013) to develop the adjacent property as additional parking, connected to the existing Apartments Project site; and

WHEREAS, The Apartments Site has a General Plan designation of Residential High and is zoned High Density Residential, and

WHEREAS, The adjacent property (Parking Site), on which the parking lot will be expanded, has a General Plan designation of Commercial and is zoned Community Shopping Center; and

WHEREAS, Guardian Capital has requested the General Plan and zoning designations of the Parking Site be amended from Commercial and Community Shopping Center, respectively, to Residential High and High Density Residential, respectively, in order to be consistent with the General Plan and zoning designations of the Apartments Project site; and

WHEREAS, The Planning Commission conducted a public hearing on September 28, 2022, and considered the Initial Study/Negative Declaration dated September 2022 and prepared in accordance with the California Environmental Quality Act (CEQA) (attached as Exhibit 5) for the parking lot expansion project, finding no significant effect on the environment, and recommended that the City Council adopt it; and

WHEREAS, At the public hearing, the Planning Commission also reviewed and considered the proposed Development Review Permit for the parking expansion and recommended its approval, subject to the conditions of approval set forth in Exhibit 4; and

NOW THEREFORE BE IT RESOLVED:

SECTION 1. Incorporation of Recitals/Findings. The City Council of the City of Tracy hereby finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2. CEQA Negative Declaration. The City Council, based on its independent judgment and analysis, has reviewed and considered the proposed project and has determined, based on the whole record before it, including the Initial Study/Negative Declaration set forth in Exhibit 5 and comments received, that there is no substantial evidence that the parking lot expansion project will have a significant effect on the environment and hereby adopts the Initial Study/Negative Declaration, as full satisfaction of the requirements under CEQA for the Apartments Project parking lot expansion.

SECTION 3. General Plan Amendment. The City Council hereby approves the General Plan map amendment from Commercial to Residential High for the approximately 13,440 square foot Parking Site as indicated in Exhibit 2.

SECTION 4. Zoning Map Amendment. The City Council approves the Zoning Map amendment from Community Shopping Center to High Density Residential for the approximately 13,440 square foot Parking Site as indicated in Exhibit 3.

SECTION 5. Development Review Permit. The City Council approves the Development Review Permit for the Valpico Glenbriar Apartments parking lot expansion based on the findings contained in Exhibit 1 and subject to the Conditions of Approval set forth in Exhibit 4.

SECTION 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall be affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 7. Effective Date. This Ordinance shall become effective upon the thirtieth (30th) day after final adoption.

SECTION 8. Publication. The City Clerk is directed to publish this Ordinance in a manner required by law.

SECTION 9. Codification. This Ordinance shall not be codified in the Tracy Municipal Code.

* * * * *

The foregoing Ordinance 2022-_____ was introduced at a regular meeting of the Tracy City Council on the 15th day of November 2022, and finally adopted on the ___ day of _____, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy

Date of Attestation: _____

- Exhibit 1 – Project Findings
- Exhibit 2 – Proposed General Plan Designation
- Exhibit 3 – Proposed Zoning District
- Exhibit 4 – Project Conditions of Approval

Tracy City Council Findings for Resolution No. _____

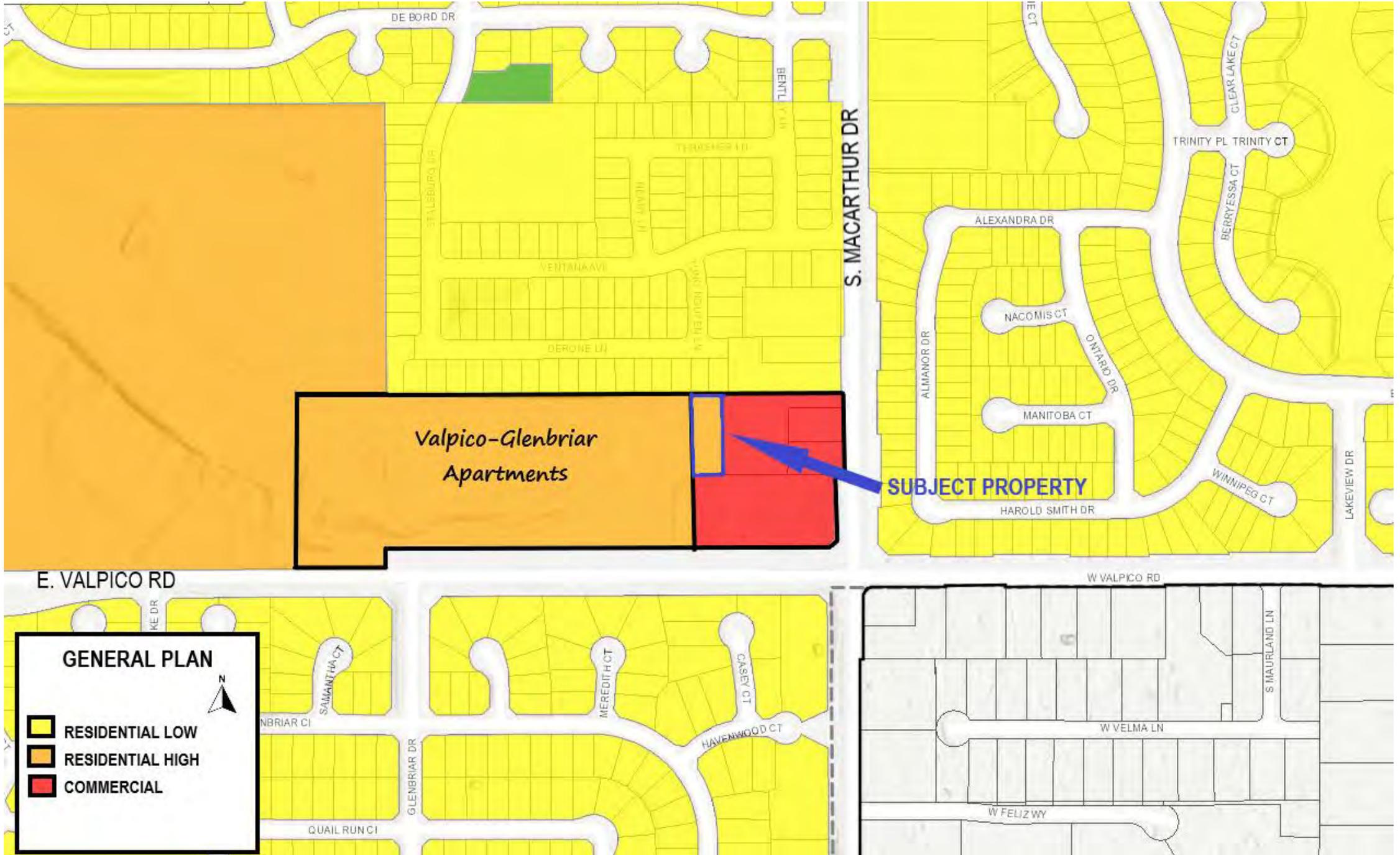
The City Council findings related to adopting the CEQA Negative Declaration for the Valpico Glenbriar Parking Lot Expansion Project General Plan Map Amendment, Zoning Map Amendment, and Development Review Permit:

City of Tracy has reviewed and considered the proposed project and has determined, based on the whole record before it, including the Initial Study and comments received, there is no substantial evidence that the project will have a significant effect on the environment, with substantial supporting evidence provided in the Initial Study, prepared by De Novo Planning Group, dated September 2022;

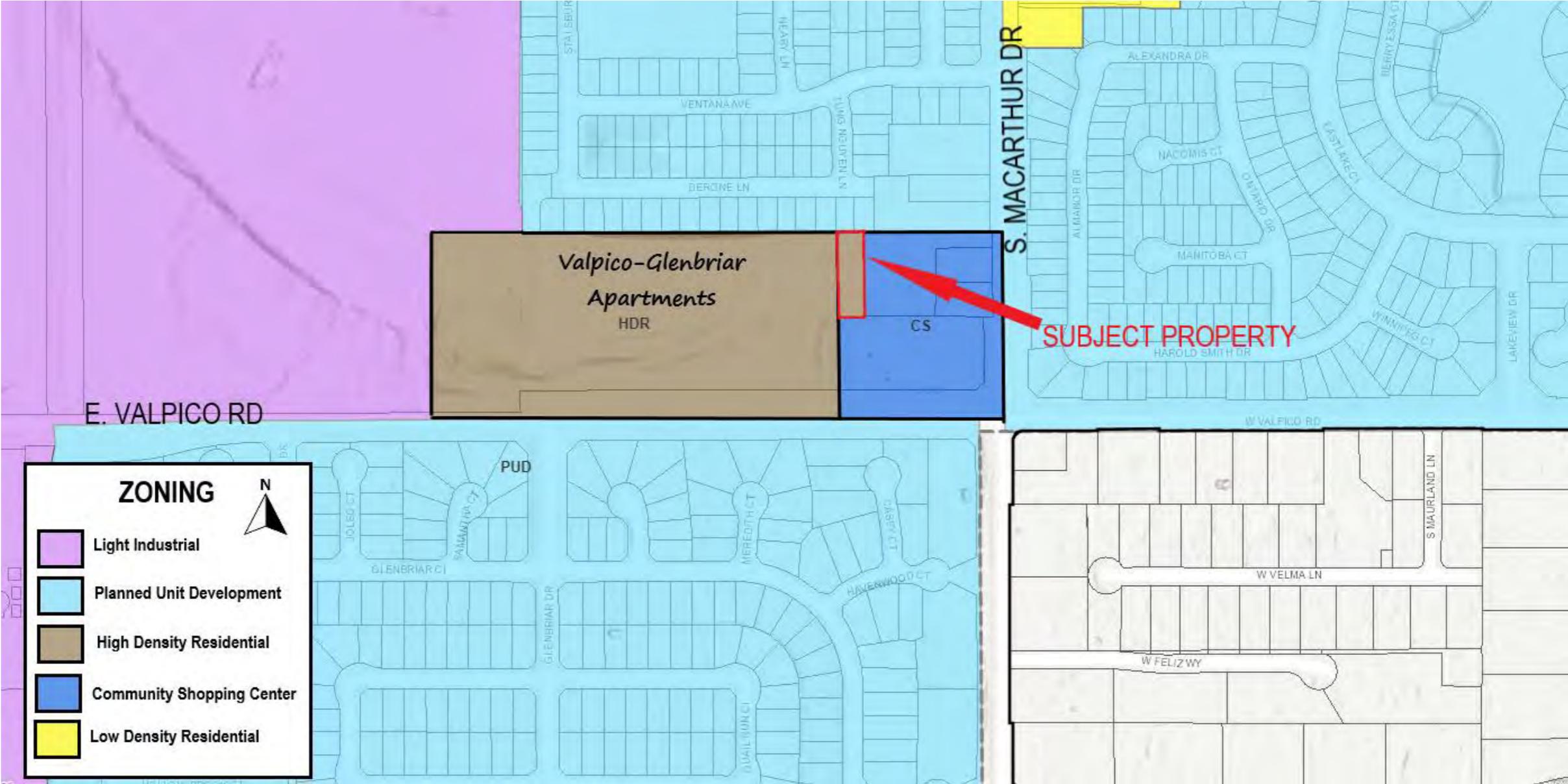
The City Council findings related to approving the Development Review Permit for the Valpico Glenbriar Parking Lot Expansion Project, Application D22-0013, are as follow:

1. The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy because the number of additional parking spaces will be above and beyond minimum requirements of City regulations to help reduce potential effects of peak parking demand times and potentially allow tenants and guests to park closer to their tenant spaces or building destinations.
2. The proposal conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the City of Tracy General Plan, the Citywide Design Goals and Standards, City Standard Plans, and other City regulations in that it is consistent with the Storm Drainage Technical Memorandum prepared for the project by Wood Rodgers, is consistent with the City Storm Drainage Master Plan, it is consistent with City Off-Street parking area landscape requirements (Tracy Municipal Code Section 10.08.3560), and is consistent with City of Tracy Standard Plan 141 regarding parking space and drive aisle dimension requirements.

PROPOSED GENERAL PLAN



PROPOSED ZONING



City of Tracy
Conditions of Approval
City Council – November 15, 2022
Valpico Glenbriar Apartments Parking Lot Expansion Project
Application Number D22-0013

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: Valpico Glenbriar Apartments Parking Lot Expansion Project,
Development Review Permit Application Number and D22-0013

The Property: The parking lot expansion occurs on approximately 13,440 square feet
of the current, vacant back yard of the single-family home at 2625 S. MacArthur
Drive (Assessor's Parcel Number 246-140-08) for the Valpico Glenbriar
Apartments Project located at 351 E. Valpico Road.

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, applying for a Development Review Permit.
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.
- g. "Police Chief" means the Chief of Police of the City of Tracy, or any other person designated by the City Manager or the Police Chief to perform duties set forth herein.

- A.3. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.4. Compliance with laws. The Developer shall comply with all federal, state and local laws, as amended from time to time, related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
- A.5. Compliance with applicable regulations. Unless specifically modified by these Conditions of Approval, the use shall comply with all City Regulations.
- A.6. Prior to construction, the applicant shall submit construction documents which meet the requirements of the California Building and Fire Codes and the Tracy Municipal Code to the City of Tracy and the South San Joaquin County Fire Authority for review, approval and inspections.

B. Project Conditions of Approval

- B.1. Prior to final inspection or occupancy, the project shall be established in substantial compliance with the plans (Sheets L1 thru L4 by Ripley Design Group and Sheet 1 of "Valpico Apartments Expanded Parking Area" plans by MacKay and Soms) received by the Development Services Department on September 13, 2022 to the satisfaction of the Development Services Director, including but not limited to the location of the fence and gates, five-foot height along the Valpico Road frontage, six-foot height elsewhere, and decorative metal design.
- B.2. Prior to final inspection or occupancy, the expanded parking area shall be designed and constructed in compliance with City Regulations for landscape requirements for parking areas (Tracy Municipal Code Section 10.08.3560) and City Standard Plan 141.
- ~~B.3. Prior to installation of the gates or issuance of a building permit, applicant shall submit construction documents, plans, specifications and/or calculations to the Building Safety Division, which meet all requirements of Title 24 California Code of Regulations and City of Tracy Municipal Codes, as applicable. The plans shall include, and not be limited to, an egress analysis of all of the doors in case of an emergency to ensure that the proper amount of exit width is provided, in accordance with California Building Code Chapter 10. Note that additional doors or gates may be required.~~
- ~~B.4. Prior to final inspection or occupancy, plans shall be submitted and all improvements shall be constructed in accordance with City and South San Joaquin County Fire Authority standards, demonstrating that all vehicle access gates meet the current California Fire Code 503.2.1 regarding unobstructed access width of not less than 20 feet to the satisfaction of the Fire Marshal.~~

- B.5. Prior to final inspection or occupancy, plans shall be submitted and all improvements shall be constructed in accordance with City and South San Joaquin County Fire Authority standards regarding emergency vehicle access, demonstrating compliance with California Fire Code Section 503.6 and the Tracy Municipal Code to the satisfaction of the Fire Marshal; and providing Police Department access to the satisfaction of the Police Chief.

C. Engineering Division Conditions of Approval

C.1. General Conditions

Developer shall comply with the applicable sections of approved documents and/or recommendations of the technical analyses/reports prepared for the Project listed as follows:

- 1) Storm Water Drainage Technical Memorandum by Wood Rodgers dated July 20, 2022

C.2. RESERVED

C.3. RESERVED

C.4. Grading Permit

All grading work (on-site and off-site) shall require a Grading Plan. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Geotechnical Engineer. Prior to release of a Grading Permit, Developer shall provide all documents related to said Grading Permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.4.1 Developer has completed all requirements set forth in this section.

C.4.2 Developer has obtained the approval (i.e. recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and/or private entities with jurisdiction over the required public and/or private facilities and/or property. Written permission from affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit.

C.4.3 Developer has obtained a demolition permit to remove any existing structure located within the Project's limits.

C.4.4 All existing on-site water well(s), septic system(s), and leech field(s), if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s), septic system(s), and leech field(s) including the cost of permit(s) and inspection. Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

- C.4.5 The Improvement Plans for all improvements to serve the Project (on-site and off-site) including the Grading and Drainage Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.
- C.4.6 On-site Grading/Drainage Plans and Improvement Plans shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick polyester film (mylar). These plans shall use the City's Title Block. Improvement Plans shall be prepared under the supervision of, stamped and signed by a Registered Civil Engineer and Registered Geotechnical Engineer. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by the Fire Marshal prior to submitting the mylars to Engineering Division for City Engineer's signature. Erosion control measures shall be implemented in accordance with the Improvement Plans approved by the City Engineer for all grading work. All grading work not completed before October 15 may be subject to additional requirements as applicable. Improvement Plans shall specify all proposed erosion control methods and construction details to be employed and specify materials to be used during and after the construction.
- C.4.7 Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.4.8 For Projects on property larger than one (1) acre: Prior to the issuance of the Grading Permit, Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and one (1) hard copy of the Storm Water Pollution Prevention Plan (SWPPP) as submitted in Stormwater Multiple Applications and Reporting Tracker System (SMARTS) along with either a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID) or a copy of the receipt for the NOI. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Developer. Developer shall comply with all the requirements of the SWPPP, applicable Best Management Practices (BMPs) and the Stormwater Post-Construction Standards adopted by the City in 2015 and any subsequent amendment(s).

For Projects on property smaller than one (1) acre: Prior to the issuance of the Grading Permit, the Developer shall submit to the Utilities Department (stephanie.hiestand@cityoftracy.org) one (1) electronic copy and 1 hard copy of the City of Tracy Erosion and Sediment Control Plan (ESCP) for approval. Cost of preparing the ESCP including any annual storm drainage fees shall be paid by the Developer. Developer shall comply with all the requirements of the ESCP, applicable BMPs and the Post-Construction Stormwater Standards adopted by the City in 2015 and any subsequent amendment(s).

- C.4.9 Developer shall provide a PDF copy of the Project's Geotechnical Report signed and stamped by a Registered Geotechnical Engineer. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, retaining wall recommendations, if necessary, paving recommendations, paving calculations such as gravel factors, gravel equivalence, etc., slope recommendations, and elevation of the highest observed groundwater level.
- C.4.10 Minor Retaining – Developer shall use reinforced or engineered masonry blocks for retaining soil at property lines when the grade differential among the in-tract lots exceeds twelve (12) inches. Developer will include construction details of these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes among the lots to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical) unless a California licensed geotechnical engineer signs and stamps a geotechnical report letter that supports a steeper slope gradient. Slope easements may be required and will be subject to approval by the City Engineer.

Minor Retaining along Project Perimeter – Developer shall use reinforced or engineered masonry blocks for retaining soil along the Project boundary and adjacent property(s) when the grade differential exceeds 12-inches. Developer will include construction details for these minor retaining walls with the on-site Grading and Drainage Plan. Developer may use slopes to address the grade differential but said slope shall not exceed a slope gradient of 3 (horizontal) to 1 (vertical). Slope easements may be subject to approval by the City Engineer and if adjacent and affected property(s) owner(s) grants said easements.

Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer.

Slope easements will be recorded, prior to the issuance of the Grading Permit. The Developer shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.

Walls - Developer shall show proposed retaining walls and masonry walls on the on-site Grading and Drainage Plan. The Developer is required to submit improvement plans, construction details, and structural calculations for retaining walls and masonry walls to Building and Safety. Retaining wall and masonry wall design parameters will be included in the geotechnical report.

- C.4.11 Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat

Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG).

- C.4.12 Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) from San Joaquin Valley Air Pollution Control District (SJVAPCD).
- C.4.13 Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.
- C.4.14 If the Project contains overhead utilities, the Developer shall underground existing overhead utilities such as electric, TV cable, telephone, and others. Each dry utility shall be installed at the location approved by the respective owner(s) of dry utility and the Developer shall coordinate such activities with each utility owner. All costs associated with the undergrounding shall be the sole responsibility of the Developer and no reimbursement will be due from the City. Developer shall submit undergrounding plans.
- C.4.15 If at any point during grading that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.5. Building Permit

Prior to the release of a building permit within Project boundaries, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.5.1 Developer has completed all requirements set forth in Condition C.1, through C.4, above.
- C.5.2 Developer pays the applicable development impact fees as required in the TMC, these Conditions of Approval, and City Regulations.
- C.5.2.a. Water. The Developer shall pay the water impact fees prior to pulling the first building permit for the Project.

C.5.2.b. Wastewater. The Developer shall pay the wastewater treatment capacity development Impact fees prior to pulling the first building permit for the Project.

C.5.3 Developer has completed all requirements set forth in Condition C.8

C.5.4 Prior to the release of any Building Permit, all construction activity will require a fully executed and recorded Deferred Improvement Agreement.

C.6 Acceptance of Glenbriar Drive Right-of-Way

Prior to the consideration of City Council's acceptance of public improvements, the Developer shall demonstrate to the reasonable satisfaction of the City Engineer, completion of the following:

C.6.1 Developer has satisfied all the requirements set forth in these Conditions of Approval.

C.6.2 Developer submitted the Storm water Treatment Facilities Maintenance Agreement (STFMA) to the Utilities Department.

C.6.3 Developer has satisfactorily completed construction of all required/conditioned improvements. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.6.4 Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.

C.6.5 Developer shall be responsible for any repairs or reconstruction of street pavement, curb, gutter and sidewalk and other public improvements along the frontage of the Project, if determined by the City Engineer to be in poor condition or damaged by construction activities related to this Project and Developer's enclosure of the Glenbriar Drive right-of-way. Repairs shall be depicted on City approved improvement plans referenced in C.7 below.

C.6.6 Developer has completed the ninety (90) day public landscaping maintenance period.

C.6.7 Per Section 21107.5 of the California Vehicle Code, Developer shall install signs at all entrance(s) of the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or

control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet.

- C.6.8 Survey Monuments – Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, Developer shall also submit corner records. Any survey document will be submitted the City and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

C.7. Improvement Agreement(s)

All construction activity involving public improvements will require a fully executed improvement agreement (Off-site, Subdivision, and/or Inspection). Any construction activity involving public improvements without a fully executed improvement agreement is prohibited. All public improvements shall be performed and completed in accordance with the recommendation(s) of the Project's Registered Civil Engineer. Prior to the consideration of City Council's approval of said improvement agreement, the Developer shall provide all documents related to said improvements required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.7.1 Improvement Plans for the Restoration of the Glenbriar Drive Right-of-Way shall be prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block and, if necessary, contain a signature block for the Fire Marshal. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the mylars including signatures by Fire Marshal to submitting the mylars to Engineering Division for City Engineer's signature. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:

C.7.2 All existing and proposed utilities such as domestic water line, irrigation service, fire service line, storm drain, and sanitary sewer, including the size and location of the pipes.

C.7.3 All supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers such as benchmarks.

C.7.4 A PDF copy of the Project's approved Geotechnical/Soils Report that was prepared for the grading permit submittal.

C.7.5(a) Storm Water - The Project's on-site storm water drainage connection to the City's storm water system shall be approved by the City Engineer. Drainage calculations for the sizing of the on-site storm drainage system. Improvement Plans to be submitted with the hydrology and storm water.

C.7.5(b) Storm drainage release point is a location at the boundary of the Project adjacent public right-of-way where storm water leaves the Property, in a storm event and that the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an adjacent public street with a functional storm drainage system and the

existing storm drainage line has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70-feet lower than the building finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

- C.7.5(c) As recommended in the Storm Water Drainage Memorandum, the minimum finished floor elevation shall be a minimum of 40.49 feet
- C.7.5(d) The Project's permanent storm drainage connection(s) shall be designed and constructed in accordance with City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Drainage Plans with calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2012 and any subsequent amendments.
- C.7.5(e) The storm water treatment system shall be located on private property and shall be at least off-set from the right-of-way by one (1) foot.
- C.7.6(a) Sanitary Sewer - It is the Developer's responsibility to design and construct the Project's permanent on-site sanitary sewer (sewer) improvements including the Project's sewer connection in accordance with the City's Design Standards, City Regulations and Standard Specifications. Sewer improvements shall include but not limited to, replacing asphalt concrete pavement, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other improvements that are disturbed as a result of installing the Project's permanent sewer connection. Developer shall submit improvement plans that include the design of the sewer line from the Property to the point of connection.
- C.7.6(b) Developer is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plans. The City's responsibility to maintain on the sewer lateral is from the wye/onsite sewer manhole at the right-of-way line/property line/wye fitting to the point of connection with the sewer main.
- C.7.7(a) Water Distribution - Developer shall design and construct domestic and irrigation water service that comply with the City Regulations. Water line sizing, layout and looping requirements for this Project shall comply with City Regulations. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshal.
- C.7.7(b) Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. Developer shall be responsible for notifying business owner(s) and users, regarding construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business

owner(s) at least seventy-two (72) hours before start of work. Prior to starting the work described in this section, the Developer shall submit a Work Plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

- C.7.7(c) The Project's water service connections shall use a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the inspection of the building. The location of the meters shall be approved by the City Engineer.
- C.7.7(d) After final inspection of the improvements constructed via an encroachment permit, repair and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).
- C.7.7(e) Prior to improvement acceptance, repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer or the individual lot owner(s).
- C.7.7(f) All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.
- C.7.8(a) Streets – The Developer shall construct frontage improvements. Frontage improvements include but are not limited to the following: curb, gutter, sidewalk, street widening, landscaping, street lighting, undergrounding of overhead utilities and other improvements. All streets and utilities improvements within City right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design Standards including the City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City.
- C.7.8(b) Valpico Road
The Tracy Transportation Master Plan (TMP) classifies Valpico Road as a four-lane divided arterial which would require a minimum of ninety-seven (97) feet of right of way at ultimate buildout. Prior to the release of the grading permit, the Developer shall dedicate right of way along the Project frontage, excluding the Public Utility Easement (P.U.E.). In addition, the

- Developer shall record a ten (10) foot wide P.U.E. immediately behind the new property line.
- C.7.8(c) Developer shall install green bike lane striping on Valpico Road along the project frontage.
- C.7.8(d) Developer shall install audible pedestrian crossing at the existing traffic signal at Glenbriar Drive and Valpico Road.
- C.7.8(e) Developer shall install a barricade at the westerly edge of the proposed sidewalk.
- C.7.8(f) Along the Project frontage, if applicable, Developer shall landscape and irrigate the existing parkways per current adopted City landscape standards. Landscape and irrigation plans shall be prepared on a 24-inch x 36-inch size 4-millimeter thick mylar that incorporate all requirements described in the documents described in these Conditions of Approval, the City's Design Documents as defined in Title 12 of the Tracy Municipal Code. Developer shall use the latest title block. Said landscape and irrigation plan shall be prepared by a California licensed landscape architect. Developer can either protect-in-place the existing sidewalk and repair any cracked, settled, and/or damaged sidewalk or remove and replace the sidewalk so long as the replacement sidewalk is similar to the current sidewalk, i.e. similar width, meanders, etc.
- C.7.8(g) Overhead Utilities along Project frontage shall be placed underground.
- C.7.8(h) Street cuts and trenching related to utility installation on Valpico Road shall be subject to Condition C.8.1
- C.7.8(i) Glenbriar Drive
Prior to the release of the grading permit, Developer shall enter into a Deferred Improvement Agreement (DIA) to be recorded against the parcels included in the Project. Said DIA will insure the future public right-of-way associated with Glenbriar Drive is repaired and restored when Glenbriar Drive is open to the public. Developer shall prepare improvements if deemed necessary by the City.
- C.7.8(j) Easterly Vehicle Gate
Prior to the release of the grading permit, Developer shall install directional striping to assist in turn movements.
- C.7.9 Joint Trench Plans and Composite Utility Plans, prepared on a twenty-four (24) inch x thirty-six (36) inch size four (4) millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the twenty-four (24) feet wide to forty-six (46) feet wide [the width varies] PUE to be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or

proposed utility easement to the building(s). If necessary, the Developer shall dedicate ten (10) feet wide PUE for access to these new utilities for re-installation, replacement, repair, and maintenance work to be performed by the respective utility owner(s) in the future.

