TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, January 21, 2025, 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).

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 2557 972 9629** 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 25579729629#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:*
    1) *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.*
    2) *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.*

Date Posted: January 16, 2025

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 agendized 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*

Date Posted: January 16, 2025

CALL TO ORDER

ACTIONS, BY MOTION, OF CITY COUNCIL PURSUANT TO AB 2449, IF ANY

ROLL CALL AND DECLARATION OF CONFLICTS

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS

1. Employee of the Year
2. Certificate of Appointment - ESC Youth
3. Certificate of Appointment - Transportation Advisory Commission
4. Two PD Promotions
5. Proclamation – Human Trafficking Prevention Month

ORDER OF BUSINESS

1. CONSENT CALENDAR

1.A. Adoption of December 17, 2024 Regular Meeting Minutes, December 20, 2024, Closed Session and Special Meeting Minutes, and January 7, 2025, Closed Session and Special Meeting Minutes.

1.B. Staff recommends that City Council adopt a Resolution approving the execution of a General Services Agreement with Petroleum Solids Control, Inc., a California Corporation, for repairs and transport services for certain equipment for the City of Tracy Wastewater Treatment Plant for a total not-to-exceed amount of $100,372 and for a one (1) year term.

1.C. Staff recommends that the City Council adopt resolutions: 1) approving an On-Call Professional Services List, for Various Water-Related Reports, for a term of five years, and 2) authorizing: A) the execution of a Master Professional Services Agreement with Black Water Consulting Engineers, to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year; and B) the execution of a Master Professional Services Agreement with Cavanaugh and Associates, P.A. dba Cavanaugh Engineering to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year, and C) the City Manager to administratively extend the length for up to three additional years upon satisfactory performance.

1.D. Staff recommends that the City Council adopt a resolution accepting the City of Tracy's Annual Comprehensive Financial Report (ACFR) for the fiscal year ending June 30, 2024.

1.E. Staff recommends that the City Council adopt a resolution approving an amended Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of $2,101,800.

1.F. Staff recommends that the City Council adopt the following, each by separate resolution: (A) approving (1) the execution of a Master Professional Services Agreement for storm drainage engineering services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorizing two administrative options to extend for a one-year term each; and (B) approving (1) the execution of a Master Professional Services Agreement for water pressure and capacity analysis and engineering assistance services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, and for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorizing two administrative options to extend for a one-year term each.

1.G. Staff recommends that the City Council adopt a resolution reinstating the Professional Services Agreement with De Novo Planning Group to perform transit-oriented development planning services, extending the term of the Agreement and revising the scope of work to be consistent with the revised approach approved by the City Council, which includes the Downtown Vision Plan, preparation of Downtown Design Guidelines, and amendments to the Central Business District Zone.

1.H. Staff recommends that the City Council adopt a resolution approving the City's Development Impact Fee Annual Report for Fiscal Year 2023-2024 on Development Impact Fee revenues and expenditures, in accordance with the Mitigation Fee Act.

1.I. Staff recommends that the City Council adopt a resolution 1) accepting public improvements for Tract 3804 Larkspur Estates Unit 4 as complete, and assume responsibility for future maintenance and repairs, 2) authorizing the City Engineer to release the Subdivider furnished bonds in accordance with the Subdivision Improvement Agreement, 3) authorizing the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office and 4) authorizing an update to storm development impact fee credits from $592,002.80 to $675,453.06.

1.J. Staff recommends that City Council adopt a resolution (1) accepting the public improvements for the NEI Pescadero Basin and Pump Station, constructed by Prologis, L.P., a Delaware Limited Partnership, as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release bonds in accordance with the Tracy Municipal Code section 12.36.080, (3) authorizing the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office, and (4) Authorize an annual appropriation from the General Fund of approximately $80,000 for the purposes of Operations and Maintenance costs associated with the NEI Basin and Pump Station.

1.K. Staff recommends that the City Council fill one vacancy from the eligibility list that was established on December 3, 2024, and appoint Raj Dhillon to the City of Tracy Transportation Advisory Commission.

1.L. Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for LIT Industrial Limited Partnership as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) rescinding Tracy City Council Resolution No. 2021-057.

1.M. Staff recommends that the City Council adopt a resolution approving an Offsite Improvement Agreement between the City and Prologis, L.P. for offsite improvements to Hopkins Road, as a portion of the frontage obligation for IPC Building 20.

1.N. Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for 7-Eleven Store #41531 as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Clerk to accept a public utility easement along North Tracy Boulevard and West Clover Road and file with the San Joaquin County Recorder's Office.

1.O. Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for Edgewood Commercial Center as complete and assuming all future maintenance and operations, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Clerk to accept a public utility easement along South Corral Hollow Road and file with the San Joaquin County Recorder's Office.

1.P. Staff recommends that the City Council adopt a resolution (1) accepting the construction improvements for City Hall Memorial Flag Poles Project, Capital Improvement Project 78192, (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorizing the City Engineer to release the improvement security and retention payment in accordance with the Project contract and Tracy Municipal Code Section 12.36.080, and (4) authorizing the Finance Department to close the Project.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

3.A. Staff recommends the City Council review the top three (3) names recommended by the Parks and Community Services Commission and select two (2) for the naming of the Tracy Hills Phase 2 Neighborhood Parks 1 and 4.

3.B. Staff recommends that City Council receive an informational update on a potential ordinance affecting mobile food vendors and provide direction to staff.

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

7. ADJOURNMENT

TRACY CITY COUNCIL REGULAR MEETING MINUTES

December 17, 2024, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy *Web Site:* *www.cityoftracy.org*

Mayor Young called the meeting to order at 7:05 p.m.

There were no actions taken pursuant to AB 2449.

Roll Call and Declaration of Conflicts – Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present. City Council had no declaration of conflicts.

Mayor Young led the Pledge of Allegiance.

Pastor Doug Diestler, Tracy Mission City Church offered the invocation.

Mayor Young presented a proclamation for National Slavery and Human Trafficking Prevention Month to Brian Pekari and students from End It Alliance High School Social Media Team.

Mayor Young presented a proclamation for Focusing on Children Under Stress to Brian Pekari, Nora Hana and Jennifer DeAngelo, Leads for Focusing on Children Under Stress, San Joaquin Program.

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

   1.A. Approval of December 3, 2024, Special Meeting and Regular Meeting Minutes. **– Minutes were adopted**.

   1.B. Staff recommends that the City Council adopt a Resolution 1) authorizing the execution of a Purchase Agreement with Municipal Maintenance Equipment, Inc. for the purchase of a Vac-Con VX312Ihe/100 Hydro-Excavation Truck utilizing the Sourcewell Cooperative Program in the amount of $689,097; and 2) declaring the existing Vac-Con as surplus and approving its disposition pursuant to Tracy Municipal Code Section 2.20.310.– **Resolution 2024-227** authorized the execution of a Purchase Agreement with Municipal Maintenance Equipment, Inc. for a Vac-Con VX312Ihe/100 Hydro-Excavation Truck.

   1.C. Staff recommends that City Council adopt a resolution approving and authorizing the execution of a Lease Agreement with SAS Farms, LLC, a California Limited Liability Corporation, with a term of ten years and initial annual rent beginning on January 1, 2025, in the amount of $115,200, adjusted at a three percent (3%) increase annually beginning on January 1, 2026. – **Resolution 2024-228** approved a Lease Agreement with SAS Farms, LLC.

   1.D. Staff recommends that the City Council adopt a resolution approving the execution of a Freeway Maintenance Agreement with the California Department of Transportation for the Interstate 580/Lammers Road Undercrossing Project.**– Resolution 2024-229** approved the execution of a Freeway Maintenance

Agreement with the California Department of Transportation for the Interstate 580/Lammers Road Undercrossing Project.

1.E. Staff recommends that the City Council adopt a resolution delegating to the City Manager, for the International Parkway Bridge Replacement and Expansion Project, Capital Improvement Project 73148, the authority to pay fees and execute related agreements for design engineering and relocation costs for various utility relocations, including an Actual Cost Contract with Pacific Gas and Electric, up to a total not to exceed amount of $500,000. – **Resolution 2024-230** delegated to the City Manager, for the International Parkway Bridge Replacement and Expansion Project, Capital Improvement Project 73148, the authority to pay fees and execute related agreements for design engineering and relocation costs for various utility relocations, including an Actual Cost Contract with Pacific Gas and Electric.