- C.7.10 Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans. The cost estimate shall show the cost of designing the public improvements.

Payment of applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees. The engineering review fees will be calculated based on the fee rate adopted by the City Council on September 2, 2014, per Resolution 2014-141 and on May 16, 2017, per Resolution 2017-098. Developer shall submit payment in the form of a check for the aforementioned fees.

- C.7.11 Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

- C.7.12 Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

- C.7.13 No street trench shall be left open, uncovered, and/or unprotected during night hours and when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during such times. If the Developer or its contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistance, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

- C.7.14 If at any point during utility installation or construction in general that the Developer, its contractor, its engineers, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other

paleontological findings, the Developer shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.7.15 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

C.7.16 Insurance – Developer shall provide written evidence of insurance coverage that meets the terms of the Improvement Agreement.

C.8 Special Conditions

- C.8.1 When street cuts are made for the installation of utilities, the Developer shall conform to Section 3.14 of the 2020 Design Standards and is required install a two (2) inch thick asphalt concrete (AC) overlay with reinforcing fabric at least twenty-five (25) feet from all sides of each utility trench. A two (2) inch deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. This pavement repair requirement is when cuts/trenches are perpendicular and parallel to the street's direction.
- C.8.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.
- C.8.3 Prior to the release of the Building Permit, if water is required for the Project, the Developer shall obtain an account for the water service and register the water meter with the Finance Department. Developer shall pay all fees associated with obtaining the account number for the water service.



INITIAL STUDY

FOR THE

VALPICO GLENBRIAR APARTMENTS PARKING LOT EXPANSION PROJECT

SEPTEMBER 2022

Prepared for:

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

Prepared by:

De Novo Planning Group
1020 Suncoast Lane, Suite 106
El Dorado Hills, CA 95762

D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm



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INITIAL STUDY CHECKLIST

PROJECT TITLE

Valpico Glenbriar Apartments Parking Lot Expansion Project

LEAD AGENCY NAME AND ADDRESS

City of Tracy
Planning Division
333 Civic Center Plaza
Tracy, CA 95376

CONTACT PERSON AND PHONE NUMBER

Alan Bell, Senior Planner
City of Tracy
Planning Division
333 Civic Center Plaza
Tracy, CA 95376
Alan.Bell@cityoftracy.org
(209) 831-6426

PROJECT SPONSOR'S NAME AND ADDRESS

Valpico Tracy Apartments LLC.
5780 Fleet Street
Carlsbad, Ca 92008

PURPOSE OF THE INITIAL STUDY

An Initial Study (IS) is a preliminary analysis which is prepared to determine the relative environmental impacts associated with a proposed project. It is designed as a measuring mechanism to determine if a project will have a significant adverse effect on the environment, thereby triggering the need to prepare an Environmental Impact Report (EIR). It also functions as an evidentiary document containing information which supports conclusions that the project will not have a significant environmental impact or that the impacts can be mitigated to a "Less Than Significant" or "No Impact" level. If there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, the lead agency shall prepare a Negative Declaration (ND). If the IS identifies potentially significant effects, but: (1) revisions in the project plans or proposals would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (2) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment, then a Mitigated Negative Declaration (MND) shall be prepared.

This IS has been prepared consistent with California Environmental Quality Act (CEQA) Guidelines Section 15063, to determine if the proposed Tracy Valpico Apartments Parking Lot Expansion (Project) may have a significant effect upon the environment. Based upon the findings and mitigation measures contained within this report, a Negative Declaration will be prepared.

PROJECT LOCATION AND SETTING

The Project site consists of approximately 13,440 square feet located at 2625 South MacArthur Drive in the City of Tracy, and the Valpico Glenbriar Apartments site at 351 E. Valpico Road. The Project site encompasses Assessor Parcel Numbers (APNs) 246-140-080 and 246-140-230. The Project's regional location is shown in Figure 1, and the Project vicinity is shown in Figure 2.

The project site is currently developed with a single-family residence on the parcel. Landscaping trees are located along the southern and northern edges of the project site. Lands to the north, east and south of the project site consist of single-family residential uses. There is a Rite Aid store located immediately southeast of the project site, along the project site's southern boundary. The Rite Aid store closed in 2021 and the building is unoccupied. The parcel immediately west of the project site is currently under construction to develop the 264-unit Valpico-Glenbriar Apartment Complex. Commercial, industrial, and vacant land uses are located further to the west of the project site. Single-family residential land uses are located further north and south of the project site.

BACKGROUND AND RELATIONSHIP TO OTHER PROJECTS

In 2012, the City of Tracy received development applications for two adjacent apartment projects: the Valpico Apartments and the MacDonald Apartments.

An IS/MND was prepared to address construction-level and operational impacts of the Valpico Apartment project, which was approved concurrently with the adjacent MacDonald Apartments project by the Tracy City Council at the same public hearing on December 18, 2022.

While the Valpico project relied on the above-referenced IS/MND for CEQA clearance, the MacDonald Apartments project relied on a CEQA Guidelines Section 15183 exemption.

The previously approved Valpico project included plans to construct 184 apartments, while the previously approved MacDonald project proposed 60 apartment units. Together, these projects would consist of 244 multi-family housing units with associated parking and onsite residential amenities. The two project sites are adjacent to each other on approximately 11.62 total acres. The two projects were planned and designed to serve as a single development project with consistent design and shared amenities and utilities.

Subsequent revisions to the combined projects were approved by the City of Tracy in 2016, that slightly increased the total number of housing units from 244 to 252 multi-family housing units. However, no additional CEQA review was necessary because of the projects' similarity to the original approvals.

The 2012 IS/MND (Valpico) and the 15183 exemption (MacDonald) evaluated potential environmental effects associated with full development of each residential multi-family apartment project. The environmental analysis in the 2012 Valpico IS/MND addressed the following topics: aesthetics, agriculture and forestry resources, air quality, biological resources, cultural and tribal resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, utilities and service systems, and mandatory findings of significance. All impacts in the IS/MND were mitigated to below a level of significance through the implementation of mitigation measures.

Following adoption of the 2012 IS/MND and the subsequent 2016 revisions, the Project Applicants for both the Valpico and MacDonald projects decided to combine their projects into a single cohesive multifamily residential development.

This combined project, which includes 264 residential units, a 6,500 square foot clubhouse amenity and onsite parking, was analyzed under an Addendum to the 2012 IS/MND. The IS/MND Addendum was approved by the Tracy City Council on October 1, 2019.

The above-referenced residential project is currently under construction, and has been the subject of extensive review under CEQA.

The proposed project, which is the subject of the analysis in this Initial Study, is limited to a lot line adjustment, a General Plan Land Use Designation Amendment, and the construction of 25 parking spaces to serve the above-referenced residential project, as described in greater detail below. The project also includes the construction of a perimeter fence to enclose the apartment complex and new parking area, with vehicle and pedestrian gates at project entries. The fence construction is exempt from CEQA review in accordance with CEQA Guidelines Section 15303(e), new construction of small structures/accessory structures.

There are no “operational impacts” associated with the proposed parking lot project that have not already been analyzed under previous CEQA documents. The proposed parking lot would not increase the number of approved residential units in the adjacent Valpico-Glenbriar Apartments project, nor would it increase vehicle trips or other operational aspects of the previously-approved residential project. The proposed project would simply provide for additional parking spaces to serve the approved, and now under construction, residential project. As such, the analysis in this Initial Study focuses primarily on the potential construction-related impacts of the proposed parking lot.

PROJECT DESCRIPTION

The project would include a lot line adjustment in order to acquire the westerly portion (56' x 240') of the property east of the Valpico Apartments complex in order to expand the parking lot for the apartments that are currently under construction.

This will result in approximately 25 additional standard parking spaces, in addition to relocating the maintenance building #13 (40'x22') over a portion of adjusted parcel. Existing utilities will be extended to the new building location. The fence and gates, mentioned in the section above, will also enclose the expanded parking area. The project site plan is shown on Figure 3.

REQUESTED ENTITLEMENTS AND OTHER APPROVALS

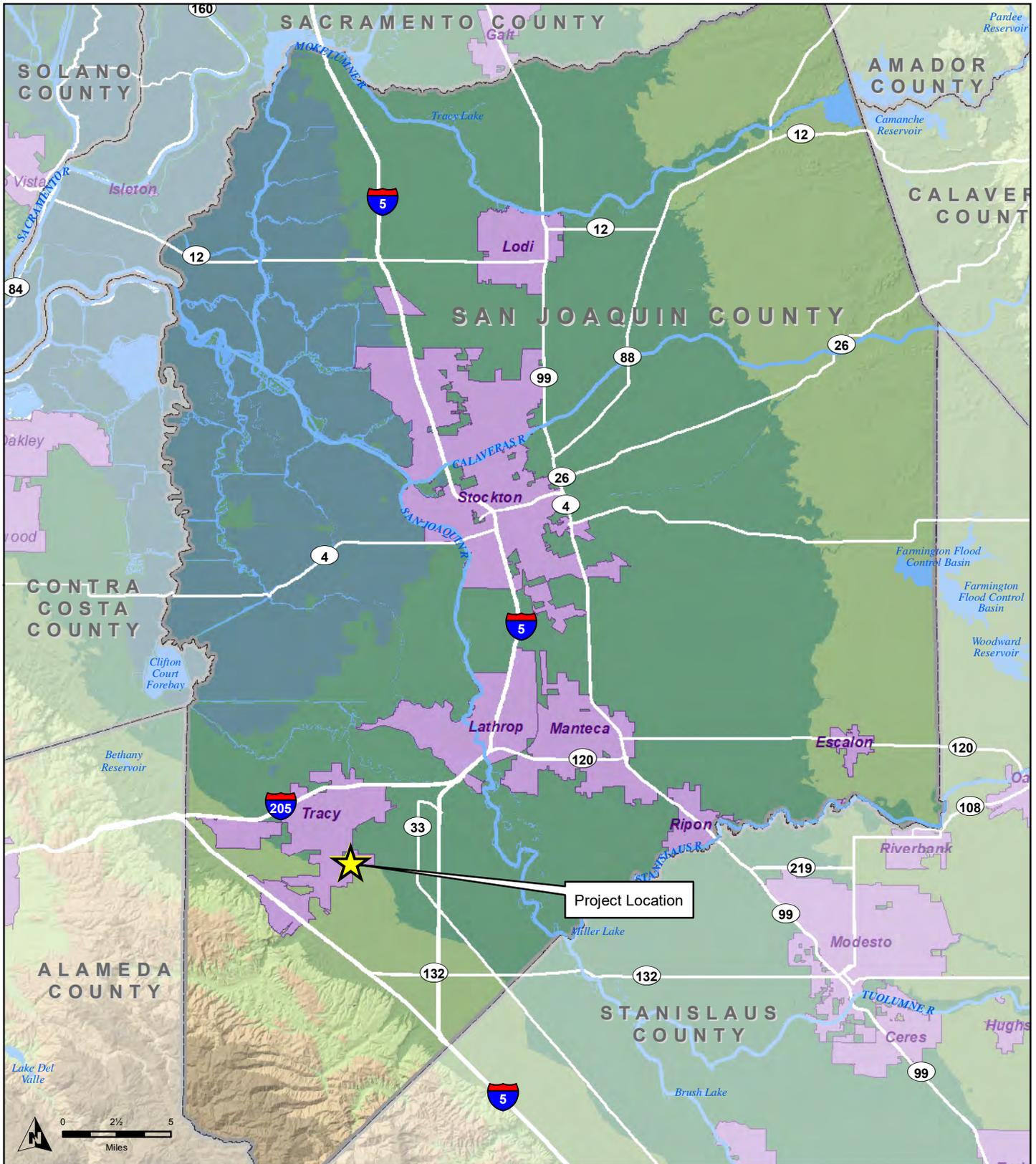
The City of Tracy is the Lead Agency for the proposed Project, pursuant to the State Guidelines for Implementation of CEQA, Section 15050.

This document will be used by the City of Tracy to take the following actions:

- Adoption of the ND;
- Approval of a lot line adjustment;
- Approval of a rezone to amend the zoning district from Community Shopping Center to High Density Residential; and
- Approval of a General Plan Amendment to amend the land use designation of the eastern portion of the site from Commercial to Residential High.

- Approve Development Review Permit and related construction permits for the construction of the approximately 13,440 square foot parking lot expansion.

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LEGEND

-  Project Location
-  Incorporated Area
-  County Boundary

**CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT**

Figure 1. Regional Location Map

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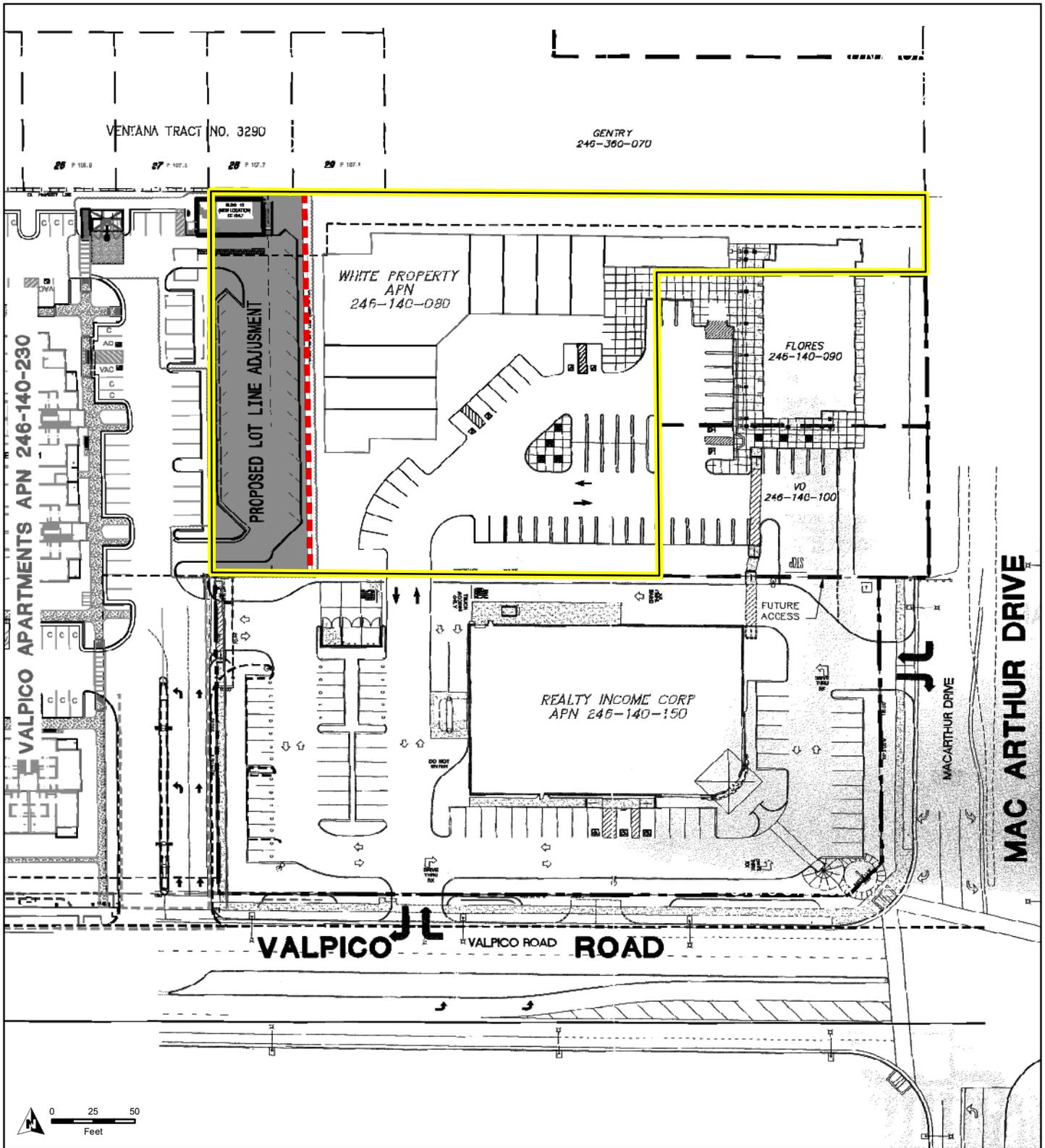
- LEGEND**
- Project Location
 - Tracy City Limits
 - School
 - Park

**CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT**

Figure 2. Project Vicinity

Sources: San Joaquin County GIS; ArcGIS Online World Imagery Map Service, 3/30/2021. Map date: July 14, 2022.

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LEGEND

- Existing Parcel Boundary
- Proposed Lot Line Adjustment

CITY OF TRACY
VALPICO PARK LOT EXPANSION
LOT LINE ADJUSTMENT

Figure 3. Site Plan

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture and Forestry Resources		Air Quality
	Biological Resources		Cultural Resources		Energy
	Geology/Soils		Greenhouse Gases		Hazards and Hazardous Materials
	Hydrology/Water Quality		Land Use/Planning		Mineral Resources
	Noise		Population/Housing		Public Services
	Recreation		Transportation		Tribal Cultural Resources
	Utilities/Service Systems		Wildfire		Mandatory Findings of Significance

DETERMINATION

On the basis of this initial evaluation:

X	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

EVALUATION INSTRUCTIONS

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significant.

EVALUATION OF ENVIRONMENTAL IMPACTS

In each area of potential impact listed in this section, there are one or more questions which assess the degree of potential environmental effect. A response is provided to each question using one of the four impact evaluation criteria described below. A discussion of the response is also included.

- **Potentially Significant Impact.** This response is appropriate when there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries, upon completion of the Initial Study, an EIR is required.
- **Less than Significant With Mitigation Incorporated.** This response applies when the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The Lead Agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.
- **Less than Significant Impact.** A less than significant impact is one which is deemed to have little or no adverse effect on the environment. Mitigation measures are, therefore, not necessary, although they may be recommended to further reduce a minor impact.
- **No Impact.** These issues were either identified as having no impact on the environment, or they are not relevant to the project.

ENVIRONMENTAL CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form contained in the CEQA Guidelines. Impact questions and responses are included in both tabular and narrative formats for each of the 21 environmental topic areas.

I. AESTHETICS

<i>Except as provided in Public Resources Code Section 21099, would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with the applicable zoning and other regulations governing scenic quality?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Responses to Checklist Questions

Responses a) Less than Significant. The City of Tracy is an urbanized area located within the southern section of San Joaquin County. There are no scenic vistas located on or adjacent to the project site. The proposed project is considered an infill project, and the proposed uses on the site are consistent and compatible with the surrounding land uses. Lands to the north and south of the project site consist of single-family residential uses. There is a Rite Aid store located immediately southeast of the project site, along the project site's eastern boundary. The parcel to the west is currently under construction in order to develop the Valpico Glenbriar Apartment complex.

Implementation of the proposed project would provide for additional parking in an area of the City that is largely developed. The project site is not topographically elevated from the surrounding lands, and is not highly visible from areas beyond the immediate vicinity of the site. There are no prominent features on the site, such as trees, rock outcroppings, or other visually distinctive features that contribute to the scenic quality of the site. The project site is not designated as a scenic vista by the City of Tracy General Plan. Implementation of the proposed project would not significantly change the existing visual character of the project area, as much of the areas immediately adjacent to the site are used for residential and commercial purposes.

Implementation of the proposed project would introduce paved parking development to the project area, and would be generally consistent with the surrounding residential and commercial development. Therefore, this impact is considered **less than significant**.

Response b) No Impact. As described in the Tracy General Plan EIR, there are two Officially Dedicated California Scenic Highway segments in the Tracy Planning Area, which extend a total length of 16 miles. The first designated scenic highway is the portion of I-580 between I-205 and I-5, which offers views of the Coast Range to the west and the Central Valley's urban and agricultural lands to the east. The second scenic highway is the portion of I-5 that starts at I-205 and continues south to Stanislaus County, which allows for views of the surrounding agricultural lands and the Delta-Mendota Canal and California Aqueduct. The project site is not visible from any of the above-referenced scenic highways. Development of the proposed project would not result in the removal of any trees, rock outcroppings, or buildings of historical significance, and would not result in changes to any of the viewsheds from the designated scenic highways in the vicinity of the City of Tracy. There is **no impact**.

Response c) Less than Significant. As described under Response a), above, the proposed project would add additional paved parking development to an area that currently contains numerous residential and commercial uses. The proposed project would be visually compatible with the surrounding land uses and would not significantly degrade the existing visual quality of the site or the surrounding area. Additionally, the project is subject to the City of Tracy's development and design review criteria, which would ensure that the parking area landscaping, streetscape improvements and exterior lighting improvements are compatible with the surrounding land uses. This is a **less than significant impact**.

Response d) Less than Significant. Daytime glare can occur when the sunlight strikes reflective surfaces such as windows, vehicle windshields and shiny reflective building materials. The proposed project would not introduce new residential structures. Reflective building materials are not proposed for use in the project, and as such, the project would not result in increases in daytime glare.

The project site contains no existing lighting. There is a potential for the proposed project to create new sources of light, but not glare. Examples of lighting would include construction lighting, landscape, and parking lighting. However, nighttime construction activities are not anticipated to be required as part of on-site construction. Operational light sources from street lighting may be required to provide for safe travel.

The City of Tracy Standard Plan #154 establishes minimum requirements for light illumination. Exterior lighting on new projects is also regulated by the Tracy Municipal Code, Off-Street Parking Requirements, Section 10.08.3530(h). The City addresses light and glare issues on a case-by-case basis during project approval and typically adds requirements as a condition of project approval to shield and protect against light spillover from one property to the next. The proposed project is subject to these regulations, which would ensure that this is a **less than significant impact**.

II. AGRICULTURE AND FORESTRY RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1222(g)) or timberland (as defined in Public Resources Code section 4526)?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

Responses to Checklist Questions

Responses a) No Impact. The project site consists of a small portion of the backyard of an existing single-family residential property. The project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The project site is surrounded by urban land uses, and there are no agricultural land uses or agricultural operations on or adjacent to the site. The project site is not irrigated for agricultural use, and the site is not viable for agricultural uses or activities. There is **no impact** related to this environmental topic, and no mitigation is required.

Response b) No Impact. The project site is not under a Williamson Act Contract, nor are any of the parcels immediately adjacent to the project site under a Williamson Act Contract. Therefore, implementation of the proposed project would not conflict with a Williamson Act Contract. The project site is currently zoned Community Shopping by the City's Zoning Map. As such, the proposed project would not conflict with any agricultural zoning or Williamson Act Contract. There is no impact.

Responses c) and d) No Impact. The project site is located in an area predominantly consisting of commercial and residential development. There are no forest resources on the project site or in the vicinity of the project site. Therefore, there is **no impact**.

Response e) No Impact. As described under Responses (a) and (b) above, the proposed project is not currently used for agricultural purposes, nor is it designated or zoned for agricultural uses. There are no agricultural lands or operations adjacent to the project site. There is **no impact** related to this environmental topic.

III. AIR QUALITY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X	
c) Expose sensitive receptors to substantial pollutant concentrations?			X	
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?			X	

Existing Setting

The project site is located within the SJVAPCD. This agency is responsible for monitoring air pollution levels and ensuring compliance with federal and state air quality regulations within the San Joaquin Valley Air Basin (SJVAB) and has jurisdiction over most air quality matters within its borders.

The SJVAPCD has primary responsibility for compliance with both the federal and state standards and for ensuring that air quality conditions are maintained. They do this through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues.

Activities of the SJVAPCD include the preparation of plans for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations concerning sources of air pollution, issuance of permits for stationary sources of air pollution (i.e., Authority to Construct and Permit to Operate), inspection of stationary sources of air pollution and response to citizen complaints, monitoring of ambient air quality and meteorological conditions, and implementation of programs and regulations required by the Federal Clean Air Act and California Clean Air Act.

The SJVAPCD has prepared the *2007 Ozone Plan* to achieve Federal and State standards for improved air quality in the SJVAB regarding ozone. The *2007 Ozone Plan* provides a comprehensive list of regulatory and incentive-based measures to reduce emissions of ozone and particulate matter precursors throughout the SJVAB. The *2007 Ozone Plan* calls for major advancements in pollution control technologies for mobile and stationary sources of air pollution. The *2007 Ozone Plan* calls for a 75-percent reduction in ozone-forming oxides of nitrogen emissions.

The SJVAPCD has also prepared the *2007 PM₁₀ Maintenance Plan and Request for Redesignation* (2007 PM₁₀ Plan). On April 24, 2006, the SJVAPCD submitted a Request for Determination of PM₁₀ Attainment for the Basin to the California Air Resources Board (CARB). CARB concurred with the request and submitted the request to the U.S. EPA on May 8, 2006. On October 30, 2006, the EPA issued a Final Rule determining that the Basin had attained the National Ambient Air Quality Standards (NAAQS) for PM₁₀. However, the EPA noted that the Final Rule did not constitute a

redesignation to attainment until all of the Federal Clean Air Act requirements under Section 107(d)(3) were met.

The SJVAPCD has prepared the *2008 PM_{2.5} Plan* to achieve Federal and State standards for improved air quality in the San Joaquin Valley Air Basin. The *2008 PM_{2.5} Plan* provides a comprehensive list of regulatory and incentive-based measures to reduce PM_{2.5}.

In addition to the *2007 Ozone Plan*, the *2008 PM_{2.5} Plan*, and the *2007 PM₁₀ Plan*, the SJVAPCD prepared the *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). The GAMAQI is an advisory document that provides Lead Agencies, consultants, and project applicants with analysis guidance and uniform procedures for addressing air quality impacts in environmental documents. Local jurisdictions are not required to utilize the methodology outlined therein. This document describes the criteria that SJVAPCD uses when reviewing and commenting on the adequacy of environmental documents. It recommends thresholds for determining whether or not projects would have significant adverse environmental impacts, identifies methodologies for predicting project emissions and impacts, and identifies measures that can be used to avoid or reduce air quality impacts. An update of the GAMAQI was approved on March 19, 2015, and is used as a guidance document for this analysis.

The GAMAQI notes that, for CEQA purposes, a sensitive receptor is generically defined as a location where human populations, especially children, seniors, and sick persons are found, and there is reasonable expectation of continuous human exposure according to the averaging period for the Ambient Air Quality Standards (e.g., 24-hour, 8-hour, 1-hour). These typically include residences, hospitals, and schools. Locations of sensitive receptors may or may not correspond with the location of the maximum off-site concentration. The sensitive receptors in the vicinity of the project site include single-family residences located north, east, south, and west of the site.

Responses to Checklist Questions

Responses a)-b) Less than Significant. Air quality emissions would be generated during construction of the proposed project. However, unlike a typical development project, this proposed parking lot project does not have a traditional daily trip generation associated with project operations. Vehicle trips to and from the proposed parking lot would be limited exclusively to residents, and possibly visitors, to the Valpico Apartments project, located immediately adjacent to the project site. Operational air quality emissions associated with the Valpico Apartments projects have already been analyzed under CEQA. The proposed project would not generate any new or modified vehicle trips. The proposed project would simply provide for additional parking spaces for an already-approved project. As such, there are no air quality impacts associated with project operations. Further discussion of construction-related air quality impacts is provided below.