1.F. Staff recommends that the City Council adopt a resolution (1) accepting public improvements for Grant Line Apartments as complete in accordance with the Offsite Improvement Agreement and assume responsibility for their future maintenance and repair, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, (4) authorizing the City Clerk to accept a Public Utility Easement along the frontage of Grant Line Road, contingent upon Developer removing existing encumbrances and providing evidence of clean title, and (5) authorizing City Clerk to sign a quitclaim deed releasing City interest in a storm drainage easement across the Developer's property, as recorded in Book 2,page 360, Official Records, across Developer's property**. – Resolution 2024-231** accepted the improvements for Grant Line Apartments as complete, authorized the City Engineer to release improvement security, authorized the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, authorized the City Clerk to accept a Public Utility Easement along the frontage of Grant Line Road, and authorized City Clerk to sign a Quitclaim Deed releasing the City interest in a storm drainage easement.

2. ITEMS FROM THE AUDIENCE – Richard Williams stated he was advocating for safer crosswalks for the City of Tracy and acknowledged his father-in-law that passed away in Tracy. In April of 2022 he submitted a petition regarding the Safe Streets and Road Grant which City applied for, and funds have been approved but nothing has been done. Happy to see the City applied for another grant where allocated $780,000 for extensive study for safer roads for pedestrians as well. Thanked Council for putting forth the effort and the Police Department for their grants received and doing enforcement.

Allan Gagner spoke about his struggles to build a full entertainment center in the Sears building. Mr. Gagner would like to see about a loan and can pay it off to the City. Want to set up something for our youth for generations to come. The City has given money to Macys to help them move forward.

Robert Tanner shared concerns regarding Council's wage increase previously adopted and hoped the new Council can reverse it. There is political graffiti on fencing near the old KFC building on 11th Street that needs to be removed.

Tim Silva thanked the City for a great job on Bessie Ave, probably the best paved road in Tracy. Good to see investment in northern part of Tracy.

Burnell Shull praised Mayor Pro Tem Davis for the work she has done during her time on Council.

3. REGULAR AGENDA

3.A Adopt a Resolution reciting the facts of the General Municipal Election held in the City of Tracy on November 5, 2024, and declaring the results of the Election and such other matters as provided by law.

Adrianne Richardson, City Clerk provided the staff report.

There was no public comment.

There were no comments from Council.

ACTION: Motion was made by Council Member Bedolla and seconded by Mayor Pro Tem Davis to adopt **Resolution 2024-232** reciting the facts of the General Municipal Election held in the City of Tracy on November 5, 2024, and declaring the results of the Election and such other matters as provided by law. Roll call found all in favor; passed and so ordered.

3.B Presentation to Outgoing Council Members

Rhodesia Ransom stated she appreciates each member of the Council and thanked the outgoing Council Members for the work they have done and the time they have given and praised Mayor Young for her leadership.

Sherry McCane shared her appreciation for Mayor Pro Tem Davis and Council Member Evans.

A speaker shared their appreciation for Mayor Pro Tem Davis for her time on Council and thanked Mayor Young for her service.

A speaker echoed comments made by Rhodesia Ransom, stated she prays for unity and thanked Mayor Young for 20 years of service and leadership.

A resident stated they love Tracy and shared their gratitude for Mayor Young.

A resident thanked Council for all projects brought into Tracy and requested we come together and make it one journey for all of us.

A speaker thanked Mayor Pro Tem Davis for her effort and time for development in Tracy and good luck to her and Mayor Young. Hoped Council Member Bedolla would be continuing.

A businessowner thanked Council for helping, in particular Eleassia Davis, with their small business and looked forward to working with the new Council.

Ronna Green, Mountain House Council Member shared comments regarding the outgoing Council Members time on City Council.

A resident of Tracy stated she was grateful for a safe community and Tracy is very nice.

Michael Young praised his mother Nancy Young and described her as superwoman and thanked her for her service to Tracy.

Council Members shared comments regarding Council Member Bedolla's time on City Council.

Mayor Young presented a plaque to outgoing Council Member Bedolla.

Council Member Bedolla provided comments regarding his time on City Council.

Council Members shared comments regarding Mayor Pro Tem Davis's time on City Council.

Mayor Young presented a plaque to Mayor Pro Tem Davis.

Mayor Pro Tem Davis provided comments regarding her time on City Council.

Council Member Arriola introduced the following groups who provided presentations to outgoing Mayor Young.

Tamika Smith from San Joaquin Regional Rail Commission made a presentation to outgoing Mayor Young.

Mercedes Silveira-Gouveia made a presentation to outgoing Mayor Young for Women in Leadership Supporting Women of Achievements – Susan B. Anthony Awards and donated a poster on behalf of Dr. Nancy Young to be hung in the City Hall Lobby to honor her many years of service to the community.

Gwendolyn White and members of Tracy African American Association made a presentation to outgoing Mayor Young.

Council Member Arriola presented a plaque and gavel to outgoing Mayor Young.

Mayor Young provided comments regarding her time on City Council.

Adrianne Richardson, City Clerk administered the Oath of Office to elected City Treasurer, Raymond McCray and Council Member Arriola presented Raymond McCray with a Certificate of Election.

Council Member Arriola announced there will be a five-minute break to prepare for the seating of the new Council.

3.C. Administer Oath of Office and seating of new Council Members

Charley Jones shared how proud he was of the work Council Member Arriola has done and how he inspires people and his understanding of the community.

Jake Allen shared his positive experiences with Council Member Elect Dotty Nygard and thanked her for everything she has done for the City.

James Young thanked Council Member Arriola for standing with Mayor Young and congratulated Mayor Elect Dan Arriola.

Rhodesia Ransom, Assembly Member shared support for Council Members Elect Steve Abercrombie, Dotty Nygard and Mayor Elect Dan Arriola and stated she was excited to be able to work with the leaders in her city and is here for our region. Need to work together and stay united.

Mitra spoke about Council Members Elect Steve Abercrombie, Dotty Nygard and Mayor Elect Dan Arriola stating they will make Tracy a better place to live, congratulated them and stated she was proud of them.

Nancy Young shared her support for Council Members Elect Dotty Nygard, Steve Abercrombie and Mayor Elect Dan Arriola, and made a presentation of a baton to Mayor Elect Dan Arriola.

Council Member Evans congratulated Mayor Elect Dan Arriola.

Adrianne Richardson administered the Oath of Office to Council Member Elect Steve Abercrombie and Mayor Elect Dan Arriola presented a Certificate of Election to Council Member Steve Abercrombie.

Rhodesia Ransom, Assembly Member administered the Oath of Office to Council Member Elect Dotty Nygard and Mayor Elect Dan Arriola presented a Certificate of Election to Council Member Dotty Nygard.

Senator Jerry McNerney administered the Oath of Office and presented a Certificate of Election to Mayor Dan Arriola.

City Clerk roll called the new Council: Council Members Abercrombie, Evans, Nygard and Mayor Arriola present.

3.D <u>City Council appoint the third highest vote-getter in the last most recent General Municipal Election, Mateo Bedolla, to fill a vacancy on the City Council occurring during the vacant position's term, based on the results of the General Municipal Election creating the vacancy, and administer Oath of Office.</u>

Adrianne Richardson, City Clerk provided the staff report.

Council questions followed.

Pete Mitracos favored doing the appointment of third highest vote-getter process. Makes sense to take next highest vote-getter.

Dan Randall stated it makes no sense. Mateo Bedolla was voted out of office. How can it make sense to bring him back in because he came in third. There was tremendous division. Voters wanted change and asked Council to take their time and look at all their options.

Mercedes Silveira-Gouveia stated the people voted. We should respect the will of the people. Honor democracy and the voice of the people.

Vannie Dart congratulated the new Council Members. The people have spoken, Mateo Bedolla came in third. He did not lose his job. The Grand Jury Report stated we need to use the third-highest vote getter. Mateo Bedolla deserves to be on Council.

Robert Tanner stated it seems like the rules changed with previous City Council. Saving factor is he only has two years. Mateo was one of leaders that caused disarray. This way the third person wins.