The SJVAPCD's approach to analysis of construction impacts is to require implementation of effective and comprehensive control measures, rather than to require detailed quantification of emission concentrations for modeling of direct impacts. PM₁₀ emitted during construction can vary greatly depending on the level of activity, the specific operations taking place, the equipment being operated, local soils, weather conditions, and other factors, making quantification difficult. Despite this variability in emissions, experience has shown that there are a number of feasible control measures that can be reasonably implemented to significantly reduce PM₁₀ emissions from construction activities. The SJVAPCD has determined that, on its own, compliance with Regulation VIII for all sites and implementation of all other control measures indicated in Tables 6-2 and 6-3 of the SJVAPCD's *Guide for Assessing and Mitigating Air Quality Impacts* (as

appropriate) would constitute sufficient mitigation to reduce construction PM₁₀ impacts to a level considered less than significant.

Construction would result in numerous activities that would generate dust. The fine, silty soils in the project area and often strong afternoon winds exacerbate the potential for dust, particularly in the summer months. Impacts would be localized and variable. Construction impacts would last for a period of a few weeks to a few months. The initial phase of project construction would involve grading and site preparation activities, followed by paving. Construction activities that could generate dust and vehicle emissions are primarily related to grading, soil excavation, and other ground-preparation activities.

Control measures are required and enforced by the SJVAPCD under Regulation VIII. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM₁₀ fugitive dust rules and equipment exhaust emissions controls are implemented. The proposed project would be required to comply with all applicable measures from SJVAPCD Rule VIII. Therefore, the proposed project would have a ***less than significant*** impact related to the potential to conflict with or obstruct implementation of the applicable air quality plan, or to result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

Response c): Sensitive receptors are those parts of the population that can be severely impacted by air pollution. Sensitive receptors include children, the elderly, and the infirm. The closest sensitive receptor is the Tom Hawkins Elementary School located approximately 0.5 miles south of the project site. As noted above, the only new emissions that would be generated by the proposed project would be short-term, temporary emissions associated with site grading and paving during the construction phase. The project would not increase vehicle travel, vehicle trips, or vehicle miles travelled.

The construction phase of the project would be temporary and short-term, and the implementation of all State, Federal, and SJVAPCD requirements would greatly reduce pollution concentrations generated during construction activities. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM₁₀ fugitive dust rules and equipment exhaust emissions controls are implemented. The proposed project would be required to comply with all applicable measures from SJVAPCD Rule VIII. Therefore, dust from construction of the proposed project would be reduced and would be consistent with SJVAPCD guidance on this topic.

Therefore, implementation of the proposed project would not expose these sensitive receptors to substantial pollutant concentrations. The proposed project would not generate significant concentrations of air emissions. Therefore, impacts to sensitive receptors would be negligible and this is a ***less than significant*** impact.

Response d) The proposed project would not generate objectionable odors that would adversely affect substantial numbers of people. People in the immediate vicinity of construction activities may be subject to temporary odors typically associated with construction activities (diesel exhaust, hot asphalt, etc.). However, any odors generated by construction activities would be minor and would be short and temporary in duration. Additionally, as previously described under Response c), the proposed project is not anticipated to increase operational air emissions on this community, since average daily traffic (ADT) is not anticipated to increase along the nearest roadways due to implementation of the proposed project.

Examples of facilities that are known producers of operational odors include: Wastewater Treatment Facilities, Chemical Manufacturing, Sanitary Landfill, Fiberglass Manufacturing, Transfer Station, Painting/Coating Operations (e.g. auto body shops), Composting Facility, Food Processing Facility, Petroleum Refinery, Feed Lot/Dairy, Asphalt Batch Plant, and Rendering Plant. If a project would locate receptors and known odor sources in proximity to each other further analysis may be warranted; however, if a project would not locate receptors and known odor sources in proximity to each other, then further analysis is not warranted.

The project does not include any of the aforementioned uses. Additionally, construction activities would be temporary and minor, and average daily traffic along the roadways nearest to the neighboring residential communities not increase compared to the existing condition. As such, implementation of the proposed project would have a ***less than significant*** impact relative to this topic.

IV. BIOLOGICAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

Responses to Checklist Questions

Responses a) Less than Significant. No special-status species are expected to be affected by the proposed project. The project involves the expansion of the parking area of the Valpico Glenbriar Apartments currently under construction, immediately adjacent to the west of the project site, within a highly urbanized area of the City of Tracy.

The site consists of a small portion of the fenced-in area of a residential backyard. The site has been highly disturbed and is void of native vegetation and natural habitat. The site is not suitable to support any protected or special-status species. Therefore, this is a ***less than significant*** impact.

Responses b) No Impact. There is no riparian habitat or other sensitive natural communities located on the project site. As such, the proposed project would have ***no impact*** on these resources, and no mitigation is required.

Responses c) No Impact. A wetland is an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal

circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands are defined by regulatory agencies as having special vegetation, soil, and hydrology characteristics. Hydrology, or water inundation, is a catalyst for the formation of wetlands. Frequent inundation and low oxygen causes chemical changes to the soil properties resulting in what is known as hydric soils. The prevalent vegetation in wetland communities consists of hydrophytic plants, which are adapted to areas that are frequently inundated with water. Hydrophytic plant species have the ability to grow, effectively compete, reproduce, and persist in low oxygen soil conditions.

Below is a list of wetlands that are found in the Tracy planning area:

- **Farmed Wetlands:** This category of wetlands includes areas that are currently in agricultural uses. This type of area occurs in the northern portion of the Tracy Planning Area.
- **Lakes, Ponds and Open Water:** This category of wetlands includes both natural and human-made water bodies such as that associated with working landscapes, municipal water facilities and canals, creeks and rivers.
- **Seasonal Wetlands:** This category of wetlands includes areas that typically fill with water during the wet winter months and then drain enough to become ideal plant habitats throughout the spring and summer. There are numerous seasonal wetlands throughout the Tracy Planning Area.
- **Tidal Salt Ponds and Brackish Marsh:** This category of wetlands includes areas affected by irregular tidal flooding with generally poor drainage and standing water. There are minimal occurrences along some of the larger river channels in the northern portion of the Tracy Planning Area.

There are no wetlands located on the project site. Therefore, there is ***no impact*** and no mitigation is required.

Responses d) Less than Significant. The California Natural Diversity Data Base (CNDDB) record search did not reveal any documented wildlife corridors or wildlife nursery sites on or adjacent to the project site. Furthermore, the field survey did not reveal any wildlife corridors or wildlife nursery sites on or adjacent to the project site. Implementation of the proposed project would have a ***less than significant***. No mitigation is necessary.

Responses e), f) Less than Significant. The proposed project is classified as Urban Habitat under the SJMSCP. The City of Tracy and the project applicant have consulted with SJCOG and agreed to allow coverage of the project pursuant to the SJMSCP. SJCOG staff has determined that the proposed project is consistent with the SJMSCP and coverage under the plan has been obtained. Therefore, this is a ***less than significant*** impact and no additional mitigation is required.

V. CULTURAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource pursuant to '15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?			X	
c) Disturb any human remains, including those interred outside of formal cemeteries?			X	

Responses to Checklist Questions

Response a) - c): Less than Significant. A review of literature maintained by the Central California Information Center of the California Historical Resources Information System at California State University, Stanislaus identified that no previously identified prehistoric period cultural resources are known within, or within a 0.25-mile radius of the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site.

Furthermore, the location of the project site indicates that it and the surrounding area have been previously excavated. The project site is currently developed with a single-family residence and surrounded by existing or future urban development. No cultural, historical, or archaeological resources are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project. Therefore, project implementation would have a ***less than significant*** impact relative to this topic

VI. ENERGY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X	

Responses to Checklist Questions

Responses a)-b) Less than Significant. Appendix F of the State CEQA Guidelines requires consideration of the potentially significant energy implications of a project. CEQA requires mitigation measures to reduce “wasteful, inefficient and unnecessary” energy usage (Public Resources Code Section 21100, subdivision [b][3]). According to Appendix F of the CEQA Guidelines, the means to achieve the goal of conserving energy include decreasing overall energy consumption, decreasing reliance on natural gas and oil, and increasing reliance on renewable energy sources. In particular, the proposed project would be considered “wasteful, inefficient, and unnecessary” if it were to violate state and federal energy standards and/or result in significant adverse impacts related to project energy requirements, energy inefficiencies, energy intensiveness of materials, cause significant impacts on local and regional energy supplies or generate requirements for additional capacity, fail to comply with existing energy standards, otherwise result in significant adverse impacts on energy resources, or conflict or create an inconsistency with applicable plan, policy, or regulation.

The proposed project consists of a lot line adjustment in order to expand the parking area for the Valpico apartment site that is currently under construction. The proposed project will result in approximately 25 additional standard parking spaces, in addition to the development of a maintenance building. Existing utilities will be extended to the new building location. The amount of operational energy used at the project site would directly correlate to the amount of outdoor lighting and landscape equipment. Operational energy would be negligible as the project does not propose uses that would increase energy use, trip generation, or VMT's. Overall, proposed project energy consumption would be temporary and minor, given the nature of the proposed project (a parking lot extension with installation of a maintenance building), and given the size and scope of proposed project activities.

The proposed project would comply with all existing energy standards, including those established by the City of Tracy and San Joaquin County, and would not result in significant adverse impacts on energy resources. Therefore, the proposed project would not be expected cause an inefficient, wasteful, or unnecessary use of energy resources nor cause a significant impact on any of the threshold as described by Appendix G of the CEQA Guidelines. This is a **less than significant** impact.

VII. GEOLOGY AND SOILS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X

Responses to Checklist Questions

Responses a.i)-a.ii) Less than Significant. The project site is located in an area of low to moderate seismicity. No known active faults cross the project site, and the site is not located within an Alquist-Priolo Earthquake Fault Zone; however, relatively large earthquakes have historically occurred in the Bay Area and along the margins of the Central Valley. Many earthquakes of low magnitude occur every year in California. The nearest earthquake fault zoned as active by the State of California Geological Survey is the Black Butte fault, located approximately 2.7 miles southwest of the site.

The Tracy area has a low-to-moderate seismic history. The largest recorded measurable magnitude earthquake in Tracy measured 3.9 on the Richter scale. The greatest potential for significant ground shaking in Tracy is believed to be from maximum credible earthquakes occurring on the Calaveras, Hayward, San Andreas, or Greenville faults. Further seismic activity can be expected to continue along the western margin of the Central Valley, and as with all projects in the area, the Project will be designed to accommodate strong earthquake ground shaking, in compliance with the applicable California building code standards.

Other faults capable of producing ground shaking at the site include the San Joaquin fault, 6.7 miles southwest; the Midway fault, 6.9 miles southwest; and the Corral Hollow-Carnegie fault, 10.7 miles southwest of the site. Any one of these faults could generate an earthquake capable of causing strong ground shaking at the subject site. Earthquakes of Moment Magnitude (M_w) 7 and larger have historically occurred in the region and numerous small magnitude earthquakes occur every year.

Since there are no known active faults crossing the project site and the site is not located within an Earthquake Fault Special Study Zone, the potential for ground rupture at the site is considered low.

An earthquake of moderate to high magnitude generated within the San Francisco Bay Region and along the margins of the central valley could cause considerable ground shaking at the site, similar to that which has occurred in the past. In order to minimize potential damage to the proposed project caused by groundshaking, all construction would comply with the latest California Building Code standards, as required by the City of Tracy Municipal Code 9.04.030.

Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead-and-live loads. The code-prescribed lateral forces are generally considered to be substantially smaller than the comparable forces that would be associated with a major earthquake. Therefore, structures should be able to: (1) resist minor earthquakes without damage, (2) resist moderate earthquakes without structural damage but with some nonstructural damage, and (3) resist major earthquakes without collapse but with some structural as well as nonstructural damage.

Implementation of the California Building Code standards, which include provisions for seismic building designs, would ensure that impacts associated with groundshaking would be less than significant. Building new structures for human use would increase the number of people exposed to local and regional seismic hazards. Seismic hazards are a significant risk for most property in California.

The Safety Element of the Tracy General Plan includes several goals, objectives and policies to reduce the risks to the community from earthquakes and other geologic hazards. In particular, the following policies would apply to the project site:

SA-1.1, Policy P2: Geotechnical reports shall be required for development in areas where potentially serious geologic risks exist. These reports should address the degree of hazard, design parameters for the project based on the hazard, and appropriate mitigation measures.

SA-1.2, Policy P1: All construction in Tracy shall conform to the California Building Code and the Tracy Municipal Code including provisions addressing unreinforced masonry buildings.

The City reviews all proposed projects for consistency with the General Plan policies and California Building Code provisions identified above, as applicable. This review occurs throughout the project application review and processing stage, and throughout plan check and building inspection phases prior to the issuance of a certificate of occupancy. Since the majority of work under the scope of this project involves roadway and bridges, the relevant Caltrans, state, and FHWA codes and requirements will be enforced.

Consistency with the requirements of the California Building Code and the Tracy General Plan policies identified above would ensure that impacts on humans associated with seismic hazards would be *less than significant*.

Responses a.iii), c), d): Liquefaction normally occurs when sites underlain by saturated, loose to medium dense, granular soils are subjected to relatively high ground shaking. During an earthquake, ground shaking may cause certain types of soil deposits to lose shear strength, resulting in ground settlement, oscillation, loss of bearing capacity, landsliding, and the buoyant rise of buried structures. The majority of liquefaction hazards are associated with sandy soils, silty soils of low plasticity, and some gravelly soils. Cohesive soils are generally not considered to be susceptible to liquefaction. In general, liquefaction hazards are most severe within the upper 50 feet of the surface, except where slope faces or deep foundations are present.

Expansive soils are those that undergo volume changes as moisture content fluctuates; swelling substantially when wet or shrinking when dry. Soil expansion can damage structures by cracking foundations, causing settlement and distorting structural elements. Expansion is a typical characteristic of clay-type soils. Expansive soils shrink and swell in volume during changes in moisture content, such as a result of seasonal rain events, and can cause damage to foundations, concrete slabs, roadway improvements, and pavement sections.

Soil expansion is dependent on many factors. The more clayey, critically expansive surface soil and fill materials will be subjected to volume changes during seasonal fluctuations in moisture content. According to the City of Tracy General Plan Draft EIR, portions of the Tracy Planning Area have a moderate to high risk for expansive soils. The General Plan EIR indicates that with the implementation of objectives, policies, and actions from the General Plan Safety Element, this potentially significant impact would be reduced to a *less than significant* level. It is further noted that the project would not introduce new people or habitable structures to the site. There would be no risk related to this topic associated with the construction of a parking lot and maintenance shed.

Responses a.iv): The project site is relatively flat. According to the City's General Plan EIR, the landslide risk in Tracy is low in most areas. In the wider Tracy Planning Area, some limited potential for risk exists for grading and construction activities in the foothills and mountain terrain of the upland areas in the southwest. The potential for small scale slope failures along river banks also exists. The project site is not located in the foothills, mountain terrain, or along a river bank. As such, the project site is exposed to little or no risk associated with landslides. This is a *less than significant* impact and no mitigation is required.

Responses b): According to the project site plans prepared for the proposed project, development of the proposed project would result in the creation of new impervious surface areas in portions of the project site. The development of the project site would also cause ground disturbance of top soil. The ground disturbance would be limited to the areas proposed for grading and excavation. During any construction and land preparation processes within the Project site, exposed surfaces could be susceptible to erosion from wind and water. Effects from

erosion include impacts on water quality and air quality. Exposed soils that are not properly contained or capped increase the potential for increased airborne dust and increased discharge of sediment and other pollutants into nearby stormwater drainage facilities. Risks associated with erosive surface soils can be reduced by using appropriate controls during construction and properly re-vegetating exposed areas. The implementation of various dust control measures during site preparation and construction activities would reduce the potential for soil erosion and the loss of topsoil. Additionally, once the grading activities are completed, the site would immediately be paved, which would cap any exposed soil and eliminate the potential for erosion. Therefore, the impact is *less than significant*.

Response e): The proposed project would not require the use of septic tanks or alternative waste water disposal systems for the disposal of waste water. Implementation of the proposed project would result in *no impact* relative to this topic.

Response f): Known paleontological resources or sites are not located on the project site. Additionally, unique geologic features are not located on the site. The site is currently developed with a single-family residence and surrounded by existing or future urban development. No paleontological resources or geologic features are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project. Therefore, *no impact* would occur.

VIII. GREENHOUSE GAS EMISSIONS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?			X	

Responses to Checklist Questions

Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation.

Naturally occurring greenhouse gases include water vapor (H₂O), carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and ozone (O₃). Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also greenhouse gases, but they are, for the most part, solely a product of industrial activities. Although the direct greenhouse gases CO₂, CH₄, and N₂O occur naturally in the atmosphere, human activities have changed their atmospheric concentrations. From the pre-industrial era (i.e., ending about 1750) to 2011, concentrations of these three greenhouse gases have increased globally by 40, 150, and 20 percent, respectively (Intergovernmental Panel on Climate Change [IPCC], 2013).

Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO₂), methane (CH₄), ozone (O₃), water vapor, nitrous oxide (N₂O), and chlorofluorocarbons (CFCs).

The emissions from a single project will not cause global climate change, however, GHG emissions from multiple projects throughout the world could result in a cumulative impact with respect to global climate change. Therefore, the analysis of GHGs and climate change presented in this section is presented in terms of the proposed project's contribution to cumulative impacts and potential to result in cumulatively considerable impacts related to GHGs and climate change.

Cumulative impacts are the collective impacts of one or more past, present, and future projects that, when combined, result in adverse changes to the environment. In determining the significance of a proposed project's contribution to anticipated adverse future conditions, a lead agency should generally undertake a two-step analysis. The first question is whether the *combined* effects from *both* the proposed project *and* other projects would be cumulatively significant. If the agency answers this inquiry in the affirmative, the second question is whether "the proposed project's *incremental* effects are cumulatively considerable" and thus significant in and of themselves. The cumulative project list for this issue (climate change) comprises anthropogenic (i.e., human-made) GHG emissions sources across the globe and no project alone would reasonably be expected to contribute to a noticeable incremental change to the global

climate. However, legislation and executive orders on the subject of climate change in California have established a statewide context and process for developing an enforceable statewide cap on GHG emissions. Given the nature of environmental consequences from GHGs and global climate change, CEQA requires that lead agencies consider evaluating the cumulative impacts of GHGs. Small contributions to this cumulative impact (from which significant effects are occurring and are expected to worsen over time) may be potentially considerable and, therefore, significant.

Significance Thresholds

Governor's Office of Planning and Research's (OPR's) Guidance does not include a quantitative threshold of significance to use for assessing a project's GHG emissions under CEQA. Moreover, the California Air Resources Board (CARB) has not established such a threshold or recommended a method for setting a threshold for project-level analysis. In the absence of a consistent statewide threshold, a threshold of significance for analyzing the project's GHG emissions was developed. The issue of setting a GHG threshold is complex and dynamic, especially in light of the California Supreme Court decision in *Center for Biological Diversity v. California Department of Fish and Wildlife* (referred to as the Newhall Ranch decision hereafter). The California Supreme Court ruling also highlighted the need for the threshold to be tailored to the specific project type, its location, and the surrounding setting. Therefore, the threshold used to analyze the project is specific to the analysis herein and the City retains the ability to develop and/or use different thresholds of significance for other projects in its capacity as lead agency and recognizing the need for the individual threshold to be tailored and specific to individual projects.

The SJVAPCD provides guidance for addressing GHG emissions under CEQA. The SJVAPCD requires quantification of GHG emissions for all projects which the lead agency has determined that an EIR is required. Although an EIR is not required for the proposed project, the GHG emissions are quantified below, followed by a consistency analysis with the SJCOG RTP/SCS.

Responses to Checklist Questions

Responses a) and b):

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors. Therefore, the cumulative global emissions of GHGs contributing to global climate change can be attributed to every nation, region, and city, and virtually every individual on Earth. A project's GHG emissions are at a micro-scale relative to global emissions, but could result in a cumulatively considerable incremental contribution to a significant cumulative macro-scale impact. Implementation of the proposed project would contribute to increases of GHG emissions that are associated with global climate change. Estimated GHG emissions attributable to future development would be primarily associated with increases of CO₂ and other GHG pollutants, such as CH₄ and N₂O, from construction. These construction GHG emissions are a one-time release and are comparatively much lower than emissions associated with operational phases of a project. Cumulatively, these construction emissions would not generate a significant contribution to global climate change.

As noted previously, the proposed parking lot expansion would not result in operational emissions, given that the project would not increase vehicle trips or vehicle miles travelled. The only GHG emissions that would be emitted by the proposed project would occur during the relatively short construction phase. These emissions would be negligible, and would not contribute to global climate change. This is a less than significant impact.

IX. HAZARDS AND HAZARDOUS MATERIALS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?			X	

Responses to Checklist Questions

Responses a)-c) No Impact. The proposed project would not involve the use of any hazardous materials. There would be no hazardous materials used, stored or transported as a result of project implementation. The project is a residential parking lot. There is **no impact**.

Response d) No Impact. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, project implementation would have **no impact** relative to this topic.

Response e) No Impact. The Federal Aviation Administration (FAA) establishes distances of ground clearance for take-off and landing safety based on such items as the type of aircraft using the airport.

The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Mobility and Housing Division of the City Manager's Office. The City of Tracy

adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The probability of an aircraft accident is highest along the extended runway centerline, and within one mile of the runway end. The Airport Master Plan designates four safety zones in which land use restrictions apply due to proximity to the airport:

1. Runway Protection Zone (RPZ)
2. Inner Approach Zone (PAZO)
3. Outer Approach Zone (OAZ)
4. Overflight Zone (OZ)

Land use constraints in these four zones become progressively less restrictive from the RPZ to the OZ. The proposed project is not located in any of these four safety zones. The proposed project is not within the Tracy Airport zone, nor is it within any area identified as impacted by the Tracy Municipal Airport in the San Joaquin County Airport Land Use Compatibility Plan (i.e. it is not within the Airport Influence Area). Therefore, **no impact** associated with private airstrips and airport land use plans would occur.

Response f) No Impact. The project site currently connects to an existing network of City streets. The proposed parking area expansion would allow for greater emergency access relative to existing conditions. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, there is **no impact** relative to this topic.

Response g) Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point. The project would not result in development of structures or housing which would subject residents, visitors, or workers to long-term wildfire danger. Therefore, impacts from project implementation would be considered **less than significant** relative to this topic.

X. HYDROLOGY AND WATER QUALITY

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X	
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:			X	
(i) result in substantial erosion or siltation on- or off-site;			X	
(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;			X	
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems to provide substantial additional sources of polluted runoff; or			X	
(iv) impede or redirect flood flows?			X	
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?				X
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X	

Responses to Checklist Questions

Responses a), c(i) – c(iv)) Less than Significant. The proposed project does not contain any drainage connectivity to Waters of the US, nor is it located within a flood plain or flood hazard zone. The proposed project would not generate wastewater which would require treatment. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan and the previously-approved Valpico Glenbriar Apartments project.

In order to ensure that stormwater runoff from the project site does not adversely increase pollutant levels in adjacent surface waters, or exceed the capacity of the City's nearby stormwater conveyance infrastructure, the project is required to adhere to the standards and requirements contained in Chapter 11.34 of the Tracy Municipal Code – Stormwater Management and Discharge Control. A technical memo addressing the proposed project's stormwater design requirements was prepared (MacKay & Somps Civil Engineers, Inc., March 16, 2022). As noted in the technical memo, the stormwater infiltration trench facilities for the adjacent Valpico

Glenbriar Apartments project were sized for the 100-year, 24-hour storm event based on the City of Tracy's criteria for volume-based stormwater quality treatment. Relative to overall development of the adjacent apartment project, this additional proposed parking area adds less than 3% new impervious surface area of the previously-approved project. The addition of the proposed parking area increases the design surface water elevation in the infiltration trench by only 0.2', which is a negligible increase. This minor increase in water surface elevation meets the water quality requirements for the City of Tracy with no additional infrastructure, and is already included in Operation and Maintenance agreements between the developer and the City. On July 20, Wood Rogers, hired by the City, published a Technical Memorandum to evaluate the apartments' storm drainage system's capacity to accommodate the expanded parking area. Wood Rogers evaluated the storm drainage system's design and concluded that the expanded parking area would increase the risk of overland release, as designed, onto the adjacent parcel; and the potential hazard associated with this overland release is negligible.

Implementation of the proposed project would result in a *less than significant* impact relative to this topic.

Responses b) and e) Less than Significant. The proposed project would not require ground water supplies, and would not interfere with groundwater recharge. The project area is not located within a key groundwater recharge area, and would introduce a negligible increase in impervious surfaces. As such, impacts from project implementation would be *less than significant* relative to this topic.

Response d) No Impact. The project site is not within a 100-year or 200-year flood zone as delineated by FEMA. The project site is not within a tsunami or seiche zone. Development of the proposed project would not place housing or structures in a flood hazard area. Therefore, *no impact* from project implementation relative to flood hazard, tsunami, or seiche zones would occur.

XI. LAND USE AND PLANNING

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?				X
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

Responses to Checklist Questions

Response a) No Impact. The project site would result in the expansion of the parking area for the Valpico Glenbriar Apartments, located immediately west of the project site. Development of the project would not result in any physical barriers, such as a wall, or other division, that would divide an existing community, but would serve as an orderly extension of a planned parking area. The project would have **no impact** in regards to the physical division of an established community.

Response b) Less than Significant. The key planning documents that are directly related to, or that establish a framework within which the proposed project must be consistent, include:

- City of Tracy General Plan; and
- City of Tracy Zoning Ordinance.

The project site is currently designated Commercial by the City of Tracy General Plan Land Use Map and is zoned Community Shopping Center (CS). The project applicant is requesting a Rezone to amend the existing zoning designation for a portion of APN 246-140-080 from CS to High Density Residential (HDR). In addition, the project applicant is requesting a General Plan Amendment to change the current designation from "Commercial" to "Residential High" for a portion of APN 246-140-080. The proposed parking area is consistent with the "Residential High" designation.

The proposed Project would not conflict with any goals, policies, or implementing actions contained within the General Plan or other regulations adopted for the purpose of avoiding or mitigating an environmental effect. Therefore, impacts to land use compatibility would be **less than significant**

XII. MINERAL RESOURCES

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Responses to Checklist Questions

Response a)-b) No Impact. As described in the Tracy General Plan EIR, the main mineral resources found in San Joaquin County, and the Tracy Planning Area, are sand and gravel (aggregate), which are primarily used for construction materials such as asphalt and concrete. According to the California Geological Survey (CGS) evaluation of the quality and quantity of these resources, the most marketable aggregate materials in San Joaquin County are found in three main areas:

- In the Corral Hollow alluvial fan deposits south of Tracy;
- Along the channel and floodplain deposits of the Mokelumne River; and
- Along the San Joaquin River near Lathrop.

Figure 4.8-1 of the General Plan EIR identifies Mineral Resource Zones (MRZs) throughout the Tracy Planning Area. The project site is located within an area designated as MRZ-3. The MRZ-3 designation applies to areas containing mineral deposits the significance of which cannot be evaluated from available data. There are no substantial aggregate materials located within the project site. Therefore, the project would not result in the loss of availability of a known mineral resource or locally-important mineral resources recovery site. Therefore, there is **no impact** related to mineral resources.

XIII. NOISE

<i>Would the project result in:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generation of a temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Generation of excessive groundborne vibration or groundborne noise levels?			X	
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	

Responses to Checklist Questions

Responses a) Less than Significant. The proposed project is located in an area consisting predominately of residential land uses, with some limited commercial uses nearby as well. The primary sources of noise currently present in the project area are from vehicle traffic along MacArthur Drive and Valpico Road.

Operation of the proposed parking lot would not result in an increase in traffic on area roadways. Traffic noise associated with the adjacent Valpico Apartments project would not increase as a result of approval and operation of the proposed project. Additionally, the proposed project not not introduce new sensitive receptors to the area.

Construction activities have the potential to create temporary, or periodic increases in ambient noise levels in the project vicinity above levels existing without the project. During the construction stage of the project, noise from construction activities would add to the noise environment in the project vicinity. Construction activities would include the use of heavy equipment including grading and compacting that can generate noise. Noise would also be generated during the construction phase by increased truck traffic on area roadways. This noise increase would be of short duration and would occur primarily during daytime hours.

Table 1 provides a list of the types of equipment which may be associated with construction activities and the associated noise levels. The nearest residential receptors would be located roughly 27 feet or further from construction activities.

Table 1: Construction Equipment Noise

Type of Equipment	Predicted Noise Level (L _{max} Db)				Distances To Noise Contours (Feet)	
	Noise Level At 50'	Noise Level At 100'	Noise Level At 50'	Noise Level At 100'	Noise Level At 50'	Noise Level At 100'
Backhoe	78	72	66	60	126	223
Compactor	83	77	71	65	223	397
Compressor (air)	78	72	66	60	126	223
Dozer	82	76	70	64	199	354
Dump Truck	76	70	64	58	100	177
Excavator	81	75	69	63	177	315
Generator	81	75	69	63	177	315

SOURCE: ROADWAY CONSTRUCTION NOISE MODEL USER'S GUIDE. FEDERAL HIGHWAY ADMINISTRATION. FHWA-HEP-05-054. JANUARY 2006.

Noise sensitive receptors near the construction site would, at times, experience elevated noise levels from construction activities; however, construction-related noise generally would occur during daytime hours only. General Plan Noise Element Policy 4 (Goal N-1.2) establishes the following construction requirements:

All construction in the vicinity of noise sensitive land uses, such as residences, hospitals, or convalescent homes, shall be limited to daylight hours or 7:00 a.m. to 7:00 p.m. In addition, the following construction noise control measures shall be included as requirements at construction sites to minimize construction noise impacts:

- *Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.*
- *Locate stationary noise-generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction area.*
- *Utilize "quiet" air compressors and other stationary noise sources where technology exists.*

Implementation of these required measures (i.e., engine muffling, placement of construction equipment, and strategic stockpiling and staging of construction vehicles), and compliance with the City Municipal Code requirements, would serve to further reduce exposure to construction noise levels. Adherence to City's General Plan, as well as City Municipal Code Title 4.12, Article 9 (Noise Control Ordinance), would minimize any impacts from noise during construction. Requirements stated above are adopted by the City as Conditions of Approval (COAs) for all new projects prior to project approval

Therefore, implementation of the proposed project would have a ***less than significant*** impact relative to this topic.

Responses b) Less than Significant. No major stationary sources of groundborne vibration were identified in the project area that would result in the long-term exposure of proposed onsite land uses to unacceptable levels of ground vibration. In addition, the proposed project would not involve the use of any major equipment or processes that would result in potentially significant levels of ground vibration that would exceed these standards at nearby existing land uses. However, construction activities associated with the proposed project would require the use of

various tractors, trucks, and potentially jackhammers that could result in intermittent increases in groundborne vibration levels. The use of major groundborne vibration-generating construction equipment/processes (i.e., blasting, pile driving) is not anticipated to be required for construction of the proposed project.

Groundborne vibration levels commonly associated with construction equipment are summarized in Table 2.

Table 2: Representative Vibration Source Levels for Construction Equipment

<i>EQUIPMENT</i>	<i>PEAK PARTICLE VELOCITY AT 25 FEET (IN/SEC)</i>
Large Bulldozers	0.089
Loaded Trucks	0.076
Jackhammer	0.035
Small Bulldozers	0.003

SOURCE: FTA 2006, CALTRANS 2004.

Based on the levels presented in Table 2, groundborne vibration generated by construction equipment would not be anticipated to exceed approximately 0.09 inches per second ppv at 25 feet. Predicted vibration levels would not be anticipated to exceed recommended criteria for structural damage and human annoyance (0.2 and 0.1 in/sec ppv, respectively) at nearby land uses. As a result, short-term groundborne vibration impacts would be considered ***less than significant*** and no mitigation is required.

Response c) Less than Significant. The Tracy Municipal Airport is the closest airport to the project site, located approximately 1.5 miles southwest of the site. The Airport is a general aviation airport owned by the City and managed by the Mobility and Housing Division of the City Manager's Office. The City of Tracy adopted an Airport Master Plan in 1998, analyzing the impacts to safety on surrounding development from the Tracy Municipal Airport.

The San Joaquin County Airport Land Use Plan establishes noise contours surrounding the Tracy Municipal Airport. As shown on Figure 4.14-3 of the Tracy General Plan Final Supplemental EIR (Certified on February 1, 2011), the project site is located outside of both the 65 dBCNEL and the 60 dBCNEL noise contours for the Tracy Municipal Airport. As such, the project site would not be exposed to excessive noise from the Tracy Municipal Airport. This is a ***less than significant*** impact, and no mitigation is required.

XIV. POPULATION AND HOUSING

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X

Responses to Checklist Questions

Response a) Less than Significant. The project does not propose any housing that would result in direct population growth. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan. The project will expand the parking area for the Valpico Glenbriar Apartments. No population increases would result from implementation of the proposed project. Therefore, implementation of the proposed project would have a **less than significant** impact relative to this topic.

Response b) No Impact. The project site is located within the Tracy City limit. The proposed project would not displace housing or people. Implementation of the proposed project would have **no impact** relative to this topic.

XV. PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?				X
ii) Police protection?				X
iii) Schools?				X
iv) Parks?				X
v) Other public facilities?				X

Responses to Checklist Questions

Responses ai), aii), aiii), aiv): The project site is currently under the jurisdiction of the South San Joaquin County Fire Authority. The proposed project would not include additional residential units, or people to the City of Tracy. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan or previously-approved projects. No additional demand for fire protection would be created by the project. Therefore, implementation of the proposed project will have **no impact** to this topic.

The project site is currently under the jurisdiction of the Tracy Police Department. The proposed project would not include additional residential units, or add people to the City of Tracy. The proposed project would not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan or previously-approved projects. No additional demand for police protection would be created by the project. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

Schools within the City of Tracy are part of the Tracy Unified School District. The proposed project does not include any residential units, or any other type of use that would directly, or indirectly increase the student population in the area. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

The proposed project does not include any residential units or any other type of use that would directly, or indirectly increase the population, or park demand in the area, or include any other type of use that would directly increase the park needs. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the current General Plan. Therefore, the proposed project would not have the potential to require construction of additional park and recreational facilities which may cause substantial adverse physical environmental impacts. Therefore, implementation of the proposed project will have **no impact** relative to this topic.

XVI. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Responses to Checklist Questions

Response a)-b) No Impact. The proposed project does not include any residential units or any other type of use that would increase the population, or park and recreation facility demand in the area, or include any other type of use that would directly increase the use of park and recreation facilities. The proposed project will not result in intensification of land uses, or the addition of structures or uses that would differ from the current General Plan. Therefore, the proposed project would not significantly increase the use of existing facilities. Furthermore, it is not anticipated that any substantial physical deterioration of existing facilities would occur, or be accelerated. Implementation of the proposed project would have a **no impact** relative to this topic.

XVII. TRANSPORTATION

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?				X
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?				X
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
d) Result in inadequate emergency access?			X	

Responses to Checklist Questions

Response a) No Impact. No new residential structures, uses, or visitor serving areas are included in the project. Therefore, the project is not expected to result in any increase in vehicle trips within the area. The project would not result in any changes to roadway configurations or driveway access points for the approved Valpico Glenbriar Apartments Project, nor would the project conflict with any adopted plans or programs, nor would it interfere with any transit, roadway, bicycle or pedestrian facilities. The temporary gates restricting access to the future Glenbriar Drive through the project site will be removed and all improvements consistent with City standards prior to acceptance of Glenbriar Drive as a public right-of-way. There is **no impact** relative to this topic.

Response b) No Impact. The proposed project would not add any new vehicle trips to any area roadways, nor would it increase the length of any existing or future vehicle trips. No change in VMT would occur as a result of project implementation. The project would simply add additional parking spaces to a previously-approved project. There is **no impact**.

Response c) and d) Less than Significant. No site circulation or access issues have been identified that would cause a traffic safety problem/hazard or any unusual traffic congestion or delay that could impede emergency vehicles or emergency access. The project does not include any design features or incompatible uses that pose a significant safety risk. The project would create no adverse impacts to emergency vehicle access or circulation. Therefore, project implementation would have a **less than significant** impact relative to this topic.

XVIII. TRIBAL CULTURAL RESOURCES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?			X	
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resources to a California Native American tribe.			X	

Responses to Checklist Questions

Responses a)-b) Less than Significant. Known tribal cultural resources or sites are not located on the project site. Additionally, unique geologic features are not located on the site. The site is currently developed with a single-family residence and surrounded by existing or future urban development. No tribal cultural resources or geologic features are anticipated to be encountered during the project's construction phase due to the disturbed nature of the site and the limited amount of excavation that would be required to implement the project.

There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. Therefore, project implementation would have a **less than significant** impact relative to this topic

XIX. UTILITIES AND SERVICE SYSTEMS

<i>Would the project:</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?				X
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?				X
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?				X
d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reductions goals?				X
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?				X

Responses to Checklist Questions

Responses a)-e) No Impacts. The project includes the expansion of the parking area for the Valpico Glenbriar Apartments project. The proposed project will not result in intensification of land use, or the addition of structures or uses that would differ from the previously-approved Valpico Apartments project. No additional demand for water, wastewater, electric power, natural gas, solid waste disposal or telecommunications facilities would be created by the project. The minor increase in the amount of impervious surfaces added by the project would not require the expansion of any off-site drainage infrastructure. There are **no impacts** related to this topic.

XX. WILDFIRE

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?			X	
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X	
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X	
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X	

Response a) and d) Less than Significant. The project includes the expansion of the parking area for the Valpico Glenbriar Apartments complex. The proposed parking improvements would allow for decreased fire risk relative to existing conditions. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan, nor would it expose people or structures to significant risks associated with flooding or slope failure. Therefore, impacts from project implementation would be considered *less than significant* relative to this topic.

Responses b) and c) Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point. The project would not result in development of structures or housing which would subject residents, visitors, or workers to long-term wildfire danger. The site is essentially flat, and is not surrounded by fuels or other conditions conducive to wildfire risks, and no fuel breaks or other associated wildfire infrastructure would be required. Therefore, impacts from project implementation are *less than significant* relative to this topic.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

Responses to Checklist Questions

Responses a)-c) Less than Significant. As described throughout the analysis above, the proposed project would not result in any significant impacts to the environment. The project would not result in any cumulative impacts, impacts to biological resources or impacts to cultural and/or historical resources. These are *less than significant* impacts.

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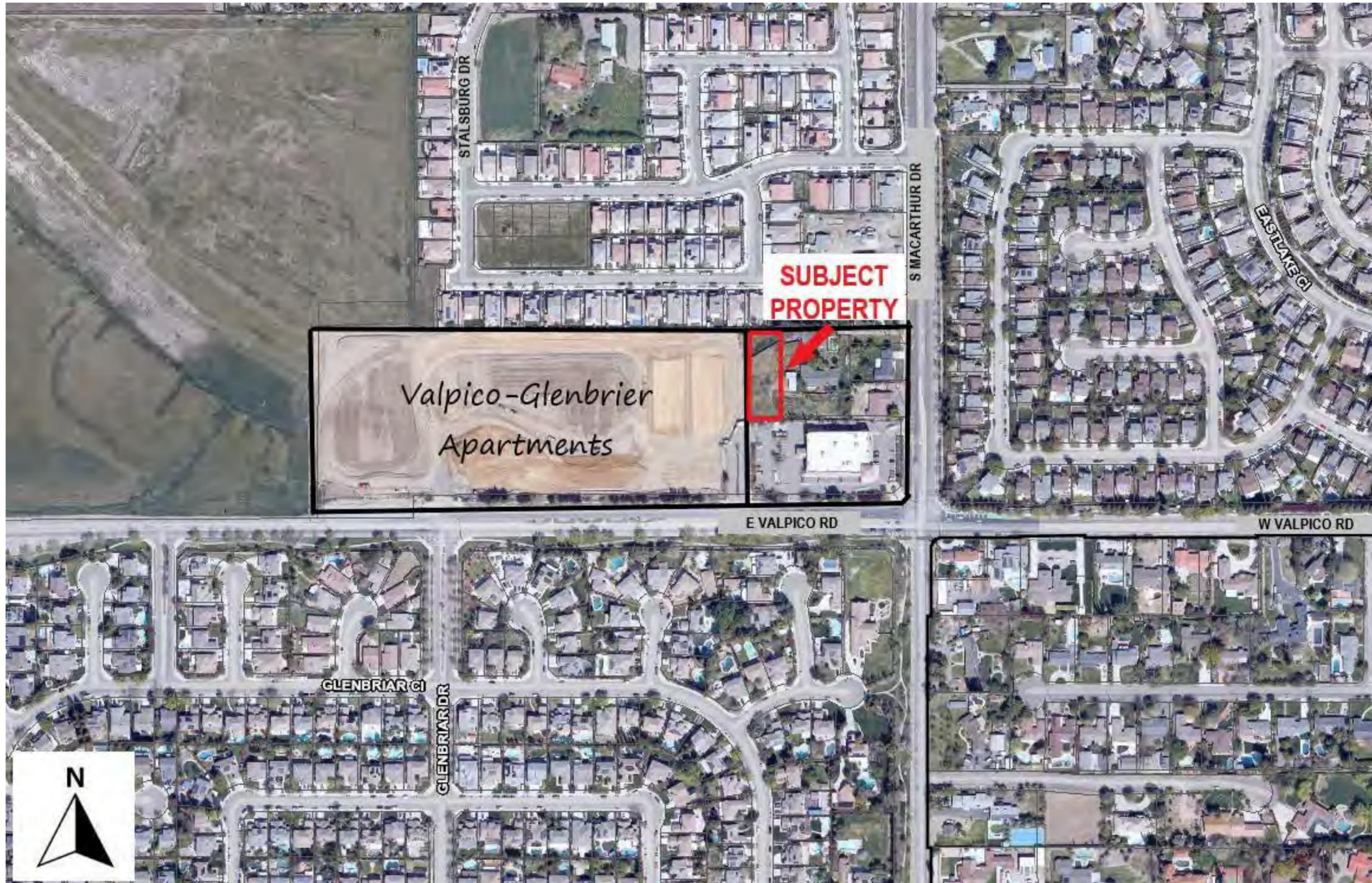
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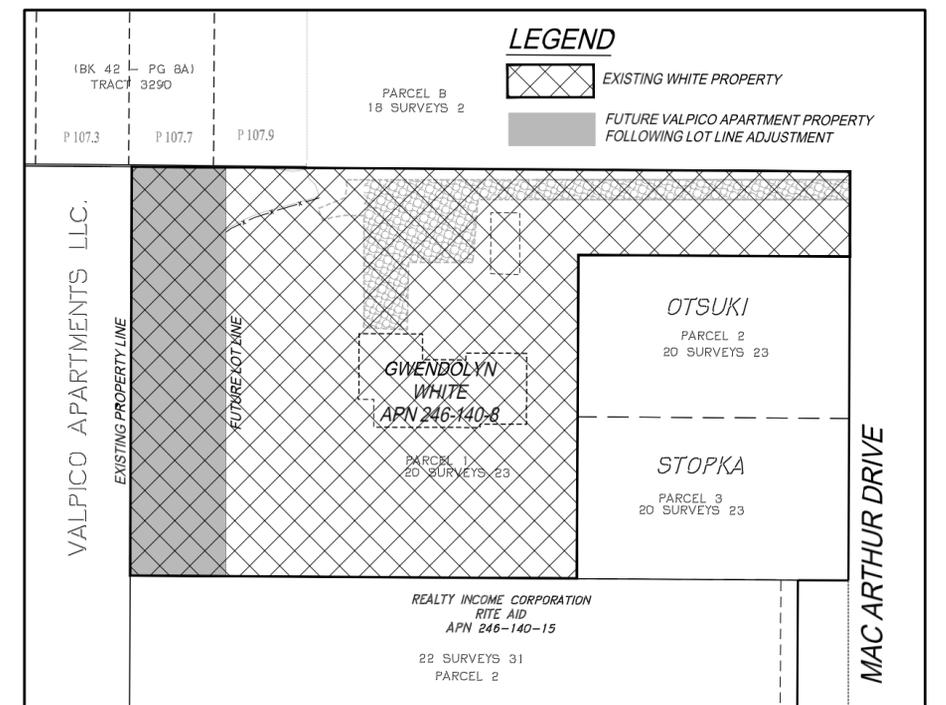
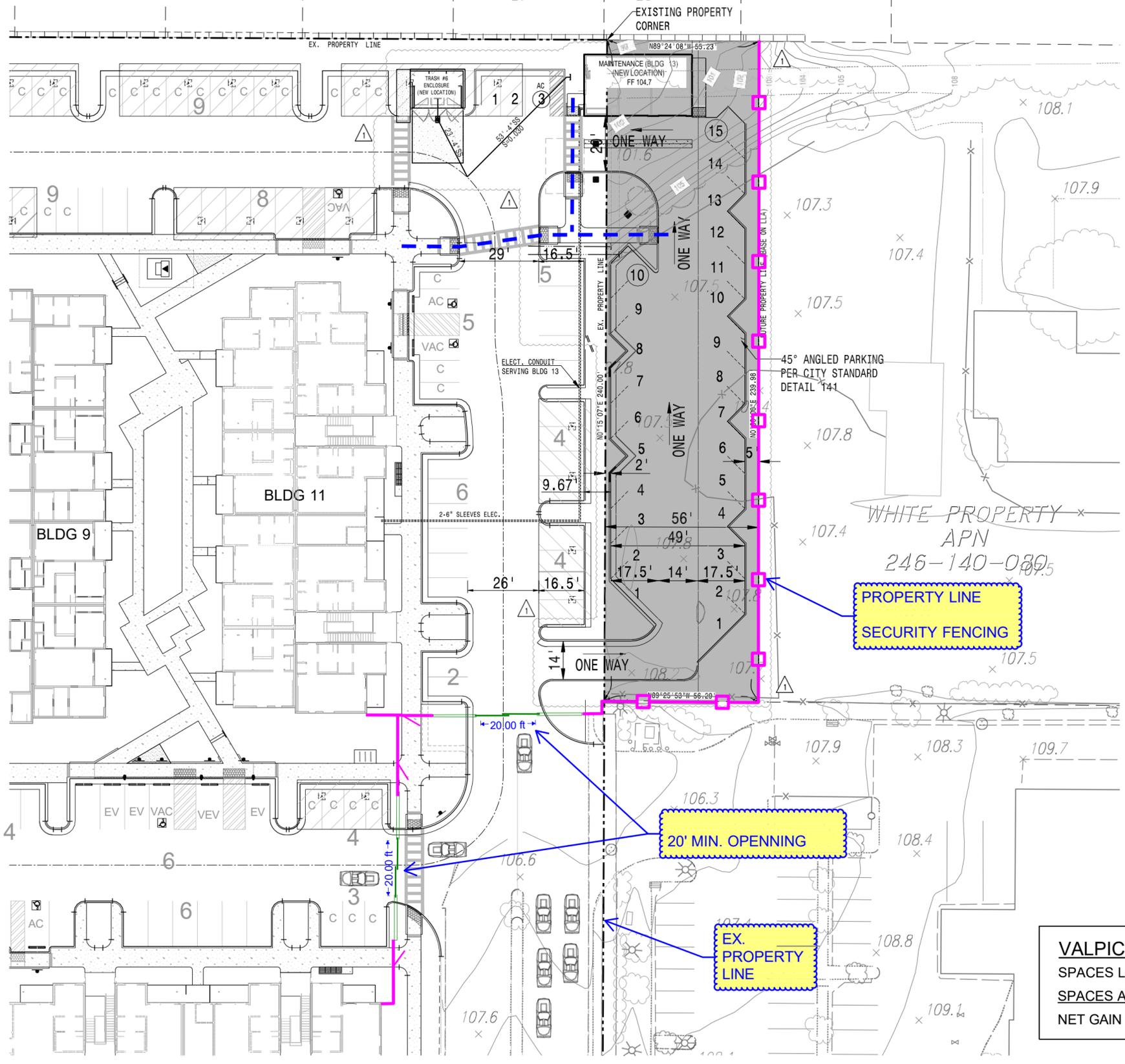
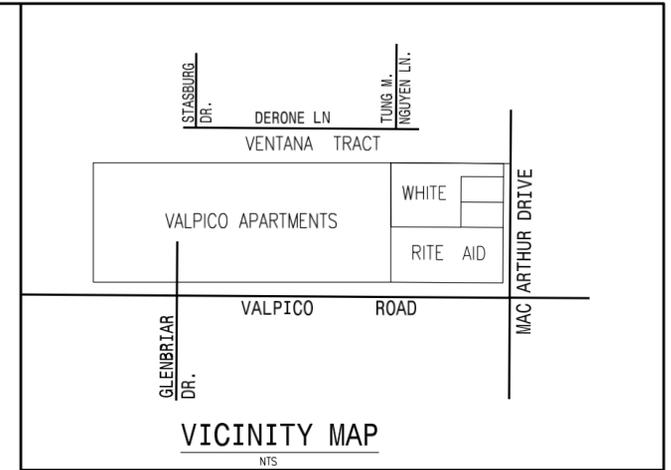
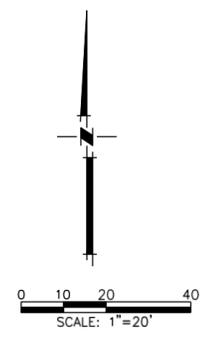
Valpico Glenbriar (The Vela) Apartments Parking Lot Expansion and Fence/Gates Project

- 264-unit apartment project approved in Oct 2019
- Katterra sold to Guardian Capital
- Current Proposal: expand parking area and construct perimeter fence and gates

VALPICO-GLENBRIAR APARTMENTS EXPANDED PARKING AREA



NAWABI 246-360-020 24
 CHEA 246-360-030 25
 HOFMANN 246-360-040 26 P 106.9
 BEASLEY 246-360-050 27 P 107.3
 MAUZY 246-360-060 28 P 107.7
 JENNER 246-360-070 29 P 107.9



WHITE PROPERTY SITE PLAN
1"=50'

AREA SUMMARY

9,666 SF PARKING AND DRIVE ISLE
3,021 SF LANDSCAPE AREA (31% OF PARKING)
695 SF BUILDING WITHIN LLA
13,382 SF LOT LINE ADJUSTMENT (LLA)

CHANGES AND ADDITIONS TO THE ORIGINAL IMPROVEMENT PLANS HAVE BEEN MADE TO THE AREA WITHIN THE CLOUDED REGION.
 THE MAINTENANCE BUILDING (#13) WAS INITIALLY APPROVED WITH THE VALPICO GLENBRIAR PROJECT AND IS BEING MOVED TO THE LOCATION SHOWN ON THIS SITE PLAN. IT IS STRICTLY BEING MOVED WITH NO CHANGES TO THE EXTERIOR COLORS OR MATERIALS.