Sandy Taylor stated the agenda item to appoint an empty Council seat should not be to bring back people who have tarnished our City. Need leadership to return governance. Requested this appointment be postponed to January. Unfair to voters.

Rosario Arulappan shared support for Mateo Bedolla being appointed as third highest vote-getter to Council.

Tim Silva stated we say we want this more cohesive Council and here we are already starting with the division. The policy was adopted so we did not get a stacked Council. Need to stick to that policy. This is a strong recommendation by the Grand Jury who said they don't want Council hand picking Council. This is a terrible optic. This is the people speaking, not Council.

Richard Williams stated he had the same sentiment as Tim Silva and asked if this avoids a special election or avoids hand picking a person who did not get voted in. This remedy seems to be the only solution without causing extra money to the taxpayers and asked if this is what the process is for.

Jenny Wood believed in a representative democracy the most important thing is to do the will of the people. More than 7,000 voted for Mr. Bedolla just short of Council Member Nygard. Ms. Wood urged Council to work with those that people voted for. Have a chance to prove that you can work across differences. Don't disenfranchise the voters.

A Tracy Hills resident asked Council to respect what the voters have said. That should be honored. The people have spoken.

Roy Hawkins stated recent election shows residents are tired of the past. Looking for a more positive result that Council can implement. Need honest and true representation instead of what the other people are talking about.

Ann Langley asked Council to take some time to think about this, look at it to make sure Dotty Nygard's concerns are answered and we make the best choice for Tracy. This is a chance to work together.

Amir stated this last election was difficult. The amount of people running for Council diluted the numbers significantly and for Mateo Bedolla to be out by 250 votes shows of lot of people support him. Have seen him contribute to both sides. Go with the recommendation in consideration and use the incumbent for the remaining seat.

Michel Bazinet expressed opposition to the appointment of Mateo Bedolla and shared his concerns regarding actions of Council Member Bedolla that he felt negatively impacted the community and recommended Council postpone the decision until January.

Conrad Levoit supported the third vote-getter getting the position. It was how the people voted.

Council's comments and questions followed.

Bijal Patel, City Attorney stated a new policy is not agendized for discussion. Approve or second to reject and ask staff to come back at a later date at a special meeting or regularly scheduled meeting with what you would like to see. Either a discussion on a policy itself or other procedure you may want to consider.

Mayor Arriola confirmed the City Attorney's comments that it was not agendized to consider the policy that would need to come back if there was a motion and second and it has to be done within 60 days from today.

Mayor Arriola supported full discussion of the policy but was not in support of going back for an appointment process. Given next meeting is set for January 21, would anticipate that would be done by a special Council meeting.

Council Member Evans was not in support but was in support of the voters choice.

Council Member Abercrombie stated he did not have a problem postponing and doing a special meeting and Council Member Nygard agreed.

Arturo Sanchez, Assistant City Manager clarified based on what he heard, Council is tabling discussion and directing staff to come back with policy for consideration. It would be a policy at a special meeting and at that same meeting this item would return for discussion subsequent with that policy being considered. Mayor Arriola was in support of that.

Mayor Arriola asked if there was a motion for the agendized item, if it died or failed would Council be able to reconsider the policy in its entirety and vote on someone to fill that vacancy at that same meeting.

Ms. Patel responded it depends on what the new policy will be. This Council typically has adopted a formal written policy through a resolution, but State law does not require that. It could be done by motion. Council could do it on or at a special meeting before January 21st, discuss and adopt a policy but will not know what that policy would be so it would be difficult to predict whether or not Council can then also appoint at that same meeting.

Mayor Arriola asked if Council were to enact what Mr. Sanchez had suggested with continuing this and then adding an additional item for reconsideration of the policy, would that be an opportunity to potentially affect any change and potentially fill at that same meeting.

Ms. Patel responded if there is a motion to continue, the same item will come back on January 21st and Council could in addition put before this on the agenda a discussion on the policy. If Council wanted to make changes to the policy, then this item would not be able to be heard, it would not be consistent with your new policy that may be adopted. The question is does Council need to keep this item alive in order to have a discussion on the policy. If the policy will be modified, then Council will need to create a new item based on whatever that policy is.