VALPICO APARTMENTS PARKING SUMMARY

SPACES LOST (-2 GATE -3 TE)	-5
SPACES ADDED (5+10+15)	25
NET GAIN	+20

SHEET 1 OF 2

VALPICO APARTMENTS EXPANDED PARKING AREA WHITE PROPERTY - SITE PLAN

CITY OF TRACY CALIFORNIA

Mackay & Somp
ENGINEERS PLANNERS SURVEYORS
51428 FRANKLIN DR., PLEASANTON, CA 94588 (925)225-0620

PLEASANTON OFFICE	AS NOTED SCALE	4-27-2022 DATE	19988.001.GRD JOB NO.
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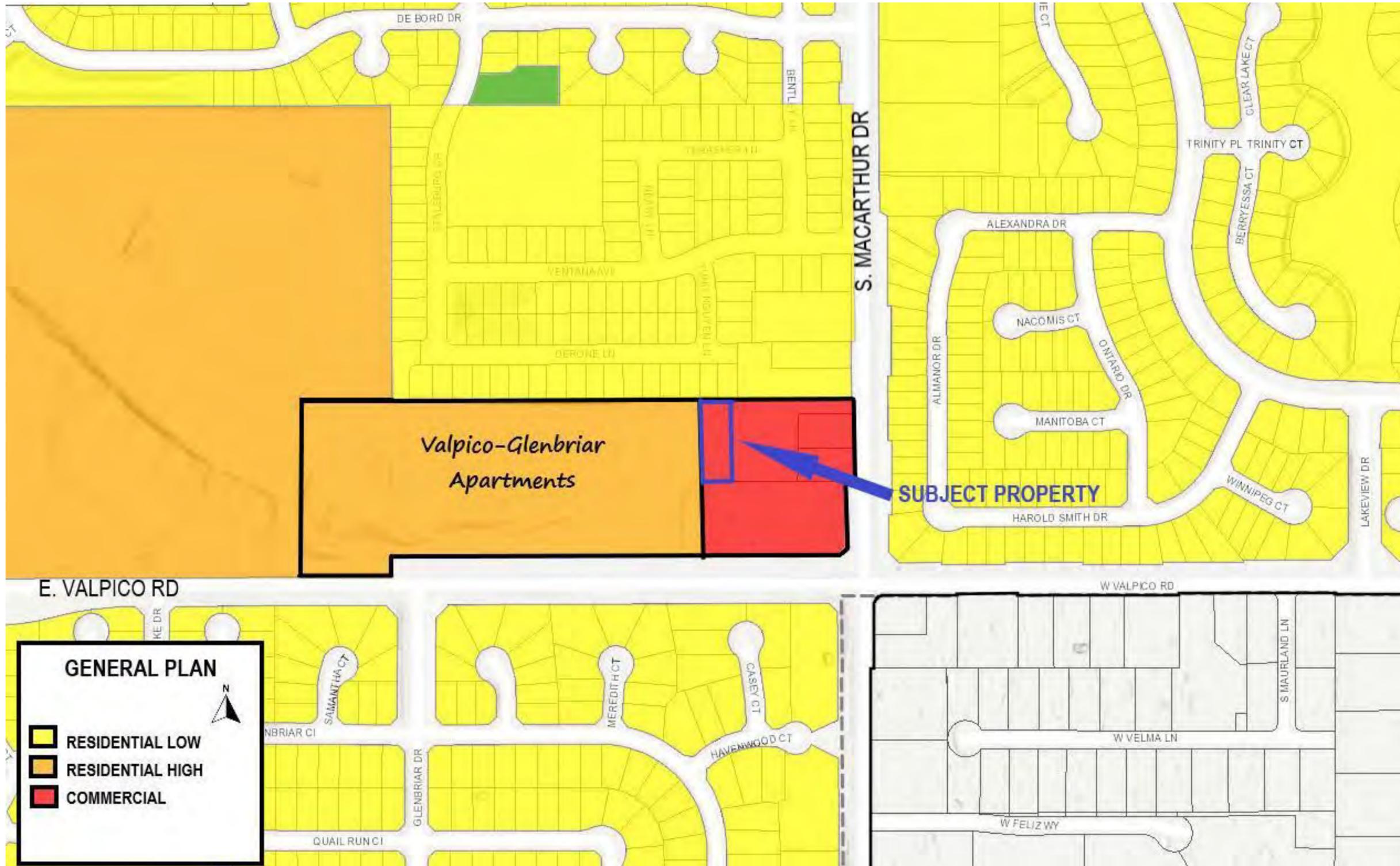


Parking Lot Expansion Includes:

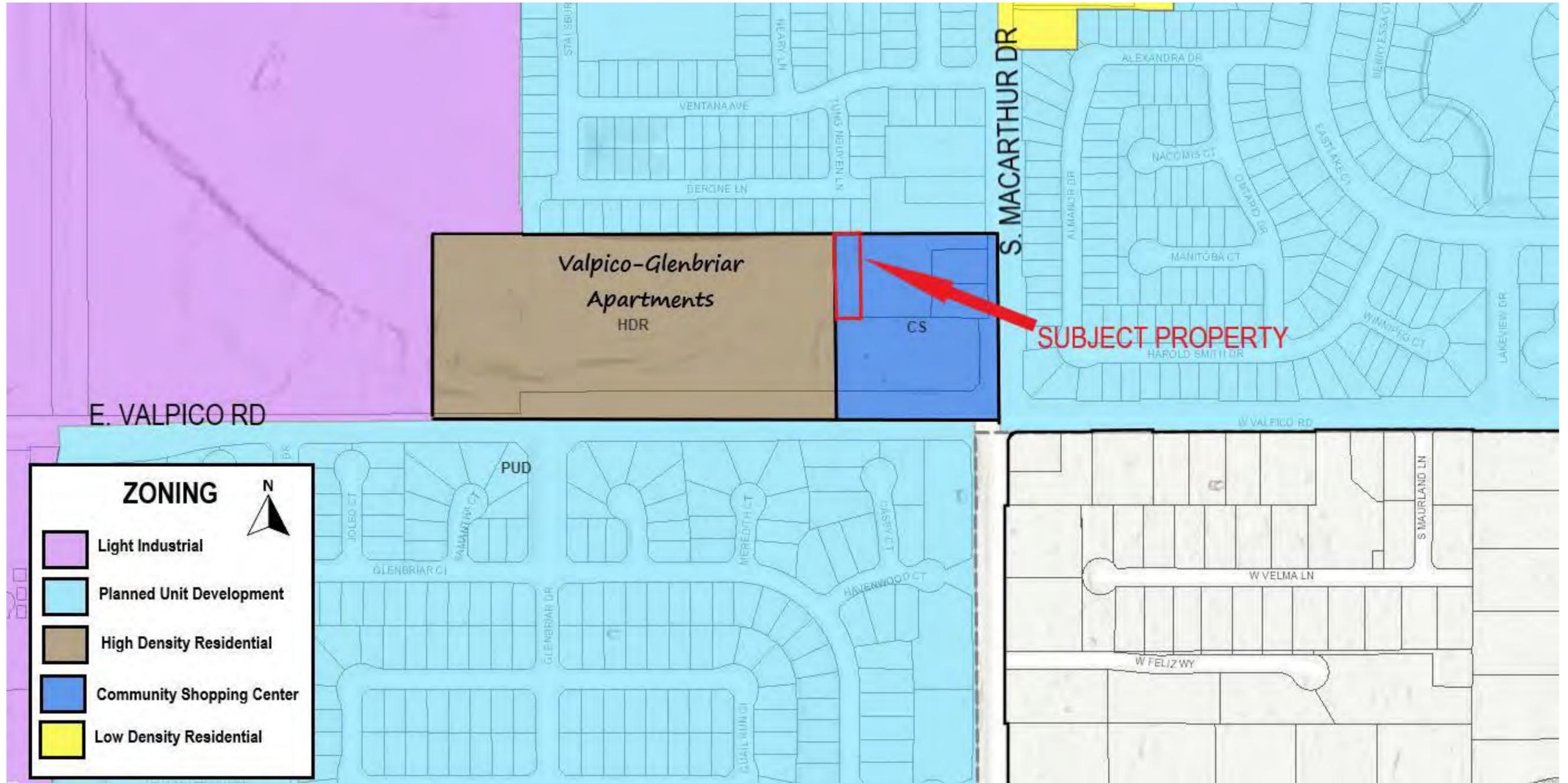
- General Plan Amendment
Commercial to Residential High
- Rezoning
Community Shopping Center to High Density Residential



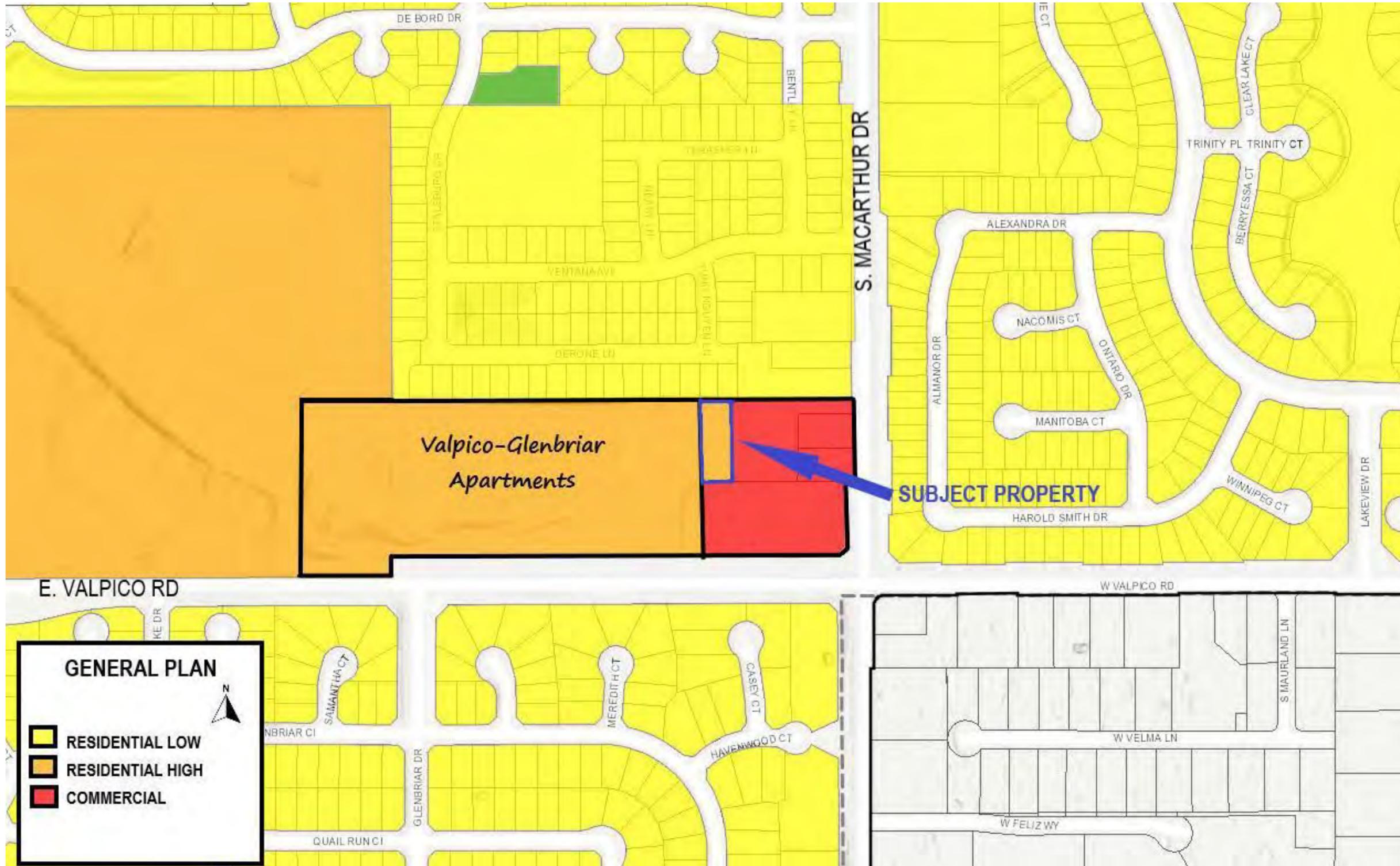
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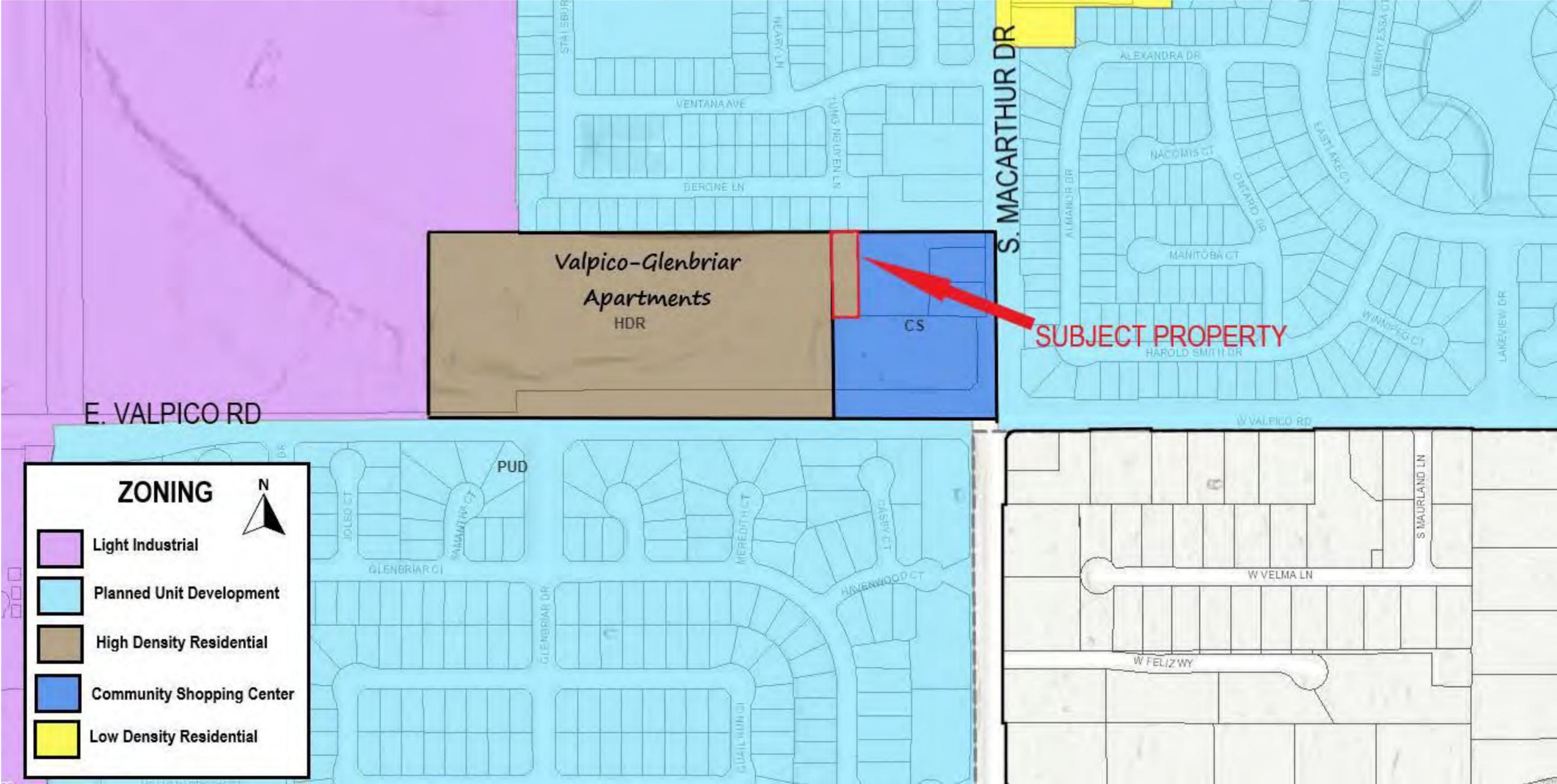
EXISTING ZONING



PROPOSED GENERAL PLAN



PROPOSED ZONING



CLIENT:

GUARDIAN CAPITAL

1601 RESPONSE ROAD
SUITE 390
SACRAMENTO, CA
95815

TEL. (925) 929-2687

PROJECT:

VALPICO APARTMENTS

TRACY,
CALIFORNIA

OVERALL FENCING PLAN

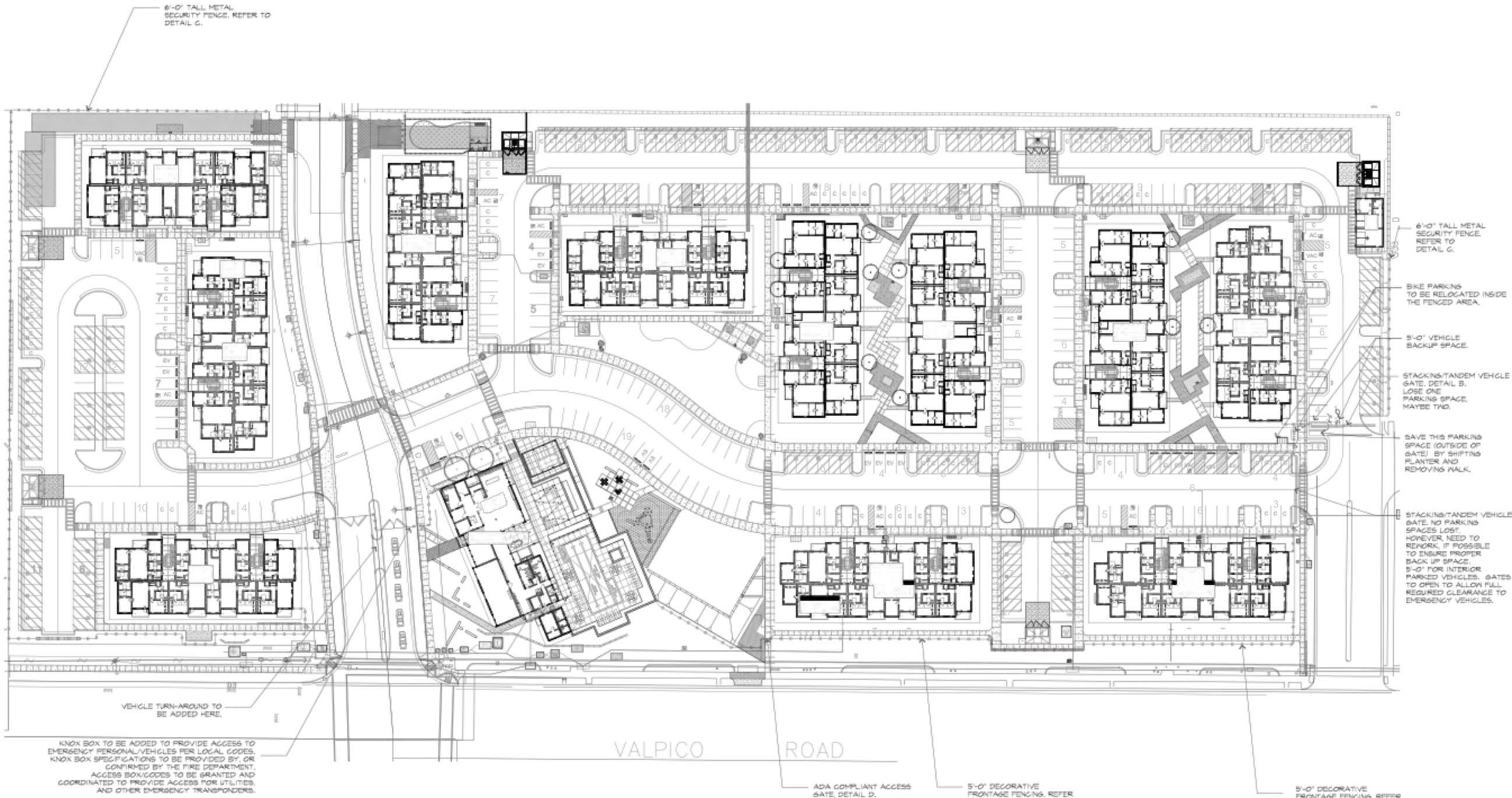


PROJECT #:
DATE: APR. 12, 2022
SCALE: 1"=10'
DRAWN BY: WPG
CHECKED BY: AMC

REVISIONS:

SHEET

LI



FIRE DEPARTMENT NOTES:

1. ALL DRIVEWAYS AND VEHICLE GATE OPENINGS WILL BE A MINIMUM OF 20'-0" WIDE, IN ACCORDANCE WITH THE 2019 CALIFORNIA FIRE CODE 503.2.1.

2. ALL ELECTRONIC SECURITY GATES SHALL MEET TRACY MUNICIPAL CODE SECTION 503.6; 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 CODES 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 PRESCRIPTION OPTICAL SIGNAL RECEIVERS COMPATIBLE WITH THE SYSTEMS UTILIZED BY THE FIRE DEPARTMENT. FIRE WILL ACTIVATE THE GATE AND OVERSEE ALL COMMAND FUNCTIONS OF THE GATE CONTROLLER. KNOX SWITCHES SHALL BE PROVIDED AT AUTOMATIC GATES. THE TRAFFIC PRESCRIPTION OPTICAL SIGNAL RECEIVERS AND KEY SWITCH SHALL BE PROVIDED ON BOTH SIDES OF AN AUTOMATIC GATE. WHERE AN EXIST LOOP IS NOT PROVIDED, THE AUTOMATIC GATE SHALL HAVE A BATTERY BACKUP OR MANUAL MECHANICAL OPERATOR READILY ACCESSIBLE TO EMERGENCY PERSONNEL. IN CASE OF POWER FAILURE, ALL GATES MUST MEET FIRE DEPARTMENT STANDARDS DEEMED NECESSARY BY THE FIRE CODES OFFICIAL FOR RAPID RELIABLE ACCESS. ELECTRIC GATE OPERATORS WHERE PROVIDED SHALL BE LISTED IN ACCORDANCE WITH UL 525. GATES INTENDED FOR AUTOMATIC OPERATION SHALL BE DEEMED CONTROLLED AND INSTALLED TO COMPLY WITH THE REQUIREMENTS OF ASHRAE 220. ALL MANUAL GATES SHALL BE EQUIPPED WITH A KNOX-BOX CONTAINING A KEY TO THE GATE, OR AN APPROVED KNOX-BOX.

BUILDING DIVISION NOTES:

1. PRIOR TO ISSUANCE OF BUILDING PERMITS OR INSTALLATION OF VEHICLE OR PEDESTRIAN GATES, PLANS, SPECIFICATIONS, AND RELATED DOCUMENTATION WILL BE PROVIDED TO DEMONSTRATE COMPLIANCE WITH THE CURRENT TITLE 24 CALIFORNIA CODE OF REGULATIONS.

2. PRIOR TO ISSUANCE OF A BUILDING PERMIT OR INITIATION OF IMPROVEMENTS, AN EGRESS ANALYSIS OF ALL OF THE DOORS IN CASE OF AN EMERGENCY TO ENSURE THAT THE PROPER AMOUNT OF EXIT WIDTH IS PROVIDED, IN ACCORDANCE WITH THE CBC CHAPTER 10, ADDITIONAL DOORS AND GATES MAY BE PROVIDED.

PG&E REQUIREMENTS:

1. FENCING SHALL MAINTAIN AN 8' RADIUS OF CLEARANCE FROM ANY PG&E TRANSFORMERS, J BOXES, SPLICE BOXES OR ANY OTHER ABOVE GROUND/SUBSURFACE EQUIPMENT SO IT DOES NOT INTERFERE WITH PG&E'S OPERATIONS AND MAINTENANCE.

2. NO FENCE POSTS MAY BE INSTALLED DIRECTLY OVER ANY PG&E UNDERGROUND CONDUITS OR DUCTS. FENCE POSTS MUST MAINTAIN A MINIMUM OF 7' HORIZONTAL CLEARANCE FROM UNDERGROUND CONDUITS OR DUCTS.

GENERAL NOTES:

1. IRRIGATION TO BE ADJUSTED ACCORDING TO NEW FENCE PLAN.

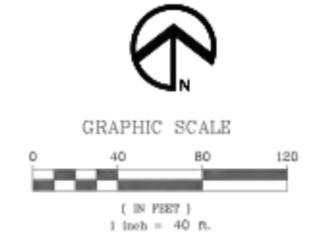
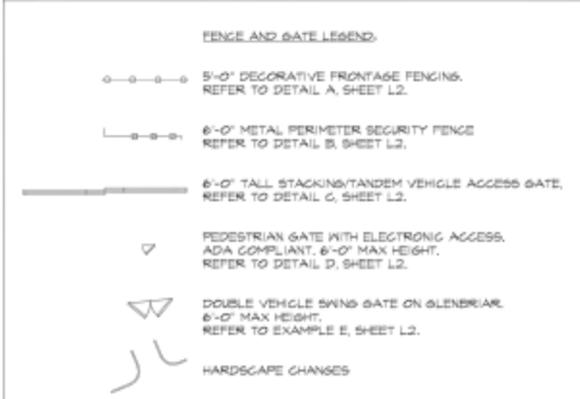
2. PLANTING WILL BE ADJUSTED TO THE NEW FENCE LOCATION, AND NUMBER OF PLANTS WILL NOT BE REDUCED.

3. NUMBER OF TREES, IN PARTICULAR SHADE TREES, SHALL NOT CHANGE, TO THE REASONABLE EXTENT POSSIBLE.

4. ALL FENCING AND GATES SHALL BE 6'-0" MAX IN HEIGHT.

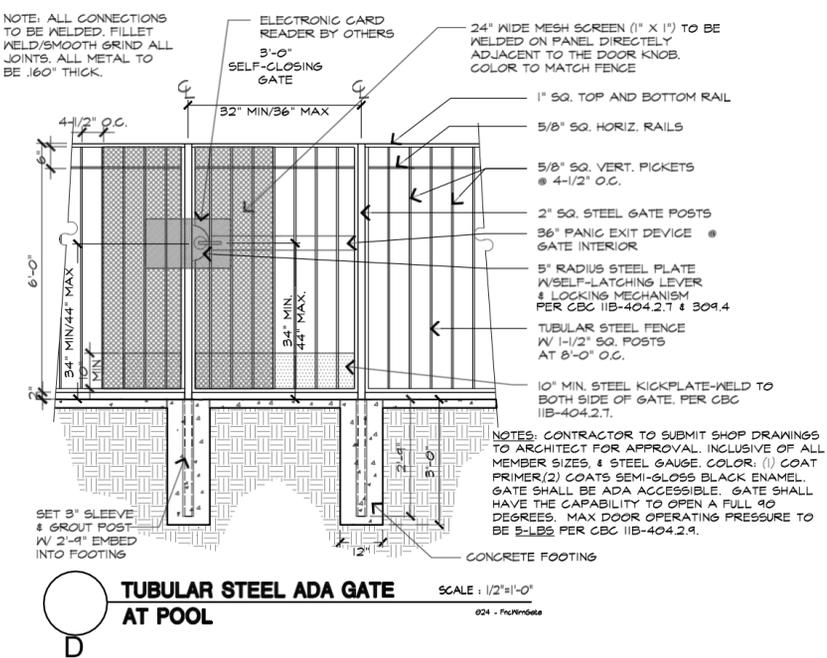
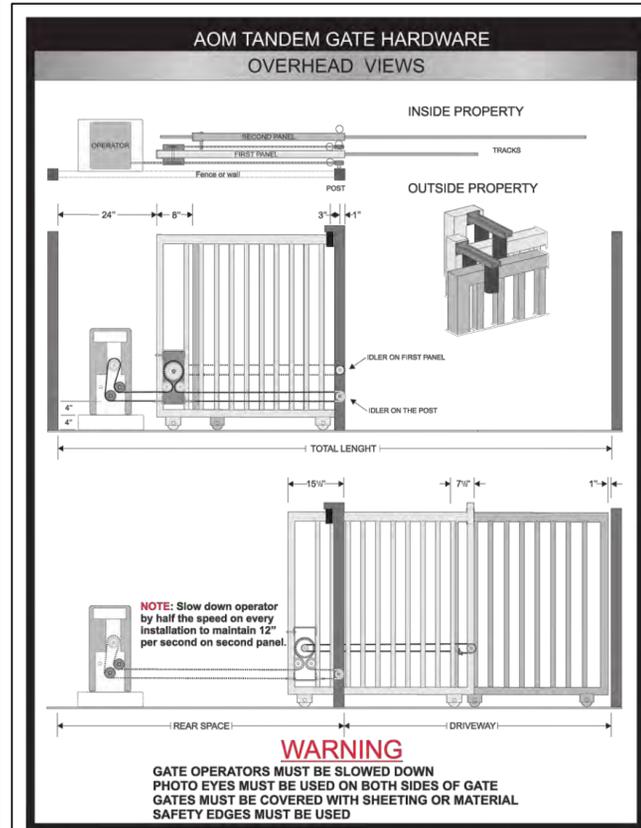
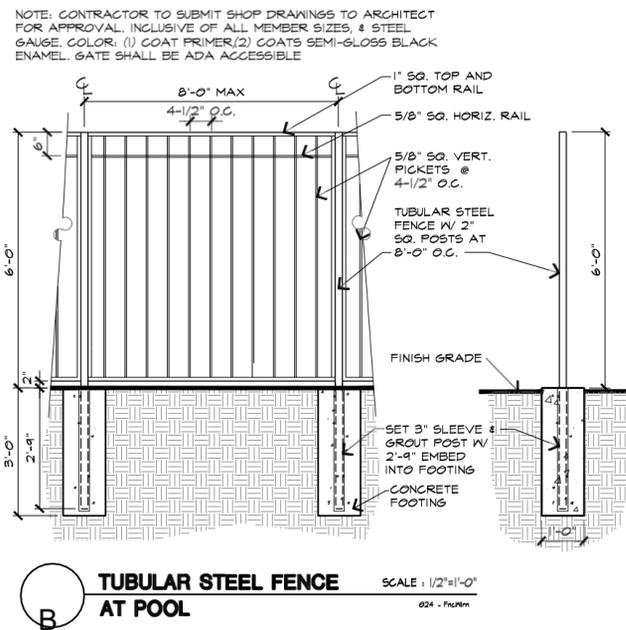
5. VEHICLE ACCESS GATES TO OPEN SHALL NOT IMPEDE THE REQUIRED EMERGENCY VEHICLE TURNING RADIUS/DRIVE ISLE WIDTH.

6. VEHICLE ACCESS SHALL BE COORDINATED AND PROVIDED TO EMERGENCY, UTILITY, SHIPPING, AND GARBAGE VEHICLES EITHER THROUGH ACCESS CODES, AND/OR KNOX BOX.





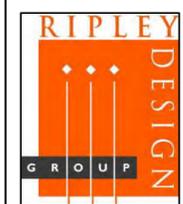
A 5'-0" DECORATIVE FENCING EXAMPLE



E DOUBLE SWING GATE EXAMPLE
NOTE: VEHICLE GATES TO BE 6'-0" MAX HEIGHT.



C STACKING/TANDEM GATE EXAMPLE
NOTE: VEHICLE GATES TO BE 6'-0" MAX HEIGHT.



RIPLEY DESIGN GROUP, INC.
Landscape Architecture
Land Planning
1615 Bonanza St., Suite 314
Walnut Creek
California 94596
Tel 925.938.7377

CLIENT:

GUARDIAN CAPITAL

1601 RESPONSE ROAD
SUITE 390
SACRAMENTO, CA
95815

TEL. (925) 929-2687

PROJECT:

VALPICO APARTMENTS

TRACY,
CALIFORNIA

FENCE EXHIBIT DETAILS

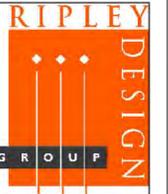


PROJECT #:
DATE: APR. 12, 2022
SCALE: 1"=10'
DRAWN BY: WPG
CHECKED BY: AMC

REVISIONS:

SHEET

L2



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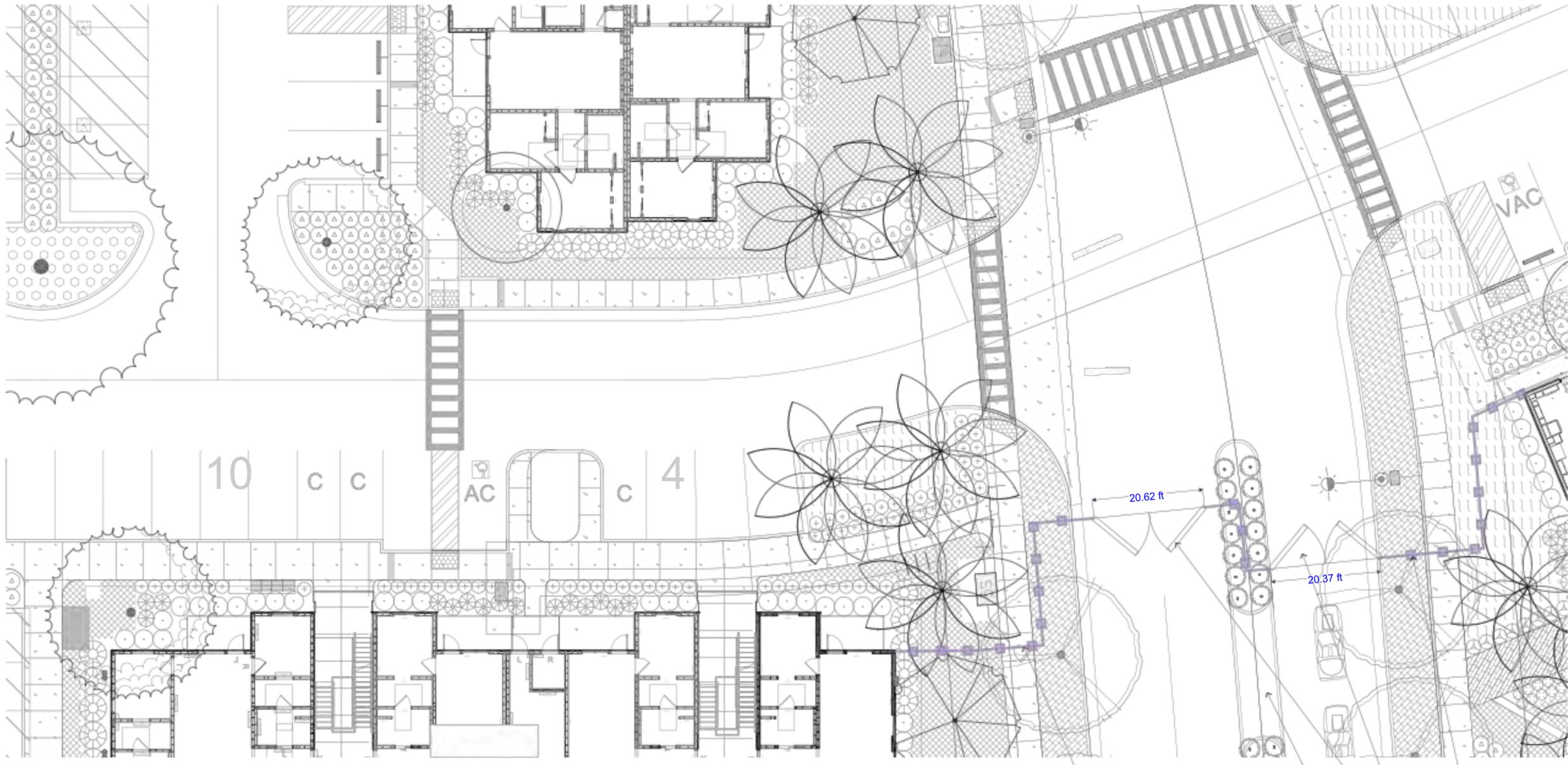
FENCING EXHIBIT ENLARGEMENT



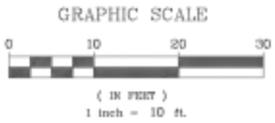
PROJECT #:
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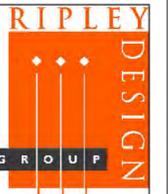
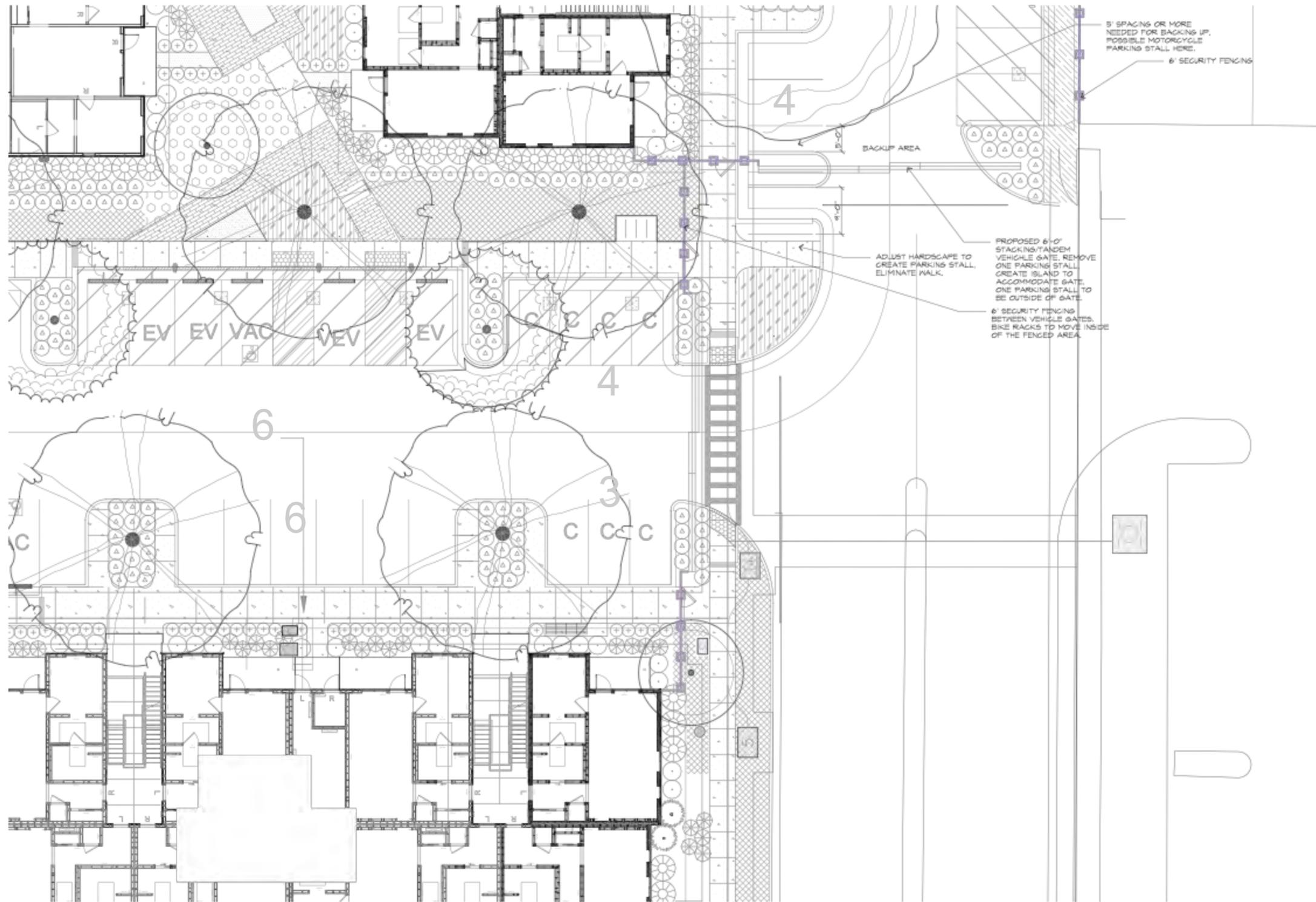
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PROPOSED 6' SECURITY FENCING TO CROSS GLENRIAR.
DOUBLE SWING GATES 6'-0" MAX HEIGHT.
VEHICLE TURN-AROUND
PROPOSED 6' SECURITY FENCING TO CROSS GLENRIAR WITH ADA ACCESSIBLE GATES AT THE WALKS.





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PROJECT:

**VALPICO
APARTMENTS**

TRACY,
CALIFORNIA

**FENCING
EXHIBIT
ENLARGEMENT**



PROJECT #:
DATE: APR. 12, 2022
SCALE: 1"=10'
DRAWN BY: WPG
CHECKED BY: AMC

REVISIONS:

SHEET

L4



GRAPHIC SCALE



(IN FEET)
1 inch = 10 ft.



Planning Commission Recommendation:

-Approval of parking lot expansion:

- CEQA Neg Dec
- General Plan Amendment
- Rezoning
- Development Review Permit

-Denial of gates Development Review Permit:

- Aesthetics
- Connectivity
- General Plan Consistency

City of Tracy
CEQA Negative Declaration
For Valpico Glenbriar (aka Vela) Apartments Parking Lot Expansion

Project Name: Valpico Glenbriar Apartments Parking Lot Expansion Project

Project Location: The project (expansion of the Valpico Glenbriar Apartments parking lot) site consists of approximately 13,440 square feet (just under 1/3 of an acre) located in the rear yard of the single-family home at 2625 S. MacArthur Drive, Tracy (APN 246-140-08); and the Valpico Glenbriar (Vela) Apartments, currently under construction at 351 E. Valpico Road, Tracy (APN 246-140-23).

Project Proponent: Valpico Tracy Apartments, LLC., represented by Rich Alexander, Guardian Capital.

Project Description: The project includes the construction of approximately 25 additional parking spaces for the Valpico Glenbriar apartment complex. The apartment complex (currently under construction) will enlarge its parking lot by an area of approximately 56 feet by 240 feet to the east into what is currently a portion of the vacant, rear yard of the house at 2625 S. MacArthur Drive. A proposed 880 square-foot maintenance building will also be relocated to the enlarged parking area. The project includes the following development applications: General Plan Amendment from Commercial to Residential High (GPA22-0003), Zoning Map Amendment from Community Shopping Center to High Density Residential (R22-0002), Development Review Permit (D22-0013), and a lot line adjustment (MS22-0003). Final review of the lot line adjustment will be considered separately, in accordance with City standards. The project also includes the construction of a perimeter fence to enclose the apartment complex and new parking area, with vehicle and pedestrian gates at project entries (Development Review Permit Number D22-0005). The fence construction is exempt from CEQA review in accordance with CEQA Guidelines Section 15303(e), new construction of small structures/accessory structures.

CEQA Finding/Determination: The City of Tracy has reviewed and considered the proposed project and has determined that the project will not have a significant effect on the environment, with substantial supporting evidence provided in the Initial Study.

Initial Study: A copy of the Initial Study for the Valpico Glenbriar Apartments Parking Lot Expansion Project, dated September 2022, is attached and a part of this Negative Declaration.

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2022-_____

DENYING A DEVELOPMENT REVIEW PERMIT FOR THE ADDITION OF A PERIMETER FENCE AND GATES TO THE VALPICO GLENBRIAR APARTMENTS PROJECT, 351 E. VALPICO ROAD (APPLICATION NUMBER D22-0005)

WHEREAS, the 264-unit Valpico Glenbriar Apartments Project was approved by the City Council on October 1, 2019, Resolution No. 2019-195; and

WHEREAS, during construction, the project was sold from the original developer (Katterra) to Guardian Capital, which intends to complete construction, own, and manage the project; and

WHEREAS, construction of a fence with gates around the Apartments Project perimeter was not part of the original project approval and Guardian Capital now wishes to construct a perimeter fence with gates at pedestrian and vehicle access points (Development Review Permit D22-0005); and

WHEREAS, in accordance with CEQA Guidelines Section 15270, CEQA does not apply to projects which a public agency rejects or disapproves; and

WHEREAS, the Planning Commission conducted a public hearing on September 28, 2022 and recommended the City Council deny the Development Review Permit, based on the findings set forth in Exhibit 1 attached hereto; and

WHEREAS, the City Council conducted a public hearing on November 15, 2022 to consider the Development Review Permit; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby denies Development Review Permit Application D22-0005 for the Valpico Glenbriar Apartments perimeter fence/gate Project based on the findings identified in Exhibit 1.

The foregoing Resolution 2022-_____ was adopted by the City Council on the 15th day of November 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibit 1 – City Council Findings for Resolution 2022-_____

Tracy City Council Findings for Resolution No. _____

The City Council findings related to denying the Development Review Permit for the Valpico Apartments Fence/Gate Project, Application D22-0005, are as follow:

1. The perimeter fence and gates would not enhance the appearance of the site, but instead, would detract from the view of the on-site landscaping, open spaces, and buildings' architecture.
2. The fence and gates would interrupt and interfere with connectivity with adjacent residential neighborhoods and the adjacent commercial site.
3. The proposed fence and gates are inconsistent with the following City General Plan Goal, Objective, and Policies of the Community Character Element regarding neighborhood connectivity and gated development projects:

Goal CC-2: A high level of connectivity within the City of Tracy.

Objective CC-2.1: Maximize direct pedestrian, bicycle and vehicle connections in the City.

Policy 3: As existing areas redevelop and change over time, new and increased connections to focal points and retail areas shall be developed.

Policy 5: Streets shall be continuous within and between neighborhoods, including those that are built by different developers or builders.

Policy 6: New development projects shall not be gated communities or constructed with walls surrounding individual projects (i.e., single developer or builder). Gated communities and walls should only be allowed on a case-by-case basis and will generally be considered only for projects such as "estate" developments where the minimum lot size is at least one acre or in housing with specialized clientele such as senior citizens.

Agenda Item 3.C

REQUEST

Adopt a Resolution:

- (1) Declaring, as exempt surplus property under Government Code Section 54221(G), a sub-portion of the property owned by the City of Tracy located at 5749 South Tracy Blvd, APN 25311031/25311016 commonly known as the Tracy Airport, to allow a future long-term lease with Riya Enterprises; and**
- (2) Repealing Resolution 2022-140 that declared the entire Tracy Airport and the City-Owned property located at 505 E. Durham Ferry Road APN 25527008, commonly known as the New Jerusalem Airport, as exempt surplus**

EXECUTIVE SUMMARY

The California Surplus Land Act codified as California Government Code Section 54221 et seq. (SLA) requires that a legislative body must declare public property to be “surplus land” or “exempt surplus land” before the legislative body can take any action (sale or lease) to dispose of such property.

Recently, the City Council declared the entire Tracy Municipal Airport as exempt surplus (Resolution 2022-140). However, the City received feedback from the California Department of Housing and Community Development’s (HCD) that the declaration was inconsistent with the SLA and that Council should reconsider declaring as surplus only the land that is to be considered for lease.

This item for consideration by the City Council is a resolution declaring exempt surplus property under Section 54221(G) of the SLA, a sub-portion of the property owned by the City of Tracy located at 5749 South Tracy Blvd, APN 25311031/25311016 commonly known as the Tracy Airport, to allow a future long-term lease with Riya Enterprises.

The Tracy Municipal Airport has a recorded deed restriction that has been imposed by third parties. The restriction expressly prohibits any long term uses other than the current uses. Pursuant to Section 54221(G) of the SLA, the City Council can determine exempt any “surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site.” There are no feasible methods to mitigate or avoid the prohibition of residential uses on the property. As such, staff recommends the City Council declare the designated property as "exempt surplus land" pursuant to Section 54221(G).

Should the Council adopt the recommended resolution, staff will file a notice of exemption specifically regarding the declaration of the relevant portion of the Tracy Municipal Airport as exempt surplus lands and provide a copy of the adopted resolution to California Department of Housing and Community Development’s (HCD), as required under the SLA. The proposed lease with Riya Enterprises will be presented to the City Council at a future agenda, for review and consideration.

BACKGROUND & ANALYSIS

As noted above, pursuant to Government Code Section 54221(b)(1), the City must declare property to be “surplus land” before the City can take any action (sale or lease) to dispose of the Property. Surplus real property is defined as “land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use;” Pursuant to Section 54221(G) of the SLA, the City Council can determine exempt any “surplus land” that is subject to valid legal restrictions.

The Tracy Municipal Airport has a recorded deed restriction imposed by third parties that expressly prevent uses other than the current uses. Specifically, the deed restriction is shown on the Instrument of Transfer (see Attachment “A”). The SLA designates authority to HCD to administer and enforce the requirements of the SLA. As a part of this authority, HCD adopted guidelines that clarify and strengthen reporting and enforcement provisions of the SLA. One of these requirements is that a city must submit the formal declaration of surplus to HCD, after the legislative body has made such a written declaration.

On September 20, 2022, the City Council declared, through Resolution 2022-140, the entire Tracy Municipal Airport, as well as the City-owned property commonly known as the New Jerusalem Airport, as exempt surplus. The City transmitted its declaration of exempt surplus to HCD in accordance with the SLA. On November 2, 2022, the City was notified that HCD had recently determined that such declaration was inconsistent with the SLA and advised that the City Council reconsider declaring only the portion of the Tracy Municipal Airport related to a future lease with Riya Enterprises.

FISCAL IMPACT

There is no fiscal impact associated with this action.

STRATEGIC PLAN

This agenda item supports the City of Tracy’s Quality of Life Strategic Priority.

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution:

- (1) Declaring, as exempt surplus property under Government Code Section 54221(G), a sub-portion of the property owned by the City of Tracy located at 5749 South Tracy Blvd, APN 25311031/25311016 commonly known as the Tracy Airport, to allow a future long-term lease with Riya Enterprises; and
- (2) Repealing Resolution 2022-140 that declared the entire Tracy Airport and the City-Owned property located at 505 E. Durham Ferry Road APN 25527008, commonly known as the New Jerusalem Airport, as exempt surplus

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Cowell, Interim Finance Director

Approved by: Michael Rogers, City Manager

ATTACHMENTS:

Attachment “A” – Tracy Municipal Airport – Instrument of Transfer

INSTRUMENT OF TRANSFER

KNOW ALL MEN BY THESE PRESENTS:

① That, THE UNITED STATES OF AMERICA, acting by and through the WAR ASSETS ADMINISTRATION, under and pursuant to Executive Order 9689, dated January 31, 1946, and the powers and authority contained in the provisions of the Surplus Property Act of 1944, as amended, and applicable rules, regulations and orders, party of the first part, in consideration of the assumption by the CITY OF TRACY, a municipal corporation in the State of California, party of the second part, of all the obligations and its taking subject to certain reservations, restrictions and conditions and its covenant to abide by and agreement to certain other reservations, restrictions and conditions, all as set out hereinafter, has remised, released and forever quitclaimed, and by these presents does remise, release, and forever quitclaim unto the said CITY OF TRACY, its successors and assigns, under and subject to the reservations, restrictions and conditions, exceptions, and reservation of property and rights hereinafter set out, all right, title, interest and claim in and to the following described property situate in the County of San Joaquin, State of California, to wit:

PARCEL 1:

Beginning at the NE corner of the SE $\frac{1}{4}$ of Section 8, township 3 South, range 5 East, Mount Diablo Base & Meridian, running thence northerly along the easterly line of Section 8 1,000 feet; running thence westerly parallel and distant 1,000 feet northerly from the south line of the northeast quarter of said Section 8 to a point on the westerly line of said NE $\frac{1}{4}$ a distance of 2,633.0 feet; running thence northerly along the westerly line of said NE $\frac{1}{4}$ 490 feet more or less to a point 1,490 feet northerly of the SE corner of the NW $\frac{1}{4}$ of said Section 8; running thence westerly parallel and distant 1,490 feet northerly at right angles from the southerly line of the NW $\frac{1}{4}$ of said Section 8 a distance of 2,633.0 feet more or less to a point on the west line of the NW $\frac{1}{4}$ of said Section 8; running thence southerly along the westerly line of said Section 8 a distance of 1,490 feet to the west corner of said Section 8; running thence easterly along the south line of the N $\frac{1}{2}$ of said Section 8 a distance of 5,266 feet to the NE corner of the SE $\frac{1}{4}$ of said Section 8, being the point of beginning; excepting therefrom that portion lying within Jefferson Road on the easterly boundary of said tract, containing 150.51 acres, more or less.

① TOGETHER WITH runways, taxiways, parking aprons and field lighting system, one 20x30' wood frame building and steel control tower.

② The above described premises are subject to existing easements for roads, highways, public utilities, railways and pipe lines, and irrigation ditches of the Banta-Carbona Irrigation District.

③ EXCEPTING, HOWEVER, from this conveyance all right, title and interest in and to all property in the nature of equipment, furnishings and other personal property located on the land above described and on the land leased from the City of Tracy as hereinafter set out, which can be removed from the land without material injury to the land or structures located thereon, other than property of such nature located on such premises which is required for the efficient operation for airport purposes of the structures and improvements specifically listed hereinabove as being transferred hereby; and further excepting from this conveyance all structures on such premises other than structures specifically described or enumerated above as being conveyed hereunder, and reserving to the party of the first part the right of removal from the premises of its property and structures excepted hereby within a reasonable period of time after the date hereof, which shall not be construed to mean any period less than one (1) year after the date of this instrument.

④ And further excepting from this conveyance and reserving to the United States of America a perpetual easement for the construction, use, maintenance, replacement and repair of a right of way for the Delta-Mendota Canal (Central Valley Project), over 25.52 acres of land, more or less, a portion of the above described land, which is more particularly delineated on map dated January 3, 1946, numbered p. 258 A, a copy of which is attached hereto and made a part hereof.

⑤ Further, the party of the first part, for the considerations hereinabove expressed, does hereby surrender, subject to

the terms and conditions of this instrument, to the party of the second part the former's leasehold interest in and to the premises set forth and described in a Lease No. W-868-eng-2143 from the City of Tracy to the United States of America, dated March 10, 1942, as modified by Supplemental Agreement No. 1 thereto, dated June 24, 1946, including 156.5 acres, more or less, of land situated in the County of San Joaquin, State of California.

(7) The party of the second part does hereby release the party of the first part from any and all claims which exist or may arise under the provisions of the aforesaid lease, as so modified, except claims which may be submitted under Section 17 of the Federal Airport Act.

(8) Said property transferred hereby was duly declared surplus and was assigned to the War Assets Administrator for disposal, acting pursuant to the provisions of the Surplus Property Act of 1944, as amended, Executive Order 9689, and applicable rules, regulations and orders.

(9) That by the acceptance of this instrument or any rights hereunder, the said party of the second part, for itself, its successors and assigns, agrees that the aforesaid surrender of leasehold interest and transfer of other property shall be subject to the following restrictions, set forth in subparagraphs (1) and (2) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Executive order 9689, and applicable rules, regulations and orders:

(1) That the aforesaid leased premises and all property described in Parcel One above which together shall hereinafter be called the "airport", shall be used for public airport purposes, and only for such purposes, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of

Section 303 of the Civil Aeronautics Act of 1938. As used herein, "public airport purposes" shall be deemed to exclude use of the structures conveyed hereby, or any portion thereof, for manufacturing or industrial purposes. However, until, in the opinion of the Civil Aeronautics Administration or its successor Government agency, it is needed for public airport purposes, any particular structure transferred hereby may be utilized for non-manufacturing or non-industrial purposes in such manner as the party of the second part deems advisable, provided that such use does not interfere with operation of the remainder of the airport as a public airport.

(2) That the entire landing area, as defined in WAA Regulation 16, dated June 26, 1946, and all structures, improvements, facilities and equipment of the airport shall be maintained at all times in good and serviceable condition to assure its efficient operation; provided, however, that such maintenance shall be required as to structures, improvements, facilities and equipment only during the remainder of their estimated life as determined by the Civil Aeronautics Administration or its successor Government agency. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities or equipment, they may be procured by demolition of other structures, improvements, facilities or equipment transferred hereby and located on the above described premises, which have outlived their use as airport property in the opinion of the Civil Aeronautics Administration or its successor Government agency.

That by the acceptance of this instrument, or any rights hereunder, the party of the second part, for itself, its successors and assigns, also assumes the obligations of, covenants to abide by and agrees to, and this surrender and transfer is made subject to, the following reservations and restrictions set forth in subparagraphs (1) to (6) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3,

Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Executive Order 9689 and applicable rules, regulations and orders:

(1) That insofar as is within its powers and reasonably possible, the party of the second part, and all subsequent transferees, shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth of any structure or other object thereon, which use would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.

(2) That the building areas and non-aviation facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, of or on the airport shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities, as defined in WAA Regulation 16, dated June 26, 1946.

(3) That itinerant aircraft owned by the United States of America (hereinafter sometimes referred to as the "Government"), or operated by any of its employees or agents on Government business, shall at all times have the right to use the airport in common with others; provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administration or the successor Government agency to be necessary to prevent interference with use by other authorized aircraft, so long as such limitation does not restrict the Government's use to less than twenty-five (25) per centum of capacity of the landing area of the airport. Government use of the airport by virtue of the provisions of this subparagraph shall be without charge of any nature other than payment for damage caused by such itinerant aircraft.

(4) That during the existence of any emergency declared by the President of the United States of America, or the Congress thereof, the Government shall have the right without charge, except as indicated below, to the full, unrestricted possession,

control and use of the landing area, building areas, and airport facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, or any part thereof, including any additions or improvements thereto made subsequent to the declaration of any part of the airport as surplus; provided, however, that the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(5) That no exclusive right for the use of any landing area or air navigation facilities, as such terms are defined in WAA Regulation 16, dated June 26, 1946, included in or on the airport shall be granted or exercised.

(6) That the airport may be successively transferred only with the approval of the Civil Aeronautics Administration or the successor Government agency, and with the proviso that such subsequent transferee assumes all the obligations imposed upon the party of the second part by the provisions of this instrument.

By acceptance of this instrument, or any right hereunder, the party of the second part further agrees with the party of the first part as follows:

(1) That upon a breach of any of the aforesaid reservations or restrictions by the party of the second part, or any subsequent transferee, whether caused by the legal inability of said party of the second part or subsequent transferee to perform any of the obligations herein set out, or otherwise, the title, right of possession and all other rights transferred to the party of the second part, or any portion thereof, shall at the option of the party of the first part revert to the party of the first part upon demand made in writing by the War Assets Administration or its successor Government agency at least sixty (60) days prior to the date fixed for the reversion of such title, right of possession and other rights transferred, or any portion thereof;

Provided, that, as to installations or structures which have been added to the premises without Federal aid, the Government shall have the option to acquire title to or use of the same at the then fair market value of the rights therein to be acquired by the Government.

(2) That if the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants, or the application of the same as covenants in any particular instance is held invalid, the particular reservations or restrictions in question shall be construed instead merely as conditions upon the breach of which the Government may exercise its option to cause the title, right of possession and all other rights transferred to the party of the second part, or any portion thereof, to revert to it, and the application of such reservations or restrictions as covenants in any other instance and the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

TO HAVE AND TO HOLD the property transferred hereby, except the property and rights excepted and reserved above, and under and subject to the aforesaid reservations, restrictions and conditions, unto the said party of the second part, its successors and assigns forever.