Karin Schnaider, Assistant City Manager clarified because Council can either adopt the resolution with edits on the floor. Title can be written as such, or can take the next item and adopt by motion. The policy is not required to appoint.

Ms. Patel clarified under State law Council do not have to have your appointment policy in writing. Council can direct by vote by motion on the floor as to what your appointment policy is for this particular election. Council has not typically done that. That is what Council did in October, amended and replaced the policy. Council could suspend the application of this policy and by motion adopt a new policy for this particular election or could rescind this policy. Need to understand if Council is trying to rescind the policy completely or does Council want the policy to stay alive and not apply to this election. Need clarity the intent.

Mayor Arriola asked if a future item could reconsider the policy in its entirety and because state law does not require us to have any policy in writing Council could vote by motion to appoint the vacancy by a policy which would have been previously discussed at that same meeting.

Ms. Patel responded that is correct. First action would be to rescind the policy and adopt a new policy by motion, and the next item would be to appoint by motion based on the newly adopted policy. Staff would not know who that would be because Council would not know who that would be but there could be a placeholder on the agenda to say the action is to formally appoint based on whatever that policy is.

Mayor Arriola stated in order to do this in one shot in the future, the motion can be voted on or die. If either of those things happen then to reconsider this policy, Council would need 1) to reconsider the vacancy policy in its entirety and 2) to appoint by motion based on such new policy.

Ms. Patel responded that is correct, two separate items that could be agendized that gives you the flexibility at the next meeting.

ACTION: Motion was made by Council Member Evans to appoint the third highest vote-getter in the last most recent General Municipal Election, Mateo Bedolla, to fill a vacancy on the City Council occurring during the vacant position's term, based on the results of the General Municipal Election creating the vacancy. There was no second to the motion. Motion failed.

ACTION: Motion was made by Council Member Abercrombie to bring back the policy regarding filling the vacancy for discussion at a meeting to be determined.

Mayor Arriola offered a friendly amendment to subsequently also appoint by motion based on such new policy. Council Member Abercrombie accepted the friendly amendment.

Council Member Nygard seconded the motion. Roll call found Council Members Abercrombie, Nygard and Mayor Arriola in favor; passed and so ordered. Council Member Evans opposed.

3.E The City Council, by Motion, appoint a Council Member as the Mayor Pro Tempore of the Tracy City Council for a two-year term ending in December 2026.

Adrianne Richardson, City Clerk provided the staff report.

There was no public comment.

Mayor Arriola supported Council Member Abercrombie to be Mayor Pro Tempore.

ACTION: Motion was made by Mayor Arriola and seconded by Council Member Evans to appoint Council Member Abercrombie as Mayor Pro Tempore of the Tracy City Council for a two-year term ending in December 2026. Roll call found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – Pete Mitracos stated he was already very disappointed in this Council. See the chaos he was concerned about, problems we had before continue.

Robert Tanner asked Council to reverse pay increase for Council and shared concerns regarding Council's pay increase. Also shared concerns about fireworks being 12 months a year and requested increasing fines for fireworks.

Seth Christianson stated his friend owns a business at Tracy mall where they teach fencing, sword fighting, combat archery and fun and entertainment skills for youth. Also run trading card shop at the mall as well. Want to merge them together. Trying to bring axe throwing, batting cages, restaurants, gel blaster system, bring family fun and entertainment to Tracy and are asking for help from the Council to advance this forward.

5. STAFF ITEMS – Midori Lichtwardt, City Manager congratulated the new Council Members and wished everyone a happy holiday season.

Karin Schnaider, Assistant City Manager congratulated the new Council Members and reminded everyone that City Hall will be closed on December 24, 25 and 27 and will also be closed on January 1, 2025.

Arturo Sanchez, Assistant City Manager congratulated the new City Council and stated he looked forward to working with Council.

6. COUNCIL ITEMS – Council Member Evans wished everyone a wonderful Christmas or whatever holiday being celebrated.

Council Member Nygard stated she honored constituent's comments and respect their voice, wished everyone happy holiday season and looks forward to a productive new year.