IN WITNESS WHEREOF, the United States of America, acting by and through the War Assets Administrator, has caused these presents to be executed in its name and on its behalf by Walter H. Sullivan, Jr., Deputy Regional Director, War Assets Administration, and the CITY OF TRACY, to evidence its complete acknowledgment of, accord with, acceptance of and agreement to be bound by the terms, conditions, reservations and restrictions set forth in this instrument, has caused these presents to be executed in its name and on its behalf by J.W. Stocking, its Mayor, and attested by G.E. DeFreitas, its City Clerk, and its seal to be hereunto affixed, all as of 6th day of May, 1947.

WITNESSES:

/S/ C.E. Gilson

/S/ A.O. Jepson

WITNESSES:

/S/ C.L. Sheppard

/S/ F. Eagan

ATTEST:

Charles E. DeFreitas /S/
City Clerk

UNITED STATES OF AMERICA
acting by and through
WAR ASSETS ADMINISTRATION

By /S/ Walter H. Sullivan(L.S.)

WAR ASSETS ADMINISTRATION

CITY OF TRACY
a Municipal Corporation

By J.W. Stocking /S/
Its Mayor

STATE OF CALIFORNIA)
 (
CITY AND COUNTY OF SAN) SS
)
FRANCISCO

On this 6th day of May, 1947, before me, MARION M. BENDER
A Notary Public in and for City and County of San Francisco
California, personally appeared WALTER H. SULLIVAN JR., known to
me to be the Deputy Regional Director

War Assets Administration, and known to me to be the person
whose name is subscribed to the within instrument on behalf of War
Assets Administration, who executed said instrument on behalf of
the United States of America, and acknowledged to me that he
executed the same as the free and voluntary act and deed of the
United States of America and the War Assets Administration and
as his own free and voluntary act and deed.

/s/ Marion M. Bender
Notary Public

(SEAL)

My commission expires:

NOTARY PUBLIC in and for the
City and County of San Francisco,
State of California.
My Commission Expires Dec.24, 1950.

STATE OF CALIFORNIA)
 (
CITY AND COUNTY OF SAN)
 JOAQUIN

On this 6th day of May, 1947, before me George Wadsworth,
a Notary Public in and for said County and State, personally
appeared J. W. Stocking, known to me to be the Mayor of the
CITY OF TRACY, and known to me to be the person whose name
is subscribed to the within instrument on behalf of the CITY OF
TRACY, and acknowledge to me that he executed the same as the
free and voluntary act and deed of the CITY OF TRACY and as his
own free and voluntary act and deed.

 /s/ GEORGE WADSWORTH
 Notary Public

(SEAL)

My commission expires: April 26, 1950

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

- (1) **DECLARING, AS EXEMPT SURPLUS PROPERTY UNDER GOVERNMENT CODE SECTION 54221(G), A SUB-PORTION OF THE PROPERTY OWNED BY THE CITY OF TRACY LOCATED AT 5749 SOUTH TRACY BLVD, APN 25311031/25311016, COMMONLY KNOWN AS THE TRACY AIRPORT, TO ALLOW A FUTURE LONG-TERM LEASE WITH RIYA ENTERPRISES; AND**
- (2) **REPEALING RESOLUTION 2022-140 THAT DECLARED THE ENTIRE TRACY AIRPORT AND THE CITY-OWNED PROPERTY LOCATED AT 505 E. DURHAM FERRY ROAD APN 25527008, COMMONLY KNOWN AS THE NEW JERUSALEM AIRPORT, AS EXEMPT SURPLUS**

WHEREAS, The City of Tracy (**City**) is the owner of the located at 5749 South Tracy Blvd, APN 25311031/25311016 and commonly known as the Tracy Airport (**Tracy Airport**); and

WHEREAS, The City of Tracy received the land that comprises of the Tracy Municipal Airport from the federal government as part of a war deed in 1946 that the specifies that the land must only be used for aviation and airport purposes; and

WHEREAS, If the airport land is used for anything but airport purposes, the land can be taken from the City and returned to the federal government; and

WHEREAS, Pursuant to Government Code Section 54221(b)(1) of the California Surplus Land Act (SLA), the City must declare property as either surplus or exempt surplus prior to beginning the disposition process; and

WHEREAS, The SLA designates the California Housing and Community Development (HCD) to administer and enforce the requirements of the SLA; and

WHEREAS, As a part of its authority, HCD adopted guidelines that clarify and strengthen reporting and enforcement provisions of the SLA (Guidelines); and

WHEREAS, The Guidelines define a lease of more than five years as a “disposition” that must comply with the SLA; and

WHEREAS, The City is negotiating a long-term lease with Riya Enterprises for a sub-portion of the property comprising the Tracy Municipal Airport; and

WHEREAS, Pursuant Section 54221(G), the City Council can determine exempt any “surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site”; and

WHEREAS, There are no feasible methods to mitigate or avoid the prohibition of residential uses on the airport property, and a violation of the deed restrictions would require the City to return to the federal government; and

WHEREAS, The SLA requires a City to transmit any declaration of exempt surplus to HCD; and

WHEREAS, The City Council declared, through Resolution 2022-140, the entire Tracy Municipal Airport, as well as the City-owned property commonly known as the New Jerusalem Airport, as exempt surplus; and

WHEREAS, The City transmitted its declaration of exempt surplus to HCD, and HCD determined that such declaration was inconsistent with the SLA and advised that the City Council reconsider for declaration only a sub-portion of the Tracy Municipal Airport related to a future lease with Riya Enterprises; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby adopts the Recitals as findings; and be it

FURTHER RESOLVED: That the City Council hereby finds that the sub-portion of the Tracy Municipal Airport, related to the future long-term lease with Riya Enterprises, is declared exempt surplus land pursuant to Government Code Section 54221(G); and be it

FURTHER RESOLVED: That the City Council hereby repeals in its entirety Resolution 2022-140 and such Resolution is null and void; and be it

FURTHER RESOLVED: That the City Council hereby finds that this action is not a “project” under the California Environmental Quality Act, and further discretionary actions will be needed before any foreseeable environmental impacts may occur; and be it

FURTHER RESOLVED: That the City Council directs the City Manager to transmit a copy of this Resolution to the California Department of Housing and Community Development.

* * * * *

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on November 15, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.D

RECOMMENDATION

Approve a Resolution adopting the 2023 Biennial Legislative Platform (Platform) and, as a supplement to the Legislative Response Policy adopted by Resolution 2004-208, require that the Platform be adopted every two years during the City Council's Biennial Strategic Planning Retreat.

EXECUTIVE SUMMARY

In 2004, the City adopted the Legislative Response Policy (Resolution 2004-208). The purpose of establishing the policy was to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City. Under the adopted policy, the City Manager has been responsible for coordinating the City's legislative and grant efforts by promoting the City Council's policy priorities to other government entities.

To facilitate the process and enhance the City's communication to the City's Federal, State, and local legislators and supporting agencies, staff proposes that the City Council adopt, as a part of the Council's biennial Strategic Planning Retreat, a Legislative Platform outlining the City Council's Goals and serve as the foundation of a strategic and focused advocacy strategy (Platform). The Platform would enhance the existing Legislative Response Policy by providing additional guidance for staff.

Staff is recommending the City Council adopt the proposed Legislative Platform and further requesting that the City Council adopt a Legislative Platform as a part of its biennial Strategic Planning Retreat, starting with the retreat expected to occur in January 2023.

BACKGROUND AND LEGISLATIVE HISTORY

The City Council adopted the City's Legislative Response Policy in 2004 (Resolution 2004-208). The purpose of establishing the policy was to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City. Under the policy, the City Manager is responsible for coordinating City efforts and promoting the City's policy priorities to other government entities. In determining whether the City desires to communicate support or opposition to proposed legislation the City shall consider the City Council's Strategic Priorities Goals and Objectives.

From time to time, the City receives requests to support or oppose a particular issue or position from other agencies including Valley Link, San Joaquin County and/or San Joaquin Council of Government; other requests may come through the City partner networks, such as National League of Cities or California League of Cities (CalCities). Other

requests may be community generated, such as the American Lung Association or other coalitions. For most issues, the City Council's priorities have been aligned with the requests received and the City Manager, through the policy, can respond administratively to these requests for support. However, as the City has become more active over the last several years in the legislative space, the City has not always found its local preferences match those of their regional partners. For example, in 2021 and in 2022, resolutions have been introduced at the CalCities that were not in the best interest of the City of Tracy. The most significant was the resolution to redirect local sales taxes from Tracy warehouses to State pools.

While the City anticipates that it will generally align with their advocacy partners, the City desires to have a legislative and advocacy platform that uniquely represents the City of Tracy, the City Council, and the community and businesses the City serves. The purpose of the Legislative Platform is to provide a means for summarizing the City's legislative priorities to guide advocacy efforts at the local, state, and federal level. The Legislative Platform contains broad policy statements pertaining to a variety of issues that affect the City of Tracy. The Legislative Platform provides a streamlined process through which the City Council, City Manager, City staff, and the City's legislative advocates may act in a timely manner in response to legislative proposals. The Legislative Platform is adopted biennially and serves as an opportunity to identify specific priority areas of interest for the City and the region, which benefit the local community. The Legislative Platform has been and will be, in the future, developed and maintained using legislative positions taken by the City Council, input from the City Council, City Manager, and City staff, research of current law and pending legislation, and discussions with local legislative staff, in consultation with the City's legislative advocates.

ANALYSIS

In 2019, the City contracted with Townsend Public Affairs (Townsend) for State lobbying and grant writing services. In 2022, the City contracted with Townsend for Federal lobbying and advocacy services as well. Upon consolidation of the services into one firm, staff began compiling the last four years of policy and advocacy efforts into a comprehensive document, presented to the Council as the Legislative Platform. Created as eight legislative positions, these are listed in alphabetical order for organizational purposes only and do not represent a ranking in priority order, as follows:

- Community and Recreation Services
- Environmental Sustainability
- Governance and Transparency
- Homelessness
- Housing and Land Use
- Public Safety
- Revenue, Taxation and Economic Development
- Transportation and Transportation Infrastructure

Under each legislative position are a variety of issues that the City seeks to support or oppose. A total of 81 statements of positions have been compiled. These items were numbered for reference purposes. Also, for organizational purposes only, statements of "support" are listed first and then statements of "oppose", within each category.

Combined, the Legislative Positions and statements of positions are intended to represent the City Council's 2023 Legislative Platform. Staff seeks that the current City Council adopt the proposed Platform as a framework for the future City Council. However, as the City Council will have its biennial strategic planning retreat in January 2023, the City Council, with the newly appointed members, will have the opportunity to review the adopted Platform and either affirm it as the City's biennial 2023 Legislative Platform or in a modified form, as such Council deems appropriate. The expectation is that, every two years after 2023, the City Council will adopt a new Legislative Platform as a part of the biennial strategic planning retreat.

Listed at the end of the report is the 2023 Legislative Funding Priorities. As part of the City's advocacy efforts, staff and the City's lobbyists are actively seeking grants. By creating a list of the top 10 funding priorities, the City will be better positioned for notification of funding opportunities as they arise. It also informs the City's legislative partners about projects while they are developing their next round of grants. The list will be updated annually as part of the Capital Budget adoption.

FISCAL IMPACT

There is no fiscal impact associated with the adoption of the Legislative Platform.

COORDINATION

Townsend facilitated meetings with all departments during the development of this document.

STRATEGIC PLAN

This action addresses and contributes to Council's Strategic Priority of Governance, Goal No. 2 "Ensure Short and Long-term Fiscal Health".

ACTION REQUESTED OF THE CITY COUNCIL

Approve a Resolution adopting the 2023 Biennial Legislative Platform (Platform), and as a supplement to the Legislative Response Policy adopted by Resolution 2004-208, require that the Platform be adopted every two years during the City Council's Biennial Strategic Planning Retreat.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Cowell, Interim Director of Finance

Approved by: Michael Rogers, City Manager

ATTACHMENTS:

Attachment A: City of Tracy Legislative Platform

Attachment B: Legislative Response Policy (Resolution 2004-208) and Staff Report

Attachment C: Power Point Presentation

Attachment A

CITY OF TRACY

Legislative Platform

A guide to the City's approach to Legislative Matters at the Regional, State, and Federal levels of government.



January 2023

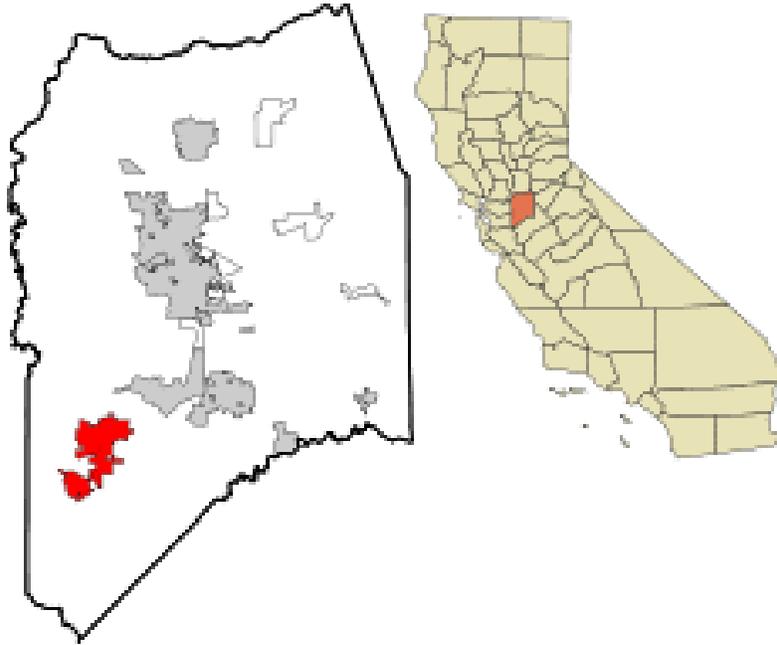
333 Civic Center Plaza
Tracy, CA 95376

www.cityoftracy.org



ABOUT THE CITY

The City of Tracy is a general law city incorporated under California Law in 1910. The City serves a population of approximately 98,000 and is located 60 miles east of San Francisco and 70 miles south of Sacramento inside the triangle formed by Interstates I-205, I-580 and I-5 in San Joaquin County. The City covers approximately 29 square miles.



The governing body is a five-member City Council, all of whom are elected at-large, composed of the Mayor, who serves a two-year term and four councilmembers, who serve a four-year term. The City operates under the Council-Manager form of government.

The City has 530 full-time employees providing a number of services, including management and administration, economic development, finance, police, parks and recreation, planning, engineering, utilities, and operations. Fire services are provided via contract with the South San Joaquin County Fire Authority.

Tracy has become more of an outer suburb of the Bay Area, rather than a small agricultural and industrial town. With the lack of affordable housing in the Bay Area, Tracy has become an attractive residential location for many Bay Area workers. Tracy has also been experiencing industrial growth with new trucking, warehousing, and distribution facilities, as a number of firms seek to relocate to the Tracy area.

Tracy is proud to harbor several large warehouse fulfillment and distribution centers for companies such as Amazon and Wayfair. As such, one of the City's priorities is to enhance the competitiveness of the City while further developing a strong and diverse economic base through the maintenance of existing statewide tax structures, among other things.



MEET THE CITY COUNCIL



Dr. Nancy Young, Mayor

CONTACT THE CITY COUNCIL:

Phone: (209) 831-6100

Fax: (209) 831-6120

Email: tracycitycouncil@cityoftracy.org.

Mailing Address: 333 Civic Center Plaza
Tracy, CA 95376



Veronica Vargas, Mayor Pro Tem



Dan Arriola, Council Member



Mateo Bedolla, Council Member



Eleassia Davis, Council Member



CITY OF TRACY LEGISLATIVE DELEGATION

STATE REPRESENTATIVES

Senator Susan Talamantes Eggman (SD5)



Contact Information:

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Assembly Member Carlos Villapudua (AD13)



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FEDERAL REPRESENTATIVES

Senator Dianne Feinstein (D-CA)



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Senator Alex Padilla (D-CA)



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Representative Josh Harder
(D-10)



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Washington, DC 20515
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USING THE LEGISLATIVE PLATFORM

Purpose Statement

The 2023 Legislative Platform provides a framework for the City of Tracy's Legislative Program. Adopted biennially, the City's Legislative Platform serves as a reference guide for legislative positions and objectives that provide direction for City Staff throughout the year. The Legislative Platform is an embodiment of the City Council Goals and is the foundation of a strategic and focused advocacy strategy.

How to Use the Legislative Platform

The purpose of the Legislative Platform is to provide a means for summarizing the City's legislative priorities to guide advocacy efforts at the state and federal level. The Legislative Platform contains broad policy statements pertaining to a variety of issues that affect the City of Tracy.

The Legislative Platform provides a streamlined process through which the City Council, City Manager, City staff, and the City's legislative advocates may act in a timely manner in response to legislative proposals. The Legislative Platform is adopted biennial and serves as an opportunity to identify specific priority areas of interest for the City and the region, which benefit the community. The Legislative Platform is developed and maintained using legislative positions taken by the City Council, with input from the community, the City Manager, and City staff, research of current law and pending legislation, and discussions with local legislative staff in consultation with the City's legislative advocates.

When the need to respond to state and federal legislation arise, staff composes letters outlining the City's position. These letters include one of the following positions: support, support if amended, concerns, oppose, oppose unless amended, neutral, or watch. Legislation that is consistent with the Legislative Platform are reviewed, approved, and signed by the Mayor, Mayor Pro Tem, or City Manager. In addition, legislative positions that are deemed time-sensitive and are consistent with the Legislative Platform may be approved and signed by the City Manager when the Mayor and Mayor Pro Tem are unavailable. Once approved, a position letter is sent to the bill's author, the City's legislative advocate, and other stakeholders as deemed appropriate by staff, and a copy of the letter is distributed to the City Council.



USING THE LEGISLATIVE PLATFORM

Legislative Positions

Support – A support position indicates to the legislature, regulatory agencies, and other stakeholders, that the City of Tracy is in favor of the legislation in question. A support position may include the following resources: position letters, councilmember testimony to committees, and meetings/phone calls with members of the legislature and/or regulatory agency.

Support if Amended – A support if amended position indicates to the legislature, regulatory agencies, and other stakeholders, that the City of Tracy is in favor of the legislation in question, if the requested changes are adopted. A support if amended position may include the following resources: position letters, councilmember testimony to committees, and meetings/phone calls with members of the legislature and/or regulatory agency.

Neutral – A neutral position indicates to the legislature, regulatory agencies, and other stakeholders, that the City of Tracy is impartial on the legislation in question and does not wish to take a position, or the City wishes to adjust a previous position to reflect a neutral position given amendments to policy.

Concerns – A concerns position indicates to the legislature, regulatory agency, and other stakeholders that the City of Tracy has concerns with provisions contained within the legislation in question. A concerns position may include the following resources: position letters, councilmember testimony to committees, and meetings/phone calls with members of the legislature and/or regulatory agency.

Oppose – An oppose position indicates to the legislature, regulatory agency, and other stakeholders that the City of Tracy is against the legislation in question. An oppose position may include the following resources: position letters, councilmember testimony to committees, and meetings/phone calls with members of the legislature and/or regulatory agency.

Oppose Unless Amended – An oppose unless amended position indicates to the legislature, regulatory agencies, and other stakeholders, that the City of Tracy is against the legislation in question, unless the requested changes are adopted. An oppose unless amended position may include the following resources: position letters, councilmember testimony to committees, and meetings/phone calls with members of the legislature and/or regulatory agency.

Watch – A watch position indicates to the legislature, regulatory agencies, and other stakeholders, that the City of Tracy is dedicating resources to monitor the legislation in question.



2023 LEGISLATIVE POSITIONS

Guiding Principles

The City of Tracy has identified the following key legislative guiding principles which form the foundation of the City's advocacy efforts.

- Cultivate strategic economic development through the preservation of existing revenue streams
- Keep Tracy safe
- Protect local control
- Support statewide and regional partners in advancing good public policy that strengthens local autonomy and resiliency

2023 Priority Legislative Positions

COMMUNITY AND RECREATION SERVICES

The City supports efforts that aid in the development of programs and services for residents within the community that promote a robust culture for arts, youth empowerment, health, and safety.

1. Support continued state funding for local art, cultural, and music programs.
2. Support the creation of more affordable, innovative, inclusive, and quality parks, recreation, and open space.
3. Support funding for local and regional collaboration that supports equitable access for connected multimodal networks and a complete and connected trail system.
4. Support the inclusion of per-capita grants to cities and counties within statewide park bond measures.
5. Support regional collaboration for funding of the Public Library services.
6. Support the operation and service of non-emergency human services and disaster information resources.
7. Support increasing opportunities for California's multi-generational residents to participate in civic engagement activities.



2023 LEGISLATIVE POSITIONS

8. Support legislation that would provide funding for facilities and programs for California's youth, adults, and seniors.
9. Support additional funding for local agencies to recoup the costs associated with fire safety in the community and timely mutual aid reimbursement for disaster response services in other jurisdictions.

ENVIRONMENTAL SUSTAINABILITY

The City supports policies and funding to support the growth of a strong, healthy, and green community for all City residents that balances environmental quality practices with community needs.

10. Support efforts that encourage and incentivize regional coordinated planning activities for sustainable water resources, infrastructure, and planning.
11. Support funding for recycled water uses to provide local water supply flexibility and reduce drought vulnerability.
12. Support efforts to streamline and improve the state and federal environmental review processes.
13. Support programs to provide refueling/recharging infrastructure for alternative fuel or zero emissions vehicles (ZEVs).
14. Support legislation that enhances regional self-sufficiency and environmental sustainability.
15. Support funding for the retrofitting of municipal buildings to increase water and energy efficiency.
16. Support funding for stormwater harvesting and use that contributes to a sustainable water supply.
17. Supporting legislation and funding that contributes to alternative energy practices.
18. Support efforts to remediate groundwater contamination.
19. Support funding for the implementation of climate action plans.
20. Support efforts that encourage and incentivize regional coordinated planning activities for environmental hazard mitigation and natural disaster prevention and response.



2023 LEGISLATIVE POSITIONS

GOVERNANCE AND TRANSPARENCY

The City supports policies that promote local authority and flexibility for local governments to be responsive and transparent to their constituencies.

21. Support legislation that enhances local flexibility for open meetings under the Brown Act, including teleconferencing, virtual public participation, and noticing of agenda items.
22. Support legislation that upholds the ability of residents to participate in local government decisions.
23. Support funding to provide measurement, monitoring computerized maintenance management systems for capture, recording, analysis, and trending of data associated with performance indicators and key performance indicators for the development continuous improvement strategies.
24. Support cooperative purchasing options for federal and state grant/funded programs.
25. Support legislation that streamlines local governments' ability to contract for personal and professional services and reduces onerous reporting requirements for doing so.
26. Oppose legislation that would lessen the ability of local governments to enforce contractual language agreed to and contained within existing franchise documents.
27. Oppose efforts to restrict local control on city districting decisions.
28. Oppose legislation that mandates costly and unnecessary procedures related to the election process.
29. Oppose legislation which would allow the state to modify terms of an executed Joint Powers Authority (JPA) agreement.
30. Oppose legislation and unfunded mandates imposing impractical requirements on records collection.



2023 LEGISLATIVE POSITIONS

31.

HOMELESSNESS

The City recognizes and values the importance of all residents having stable housing, access to jobs, ability to earn an income, and access to essential services. The City supports efforts and legislation that seeks to alleviate the State's large homelessness problem via funding and programmatic assistance to cities and counties.

32. Support the allocation of new funding for homelessness services and the construction of transitional housing facilities.
33. Support legislation that requires counties to partner with cities when receiving direct allocation of homeless funds and have a regional focus.
34. Support legislative efforts that will allocate State homeless dollars such as the Homeless Housing, Assistance and Prevention (HHAP) program and others, based off city point in time numbers.
35. Support legislative changes to Coordinated Entry requirements that allow local governments to prioritize based on local unsheltered needs
36. Support legislative efforts that have a focus on keeping people in housing, once placed, for many years.
37. Support investments in mental health treatment across the continuum of care, including efforts to support or encourage creation of additional board and care beds, as well as, subacute treatment and psychiatric skilled nursing facilities.

HOUSING AND LAND USE

The City recognizes that the State is amid a massive housings shortage and supports policies to increase housing supply that preserves local autonomy over land use decisions.

38. Support incentive-based housing legislation to encourage expanding housing supply in the City, including flexibility for local jurisdictions to work together to provide housing that counts towards Regional Housing Needs Assessment (RHNA) requirements.
39. Support efforts that fund transit-oriented developments and mixed land uses so all ages and abilities can maximize opportunities for active lifestyles.
40. Support state funding for affordable senior and veteran housing opportunities and projects.



2023 LEGISLATIVE POSITIONS

41. Support legislation that revises the California Environmental Quality Act (CEQA) for purposes of expediting land use and housing projects.
42. Support reduction of housing density requirements to qualify for state grant funding.
43. Support legislation that preserves local discretion in the assessment, collection, and usage of development fees for projects including, but not limited to, water, wastewater, transportation, and other critical infrastructure needs.
44. Support funding and tax incentives for the identification, acquisition, maintenance, adaptive reuse and restoration of historic or vacant sites and structures.
45. Support legislation to allow local jurisdictions to work with others to fulfill RHNA requirements in order to meet regional demand.
46. Support legislation that preserves local flexibility in the adoption and implementation of health and safety standards contained in the building codes
47. Oppose additional affordable housing production mandates unless funding is appropriated to finance the mandate.

PUBLIC SAFETY

The City supports legislation and policies that enable local officials to access resources to provide quality police, fire, emergency management, emergency medical services, traffic safety, youth violence and delinquency prevention initiatives, and community efforts.

48. Support efforts to coordinate disaster preparedness programs in local jurisdictions and support guidelines to identify the strengths and weaknesses of local preparedness efforts.
49. Support legislation that provides for greater penalties associated with organized retail theft operations.
50. Support legislation that allows local governments greater flexibility in controlling speed limits and imposing fines for traffic violations.
51. Support policies that increase funding for cybersecurity operations and impose civil and criminal penalties associated with cybercrimes.



2023 LEGISLATIVE POSITIONS

52. Support policies that create restrictions on the early release of state inmates from incarceration for the purpose of alleviating overcrowding, and limit parole hearing opportunities for state inmates serving a life sentence or paroled inmates with a violation.
53. Support enhanced local control over public nuisances.
54. Support legislation affirming the ability of local government to restrict the presence and residency of sex offenders near schools, parks, and other locations frequented by children.
55. Support policies that that restrict persons with mental health disorders from possessing or owning a firearm.
56. Oppose legislation which would interfere with the ability of law enforcement to remove individuals, either in person or in a vehicle, from public facilities, property, or streets.
57. Oppose legislation which would interfere with a City's ability to use emerging technology to bolster law enforcement efforts.

REVENUE, TAXATION, AND ECONOMIC DEVELOPMENT

The City supports revenue generation and taxation policies that recognize the uniqueness of communities and their abilities to harness distinctive revenue streams. The City opposes efforts to impose a one-size-fits-all approach to tax allocations.

58. Support state funding to assist local governments with meeting regional greenhouse gas reduction goals, including, but not limited to, grants, incentive funding, and economic development tools.
59. Support legislation that would transfer existing tax increment revenues to the service provider upon annexation of a service.
60. Support policies and funding that increases equitable access to high-speed broadband.
61. Support legislation to restore tax increment financing options to cities, either as enhanced infrastructure finance districts, climate resilience districts, or new funding opportunities.
62. Support proposals which would provide the tools needed to attract economic development and create jobs in the City.
63. Support legislation and funding that supports local, diverse, and inclusive businesses.



2023 LEGISLATIVE POSITIONS

64. Support legislation that provides more local control over business incentives.
65. Support legislation that would incentivize the hiring of unemployed job seekers from high-risk populations, including the homeless, individuals coming out of jails, the long-term unemployed like welfare recipients, individuals with disabilities and economically disadvantaged youth with barriers to employment.
66. Oppose legislation seeking to reallocate revenue obtained from the Bradley-Burns Uniform Local Sales and Use Tax.
67. Oppose legislation seeking to block local governments from using economic development tools to generate revenue and facilitate job creation.
68. Oppose any legislation which would pre-empt or reduce local discretion over locally imposed taxes.
69. Oppose legislation that would eliminate the tax exemption for municipal bonds.
70. Oppose policies that would increase the voter threshold for local revenue measures or would increase the potential for litigation over local taxes and fees.
71. Oppose efforts to impose state requirements without the consent of the local agency for the expenditure of locally raised revenues.

TRANSPORTATION AND TRANSPORTATION INFRASTRUCTURE

The City supports legislation and policies that promote investing in the maintenance and rehabilitation of aging infrastructure and building new system capacity to support smart growth principles.

72. Support policies and funding to enhance and expedite the development of multimodal transportation systems, including transit, rail, and airport projects.
73. Support policies that ensure California receive its fair share of the federal highway trust fund.
74. Support legislation for the City to share equitably in the growth of regional, state, and federal revenues for the network of local roads which are experiencing increased traffic and functioning as secondary highways.
75. Support working with regional partners—governmental, private, and nonprofit—to identify and pursue funding for projects improving infrastructure within the City, including regional transportation plans.



2023 LEGISLATIVE POSITIONS

76. Support funding and legislation promoting the City's ability to implement advanced air mobility technology.
77. Support legislation and funding to provide dedicated funding to address local transportation needs, including bridge maintenance projects, safety projects, and bicycle and pedestrian infrastructure improvements.
78. Support funding for infrastructure that promotes non-motorized and active transportation.
79. Support legislation that protects local government authority over telecommunications facilities placed within public right-of-ways to include the aesthetics of equipment installed by contractors.
80. Support the preservation and expansion of transportation grant funding opportunities to help incorporate new transportation technologies and existing infrastructure into local transportation networks.
81. Support efforts that streamline funding between the state, federal, and local governments that help reduce the amount of time and resources it takes to fund and complete transportation projects.
82. Oppose legislation that conditions a city's share of transportation funding on housing-related goals.



2023 FUNDING PRIORITIES

Strategic Funding Priorities

The City of Tracy is committed to harnessing available funding programs at the local, state, and federal programs to fund priority projects. The City plans to utilize its advocates to apply for various grant programs, available surplus funds through earmark requests, and influence state bond legislation for the inclusion of language that will promote the City's competitiveness for funds. The City has identified the following priority funding projects outlined below. Because funding opportunities and projects tend to diversify each year, the City will plan to update its funding priorities document on an annual basis to align with each new budget cycle.

A. Multi-generation Recreation Center (Rec Center)

The City of Tracy is in the process of developing a Multi-Generational Recreation Center (Rec Center). This long-awaited amenity will be the first of its kind in Tracy and the surrounding communities. There are currently very few opportunities for the City to program affordable indoor activities for multiple generations, from youth and teen to adults and seniors. The Rec Center will be located at El Pescadero Park, an existing 14.62-acre community park and will likely include: a three-court gym, an elevated running track, multi-purpose rooms, tech/makers space area, teen lounge, a bouldering wall, outdoor courtyard/recreation spaces, warming kitchen, administration spaces, lobby area, parking/traffic improvements and park improvements. Park improvements are needed as well due to years of homeless encampments located at this site. These improvements will include a skate park, dog park, splash pad, basketball court (lighted), a class 1 bikeway through the park, nature trails, and rehab of some existing park amenities. The City plans to run affordable programming in the Rec Center that will serve youth and teens after school and all day throughout the summers; as well as reaching our active adult and senior populations. The site was also selected as it places the Rec Center in an area of Tracy where there will be opportunities to reach an underserved portion of our population.

The Multi-Generational Recreation Center and park improvements is estimated to cost \$87 million; and the City of Tracy is requesting \$10-\$20 million for the construction of the Multi-Generational Recreation Center.

B. Valley Link: Connecting Bart to Ace Rail Systems

The Tri-Valley – San Joaquin Valley Regional Rail Authority was created by the State of California to plan and construct a commuter rail connection (Valley Link) between San Joaquin Valley cities and the Bay Area Rapid Transit (BART) rail system, including connections with the Altamont Corridor Express (ACE) rail system. Valley Link is anticipating



2023 LEGISLATIVE POSITIONS

transporting 25,000 to 28,000 commuters by 2040 and will provide significant benefits including a reducing commute time, improving freight movement, increasing access to jobs and housing, decreasing emissions, providing a framework for transit-oriented development, preserving open space, and increasing safety.

The City of Tracy is requesting \$25 million for Local Stations and Maintenance facilities to increase access to safe and reliable public transportation to and from the Bay Area.

C. Lammers Road/1-205 Interchange Project

Interstate 205 (I-205) is included in the National Highway Freight Network (NHFN) and primarily serves to channel commuter and freight traffic from the north (Stockton and Sacramento), east (Manteca, Oakdale, Sonora), and south (Modesto, Merced) to the San Francisco Bay Area via Interstate 580 and the Altamont Pass. A study was performed that identifies a need for constructing a new interchange at Lammers Road and Interstate 205 (I-205).

The City of Tracy is requesting \$5 million for Phase I which will enable a safer regional transportation network by relieving congestion from the I-205 Corridor, boosting regional economy by creating economic development opportunities that will bring jobs closer to where employees live thus alleviating environmental impacts caused by ever-increasing commuters.

D. Tracy Nature Park: Regional Recreation and Education

In partnership with the federal government, the City of Tracy participated in a land exchange with the General Services Administration, entering a “Park Covenant” for the future development of a regional public park. The City’s 86 acres of park land is north of Interstate I-205 and will provide regional recreational and educational opportunities. Features will include grasslands, open water, wet meadow, and woodland bound by miles of hiking paths including ADA accessible trails, viewing platforms an interpretive and demonstration stations.

The City of Tracy is requesting \$4.251 million for the first phase of development (\$4.120 million will be sought locally and through other grants) to provide the regional recreational and educational nature park.

E. Central Valley Gateway Project Road & Bridge Expansion Project

This project is a critical logistical component for global goods movement through the Port of Oakland. To enable efficient freight movements, and alleviate regional commuter and commercial congestion, interchange upgrades on I-205 and I-580 are required to mitigate congestion along this portion of the National Freight Network. Modifying two interchanges



2023 LEGISLATIVE POSITIONS

and an access parkway in between, which includes a bridge over the Delta Mendota Canal, is critical for an efficient and safer regional transportation network. The project is a Public-Private Partnership between the City of Tracy; San Joaquin Council of Governments, MPO; Federal Highway Administration; California Department of Transportation; and Prologis, investor.

The City of Tracy is seeking \$50 million for the interchanges to efficiently move goods regionally and nationally along a portion of the National Freight Network.

F. Tracy Bus Fleet Expansion & Land Acquisition

Tracer Bus is the public transportation provider for the City of Tracy, sharing seven acres with the City of Tracy's Public Works yard to store and leasing additional parking and maintenance space. Current annual ridership is 167,000 and is expected to reach approximately 360,000 annually over the next 5 years with the implementation of the City's Short-range Transit Plan. With its already-expanding fleet, a new site is needed.

The City is seeking \$6 million - \$10 million for site selection, acquisition, and design to accommodate current and future demands for services and maintenance, to improve technology capabilities, and to reduce overall environmental emissions.

G. Water Storage Reservoir

The City endeavors to provide reliable water supply and improve water service pressures from the City's potable water system to serve the City's water customers. The City's 2018 Water System Master Plan identifies a need for new infrastructure and recommended a new water storage reservoir and pump station on the west side of the City to improve water service to the City's existing and some new water customers.

The City is requesting \$10 million to provide additional storage and improve pumping capacity for customer, fire flow, and emergency needs.

H. I-580 at International Parkway/Patterson Pass Road Interchange Project

It is part of a rural, integrated, sustainable program to expand a critical interstate interchange and promote integration with Intelligent Transportation. It will improve freight operations along a federal Primary Freight Network (PFN) Route, enhance safety, and benefit the regional and national economy by alleviating congestion and goods movement burdens between the City of Tracy and the Port of Oakland, the San Francisco Bay Area, and the greater Northern California Mega Region. The Project links these economic engines with the Central Valley, the production center of nearly 40% of the nation's agriculture and its partially untapped reservoir of skilled labor.



2023 LEGISLATIVE POSITIONS

The City is seeking \$18 million to support efforts to mitigate climate change impacts, reduce vehicle and diesel emissions, and enhance mobility and jobs access for neighboring Areas of Persistent Poverty

I. New Jerusalem Airport Master Plan

The New Jerusalem Airport is a non-towered, unclassified public airport owned and operated by the City of Tracy. It is located approximately 8 miles southeast of the City of Tracy central business district in San Joaquin County, California. It covers 394 acres and has a single runway in use. Aircraft frequenting the airport include private general aviation aircraft serving the surrounding cities of San Francisco, Sacramento, San Jose, and Concord; light sport aircraft such as powered paragliders and powered parachute aircraft, crop dusters, student pilots, hot air balloonists, and remote-controlled model aircraft. Requests for an aircraft research and development testing area have been received from the Advanced Air Mobility (AAM) and Unmanned Aircraft Systems (UAS) communities. Tracy has been working with the Federal Aviation Administration, State of California Division of Aeronautics, AAM and UAS groups to explore the creation of a state-of-the-art research and development testing facility site. The first step towards this endeavor will first be a Master Plan Study that will include an obstruction survey with mitigation plan, a design of infrastructure including water, sewer, internet, and electricity, a pavement study, and a noise study. The studies will culminate with an airport layout and implementation plan.

The City of Tracy wishes to be a leader in providing an environment to foster innovation in a world of evolving technology and growth in aviation and thus will be seeking \$300,000 to prepare the New Jerusalem Master Plan.

J. Tracy Municipal Airport Terminal Improvements

The historical Tracy Municipal Airport is located three miles southwest of the center of Tracy in San Joaquin County, California. The airport, owned and operated by the City of Tracy, covers 310 acres, and has two runways. Built in 1928 as an American Legion airport, it has been instrumental over the years in fulfilling the needs of aviation through pilot training, military usage, and even manufacturing of aircraft. Each year the airport has seen continued growth. Operations have been averaging 161 flights per day, comprising of 65% transient traffic, 34% local traffic, and 5% air taxi. Approximately 107 aircraft are based at the airport: 97 single engine, 4 multi-engine, 1 jet, 2 helicopters and 3 ultralight craft. To address insufficient amenities and improve service, a terminal building is proposed consisting of approximately 3,000 square feet which will provide a large passenger and pilot's lounge, flight planning



2023 LEGISLATIVE POSITIONS

room, restrooms with showers (there currently is only a small waiting room with no running water or bathrooms available for pilots on the airfield), conference room, airport management offices, galley kitchen, and overnight hangar rental space for transient traffic. To meet the needs of ever-increasing general aviation and business air travel, the new state of the art facility will provide a safe and comfortable environment for pilots (as well as the young at heart watching planes on the airfield).

The City of Tracy is requesting \$351,000 for terminal design and \$1.9 million for terminal construction.

K. Stormwater Trash Full Capture Systems

Under the City's National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Separate Storm Sewer System (MS4) permit issued by the State Water Resources Control Board, the City must comply with a 13383 Order (issued June 2, 2017) containing region specific requirements for the Trash Implementation Program. This Order mandates that the City must implement trash full capture equivalent devices city-wide to reach final compliance no later than 10 years from the June 2, 2017 Order. The City will need to install these devices in high-priority areas identified by the Water Board over the remaining five years.

The City is seeking \$13 million to implement the mandated compliance requirements and support the Water Boards in their state-wide efforts towards enhanced water quality and sustainable water supplies.



Attachment B

July 6, 2004

AGENDA ITEM 1.Q

REQUEST

APPROVAL OF A LEGISLATIVE RESPONSE POLICY

DISCUSSION

Oftentimes legislation moves forward rapidly and the City of Tracy needs to communicate quickly as to whether it supports or opposes the proposed legislation. The City wishes to advocate its position when the outcome of the legislation could have an effect on the liability of cities, the power of cities or govern or tax, or the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner. Because the timing of legislation often prohibits the City from participating because there is insufficient time to submit a request to the City Council at a regularly scheduled meeting it would be more efficient to authorize the City Manager to communicate the City's position using a Council-adopted policy.

The purpose of establishing a policy is to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City.

Under the proposed policy, the City Manager will be responsible for coordinating city efforts and promoting the City's policy priorities to other government entities. In determining whether the City desires to communicate support or opposition to proposed legislation the City shall consider the Existing Policy and Guiding Principles, and position on such legislation, adopted by the Board of Directors of the League. In addition, the City Manager, with input from Department Directors and their respective professional organizations (such as California Park and Recreation Society, National Recreation and Park Association, Cal Chiefs and the California Society of Municipal Finance Officers), shall monitor, review, evaluate and make recommendations when appropriate on state or federal legislative and regulatory trends and judicial developments.

For those matters that the City Manager deems sufficiently important and determines that a prompt response is necessary, the Manager has authority to coordinate all efforts to respond or otherwise communicate the City's views on policy issues to any branch of government at any level. In furtherance of this goal, the Manager may draft proposed resolutions, position papers, or letters, for the Mayor's signature, on behalf of the City. If the City Manager determines that the proposed legislation should be presented to Council for discussion, the Manager shall schedule the item for a Council agenda. All written communications regarding City positions on legislation, including the reasons for those actions, shall be copied to the Council.

FISCAL IMPACT

There is no fiscal impact.

Agenda Item 1.Q
July 6, 2004
Page 2

RECOMMENDATION

That Council, by adoption of the attached resolution, establish a legislative response policy.

ca:dec:LOCC:legislative response staff rpt

RESOLUTION 2004-208

ESTABLISHING A LEGISLATIVE RESPONSE POLICY

WHEREAS, Oftentimes legislation moves forward rapidly and the City of Tracy ("City") needs to communicate quickly as to whether it supports or opposes the proposed legislation and the City wishes to advocate its position when the outcome of the legislation could have an effect on the liability of cities, the power of cities or govern or tax, or the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner, and

WHEREAS, The purpose of this legislative response policy is to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

SECTION 1. The following legislative response policy for the City of Tracy is hereby established.

A. Purpose of Policy

Oftentimes legislation moves forward rapidly and the City of Tracy ("City") needs to communicate quickly as to whether it supports or opposes the proposed legislation. The City wishes to advocate its position when the outcome of the legislation could have an effect on the liability of cities, the power of cities or govern or tax, or the ability of cities to conduct and manage the affairs of government in an orderly and efficient manner. Because the timing of legislation often prohibits the City from participating because there is insufficient time to submit a request to the City Council ("Council") at a regularly scheduled meeting it would be more efficient to authorize the City Manager ("Manager") to communicate the City's position using a Council-adopted policy. The purpose of establishing a policy is to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City. The purpose in doing so is to strengthen and protect local control for the City, expeditiously engage in issues with affect on the City, and support, strengthen and protect the quality of life for all citizens of our community.

B. Delegation to City Manager

While the Council is responsible for the overall supervision, control and direction of the policy, the Council may delegate the management of the City's efforts with regard to legislative affairs provided the Council retains ultimate responsibility for the decisions and actions of such person or group. The Manager, with input from Department Heads and their respective professional organizations (such as California Park and Recreation Society, National Recreation and Park Association, Cal Chiefs, and the California Society of Municipal Finance Officers), shall monitor, review, evaluate and make recommendations when appropriate on state or federal legislative and regulatory trends and judicial developments. For those matters that the Manager deems sufficiently important and determines that a prompt response is necessary, the Manager has authority to coordinate all efforts to respond or otherwise communicate the City's views on policy issues to any branch of government at any level. In furtherance of this goal, the Manager may draft proposed resolutions, position papers, or letters, for the Mayor's signature, on behalf of the City. In

addition, the Manager, in consultation with the League of California Cities ("League") and its Grass Roots Coordinator ("GRC") may prepare testimony, letters or otherwise communicate the Council/City's views consistent with previous policy and actions to appropriate governmental bodies and other interested groups and shall keep the Council informed of all such efforts. The Manager will be responsible for coordinating city efforts and promoting the City's policy priorities to other government entities. In determining whether the City desires to communicate support or opposition to proposed legislation the City shall consider the Existing Policy and Guiding Principles, and position on such legislation, adopted by the Board of Directors of the League.

C. City Council Information

If the Manager determines that the proposed legislation should be presented to Council for discussion, the Manager shall schedule the item for a Council agenda. All written communications regarding City positions on legislation, including the reasons for those actions, shall be copied to the Council.

SECTION 2. This resolution shall take effect immediately.

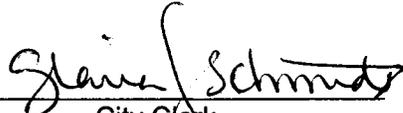
The foregoing Resolution 2004-208 was passed and adopted by the Tracy City Council on the 6th day of July, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:



City Clerk

Attachment C



2023 Legislative Platform

City of Tracy

11/15/2022

Agenda

- Background
 - Legislative Response Policy (Resolution 2004-208)
- Analysis of Legislative Platform
- Next Steps



Think Inside the Triangle™

Background

- Legislative Response Policy (Resolution 2004-208)
 - The purpose of establishing the policy was to enhance the advocacy efforts on behalf of the City
 - Under the policy, the City Manager is responsible for coordinating City efforts and promoting the City's policy priorities to other government entities.

Background

- The City has become more active over the last several years in managing its legislative and advocacy efforts.
 - In 2016, the City begins direct Federal lobby efforts.
 - In 2019, the City contracts with Townsend Public Affairs for State lobby and grant services.
 - In 2022, the City contracts with Townsend Public Affairs for Federal lobby and grant services.

Analysis

Legislative Platform purpose:

- To provide a means for summarizing the City's legislative priorities to guide advocacy efforts at the local, state, and federal level





Think Inside the Triangle™

Guiding Principles

Key legislative guiding principles:

- Cultivate strategic economic development through the preservation of existing revenue streams
- Keep Tracy safe
- Protect local control
- Support statewide and regional partners in advancing good public policy that strengthens local autonomy and resiliency

Legislative Positions



Community and Recreation Services

Environmental Sustainability

Governance and Transparency

Homelessness

Housing and Land Use

Public Safety

Revenue, Taxation and Economic Development

Transportation and Transportation Infrastructure

Legislative Statements

- A total of 81 statements of positions have been compiled.
 - Numbered for reference purposes;
 - Statements of “support” are listed first and then statements of “oppose”, within each category.



Think Inside the Triangle™

Legislative Opinion

- ✓ Support
- ✓ Support if Amended
- ✓ Neutral
- ✓ Concerns
- ✓ Oppose
- ✓ Oppose Unless Amended
- ✓ Watch

2023 Funding Priority

- A. Multi-generation Recreation Center (Rec Center)
- B. Valley Link: Connecting Bart to Ace Rail Systems
- C. Lammers Road/1-205 Interchange Project
- D. Tracy Nature Park: Regional Recreation and Education
- E. Central Valley Gateway Project Road & Bridge Expansion Project
- F. Tracy Bus Fleet Expansion & Land Acquisition
- G. Water Storage Reservoir
- H. I-580 at International Parkway/Patterson Pass Road Interchange Project
- I. New Jerusalem Airport Master Plan
- J. Tracy Municipal Airport Terminal Improvements
- K. Stormwater Trash Full Capture Systems



Next Steps

- ✓ Staff seeks that the current City Council adopt the proposed Platform as a framework for the future City Council.

- ✓ In January 2023, the City Council, with the newly appointed members, will have the opportunity to review the adopted Platform and either affirm it as the City's biennial 2023 Legislative Platform or in a modified form, as such Council deems appropriate.
 - Going forward, the City Council will adopt a new Legislative Platform as a part of the biennial strategic planning retreat.
 - Funding Priorities reviewed annually during Capital Budget planning and development

TRACY CITY COUNCIL

RESOLUTION NO. _____

ADOPTING THE 2023 BIENNIAL LEGISLATIVE PLATFORM (PLATFORM), AND AS A SUPPLEMENT TO THE LEGISLATIVE RESPONSE POLICY ADOPTED BY RESOLUTION 2004-208, REQUIRING THAT THE PLATFORM BE ADOPTED EVERY TWO YEARS DURING THE CITY COUNCIL'S BIENNIAL STRATEGIC PLANNING RETREAT

WHEREAS, The City Council adopted the City's Legislative Response Policy in 2004 (Resolution 2004-208);

WHEREAS, The purpose of establishing the policy was to enhance the advocacy efforts on behalf of the City by providing a protocol for responding to legislative bills, actions and/or state, federal or judicial developments and measures that directly or indirectly affect the City; and

WHEREAS, The City Manager is responsible for coordinating City efforts and promoting the City's policy priorities to other government entities; and

WHEREAS, In determining whether the City desires to communicate support or opposition to proposed legislation, the City Manager considers the City Council's Strategic Priorities Goals and Objectives (City Council Goals); and

WHEREAS, To facilitate the process and enhance the City's communication to the City's Federal, State, and local legislators and supporting agencies, staff proposes that the City Council adopt, as a part of the Council's biennial Strategic Planning Retreat, a Legislative Platform outlining the City Council Goals (Platform); and

WHEREAS, The Platform would serve as the foundation of a strategic and focused advocacy strategy advanced by the City Manager; and

WHEREAS, In 2019, the City contracted with Townsend Public Affairs (Townsend) for State lobbying and grant writing services; and

WHEREAS, In 2022, the City also contracted with Townsend for Federal lobbying and advocacy services; and

WHEREAS, Upon consolidation of the services into one firm, staff began compiling the last four years of the City's policy and advocacy efforts into a comprehensive document, referred to as the Legislative Platform; and

WHEREAS, The Platform includes eight legislative positions, and under each legislative position, a variety of issues that the City seeks to support or oppose is noted; and

WHEREAS, A total of 81 statements of positions are compiled under each legislative position; and

WHEREAS, Listed at the end of the report is the 2023 Legislative Funding Priorities, which will enable the City to be better positioned for notification of funding opportunities as they arise; and

WHEREAS, Combined, the Legislative Positions and statements of positions are intended to represent the City Council's 2023 Legislative Platform; and

WHEREAS, Staff recommends the City Council adopt the proposed Legislative Platform; and

WHEREAS, Staff further recommends, beginning in January 2023, the City Council review the Platform and adopt the biennial Legislative Platform as a part of its biennial Strategic Planning Retreat; and

WHEREAS, The list of Funding Priorities will be updated annually as part of the Capital Budget adoption by the City Council; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby adopts the 2023 Biennial Legislative Platform; and be it

FURTHER RESOLVED: That the City Council hereby, as a supplement to the Legislative Response Policy adopted by Resolution 2004-208, require that the Legislative Platform be adopted every two years during the City Council's Biennial Strategic Planning Retreat; and be it

FURTHER RESOLVED, that the 2023 Biennial Legislative Platform shall be considered and readopted, in its current or modified form, as deemed appropriate by the City Council, at the Biennial Strategic Planning Retreat to occur in January 2023; and be it

FURTHER RESOLVED, that the actions taken herein do not constitute a "project" under the California Environmental Quality Act.

The foregoing Resolution 2022-_____ was adopted by the Tracy City Council on November 15, 2022, by the following vote:

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

NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Agenda Item 3.E

RECOMMENDATION

Staff recommends that the City Council appoint, by motion, a subcommittee of two Council Members, and an alternate, to interview applicants to fill one term vacancy on the Tracy Parks and Community Services Commission.

EXECUTIVE SUMMARY

This item requests that City Council appoint two members of the City Council, and an alternate, to a subcommittee to interview applicants to fill a term vacancy on the Tracy Parks and Community Services Commission. This action can be completed by a motion on the floor.

BACKGROUND AND LEGISLATIVE HISTORY

On October 19, 2022, the current City of Tracy representative on the Tracy Parks and Community Services Commission notified staff that he will be resigning effective December 3, 2022. In anticipation of that upcoming resignation, a recruitment was opened on November 1, 2022 and will end on November 17, 2022.

ANALYSIS

In accordance with Resolution No. 2021-200 (attached to this report as Attachment A), a two-member subcommittee of Council Members, and an alternate, needs to be appointed to interview the applicants and make a recommendation to the full City Council.

FISCAL IMPACT

None

PUBLIC OUTREACH/INTEREST

Notification of Tracy Parks and Community Services Commission recruitment has been posted on the City's Social Media pages, Tracy Press, the City's website, and Channel 26.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

It is recommended that City Council appoint, by motion, a two-member subcommittee of two Council Members, and one alternate, to interview applicants to fill one term vacancy on the Tracy Parks and Community Services Commission.

Prepared by: Necy Lopez, Deputy City Clerk

Reviewed by: Adrienne Richardson, City Clerk

Reviewed by: Karin Schnaider, Assistant City Manager

Approved by: Michael Rogers, City Manager

Attachment A: Resolution 2021-200

RESOLUTION 2021-200

ADOPTING A COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES AND REPEALING RESOLUTION NO. 2021-131

WHEREAS, On September 7, 2021, the Tracy City Council adopted Resolution 2021-131 establishing a policy for the selection process for appointments to City advisory Bodies and repealing Resolution 2020-009;

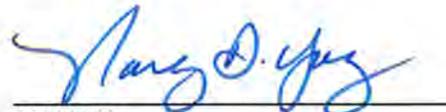
WHEREAS, The current policy states that Council shall appoint two Council Members to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee, and

WHEREAS, Council wishes to amend the language of Section 2 (D)(1) to state that Council shall appoint two members *and an alternate* to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Tracy hereby adopts the Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies, attached as Exhibit A, and thereby repeals and supersedes Resolution No. 2021-131.

The foregoing Resolution 2021-200 was passed and adopted by the Tracy City Council on the 21st day of December, 2021, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS, YOUNG
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

**COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO
CITY ADVISORY BODIES
(Exhibit "A" to Resolution No. 2021-200)**

SECTION 1: PURPOSE

To establish a selection process for appointments to City advisory bodies including defining residency requirements, in accordance with Government Code sections 54970 et seq.

SECTION 2: SELECTION PROCESS FOR APPOINTEE BODIES

- A. On or before December 31st of each year, the City Clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
1. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
 2. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
 3. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
- B. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.
- C. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
1. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
 2. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 2.
- D. The Council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

1. Council shall appoint two Council members and an alternate to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
 2. If the Council subcommittee determines there are multiple qualified candidates, the subcommittee may recommend the Council establish an eligibility list that will be used to fill vacancies that occur in the following twelve (12) months.
 3. At the Council subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
- E. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

SECTION 3: DEFINITION OF RESIDENCY REQUIREMENTS

- A. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
1. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
 2. City of Tracy means within the city limits of the City of Tracy.
 3. Citizen means a resident of the City of Tracy.
 4. Tracy School District means the geographical area served by the Tracy Unified School District.
 5. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
- B. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
1. Voter registration,
 2. Current California Driver's License or Identification,
 3. Utility bill information (phone, water, cable, etc.),
 4. Federal or State tax returns.

C. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.