Mayor Pro Tem Abercrombie shared information regarding Brighter Christmas, will be helping 650 families, Saturday will be doing deliveries and boxing up food, Sunday people will be receiving their items. Go to BrighterChristmas.org for more information. Have people in virtual jail, and can post bond to raise money for Brighter Christmas. Have a safe holiday season and happy New Year.

Mayor Arriola stated he has been working with Human Resources and the City Attorney to ensure there is a seamless transition in the City Attorney's Office and requested to

bring back appointment of interim City Attorney at earliest special meeting after polling Council. This is to make sure we do not have any gaps with our City Attorney service. Mayor Pro Tem Abercrombie seconded the request.

Mayor Arriola wished everyone a merry Christmas, happy holiday season, and happy new year. It was our first meeting and looks forward to moving forward with our new Council and he is confident this Council will move forward with the best interest of the community.

Bijal Patel, City Attorney clarified this is just the interim City Attorney and we will have a specific candidate Council can consider. Only Council can appoint an interim or permanent City Attorney. It would be in open session and for interim appointment for a certain number of months.

Karin Schnaider, Assistant City Manager asked for clarification that it would not be the contract, so we need two meetings.

Ms. Patel responded Council can delegate authority to the Human Resources Director or City Manager to finalize the contract. This is just an interim appointment based on hourly rate.

7. ADJOURNMENT: Time: 11:49 p.m.

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

The above agenda was posted at the Tracy City Hall on December 12, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

December 20, 2024, 5:00 p.m.

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

1. Mayor Arriola called the meeting to order at 5:00 p.m.

2. There were no actions taken pursuant to AB 2449.

3. Roll call found Council Members Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declarations of conflicts.

4. Items from the audience – There was no public comment.

5. DISCUSSION ITEMS

   5.A. Personnel Matter (Gov. Code § 54957)

   Public Employee Appointment and Employment

   Position Title: City Attorney

   There was no public comment on item 5.A.

ACTION: Motion was made by Council Member Evans and seconded by Council Member Nygard to recess to closed session. Roll call found all in favor; passed and so ordered. Time: 5:03 p.m.

6. Reconvene to Open Session – Time: 5:16 p.m.

7. Report of Final Action – City Council authorized staff to secure a recruiter for a permanent City Attorney.

8. There were no Council items or comments.

9. Adjournment Time: 5:17 p.m.

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

The above agenda was posted at the Tracy City Hall on December 19, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

December 20, 2024, 5:15 p.m.

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

1. Mayor Arriola called the meeting to order at 5:21 p.m.

2. There were no actions taken pursuant to AB 2449.

3. Roll call found Council Members Evans, Nygard, Mayor Pro Tem Abercrombie, and Mayor Arriola present. City Council had no declarations of conflicts.

4. ITEMS FROM THE AUDIENCE – Alice English stated the last meeting was a fiasco which was expected and shared that there were more comments in favor of going with the Grand Jury. The voters voted Mateo Bedolla as third place. Council went against the voters. If you want to change the policy, bring it back for the 2026 election. The difference between Mateo Bedolla and Dotty Nygard was 250 votes, and shared concerns about Council changing the policy to be in their favor.

   Mayor Arriola objected to the characterization by Ms. English.

5. CONSENT ITEMS – Motion was made by Council Member Evans and seconded by Council Member Nygard to adopt the Consent Item. Roll call found all in favor; passed and so ordered.

   5.A. AUTHORIZE THE EXECUTION OF A NEW SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH COLANTUONO HIGHSMITH & WHATLEY, PC FOR INTERIM ASSISTANT CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF $450,000. – **Resolution 2024-233** authorized the execution of a new scope of services to the existing agreement with Colantuono Highsmith & Whatley, PC for Interim Assistant City Attorney.

6. DISCUSSION ITEMS

   6.A. APPOINT ANDREW SHEN TO SERVE AS INTERIM CITY ATTORNEY AND APPROVE A SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH THE RENNE PUBLIC LAW GROUP FOR INTERIM CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF $250,000.

   Bijal Patel, City Attorney provided the staff report.

   There was no public comment.

   There were no Council comments.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt **Resolution 2024-234** appointing Andrew Shen to serve as Interim City Attorney and approve a scope of services to the existing Legal Services Agreement with the Renne Public Law Group for Interim City Attorney

services for a not to exceed amount of $250,000. Roll call found all in favor; passed and so ordered.

7. Council Items and Comments – None

8. Adjournment – Time: 5:32 p.m.

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

The above agenda was posted at the Tracy City Hall on December 19, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 7, 2025, 6:30 p.m.

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

1. Mayor Arriola called the meeting to order at 6:30 p.m.

2. There were no actions taken pursuant to AB 2449.

3. Roll Call and Declaration of Conflicts – Council Members Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declaration of conflicts.

4. ITEMS FROM THE AUDIENCE – Richard Williams shared concerns regarding City Council changing the policy to fill a vacancy on City Council and stated Council cannot change the rules at the conclusion of an election because they do not agree on the results.

   Alice English shared concerns regarding the Council changing the policy to fill a vacancy on City Council and stated the voters spoke loud and clear that the third highest vote-getter was Mateo Bedolla with 7,600 votes. Council can change for the next election but not now.

   Ubbo Coty stated Tracy has gone through two Grand Jury investigations. It only takes one anonymous person to inspire another Grand Jury investigation. Previous City Council agreed to a process of third highest vote-getter gets selected. To pick someone who might be conflicted with developers and undo a previous agreement is not a democratic process.

5. Request to Conduct Closed Session:

   5.A Conference with Labor Negotiators (Gov. Code § 54957.6)

   - City Negotiators
     - Arturo Sanchez, Acting City Manager
     - Karin Schnaider, Assistant City Manager
     - Kimberly Murdaugh, Human Resources Director
     - Andrew Shen, Interim City Attorney

   - Employee Organizations
     - General Teamsters Local No. 439, IBT
     - Tracy Police Officers' Association
     - Tracy Police Managers Association
     - Tracy Technical and Support Services Employee Association
     - Tracy Mid-Managers Bargaining Unit

   There was no public comment on item 5.A.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded Council Member Evans to recess to closed session. Time: 6:40 p.m. Roll call found all in favor; passed and so ordered.

6. Reconvene to Open Session – Time: 6:55 p.m.

7. Report of Final Action – Andrew Shen, Interim City Attorney stated in observation of the day in mourning for former President Carter the Council has unanimously authorized a contribution of an equivalent of one 8-hour holiday to each employees accrued bank to be used on future date deemed operationally feasible. All City operations will otherwise remain open and operational this coming January 9, 2025.

8. Council Items and Comments - None

9. Adjournment: Time: 6:56 p.m.

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

The above agenda was posted at the Tracy City Hall on January 2, 2025. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

January 7, 2025, 7:00 p.m.

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

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

2. There were no actions taken pursuant to AB 2449.

3. Roll Call and Declaration of Conflicts – Council Members Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declaration of conflicts.

4. ITEMS FROM THE AUDIENCE – Robert Tanner requested Council fill potholes on Holly between Clover and Grant Line.

   Nancy Young presented a booklet to Council that goes along with the leaders wall that was accepted by the previous Council. The San Joaquin County Historical Museum as well as Tracy Historical Museum already has a copy and a small replica of the wall. The library will also receive a copy. A QR code will be added to the wall later.

   Sandy Taylor stated at the December 17, 2024, meeting she heard something that bothered her and asked Council to think twice before marginalizing those that do not live within the City limits. People contribute significantly to Tracy by donating time, money, and business to Tracy and consider Tracy home. Council's decorum, integrity and judgement matter. It is ignorant to not embrace the contributions.

   Burnell Shull spoke about dogs on the loose and asked if there was money to help the people trying to rescue the dogs. If the City wants to build an Aquatic Park, why can't we take care of these animals. The Shelter is too small. Got to do something about the homeless stealing and breeding dogs and trying to sell them. Need to do something to help animals and people who are trying to help the animals.

   Kelly Moran, volunteer for Saving Ferals and Animal Rescue of Tracy, agreed with previous speaker and stated she is out there every night helping cats. Animal Protection League in Stockton told them that they get two appointments a month to fix feral cats. Would rather be able to do six cats. Need to make change and advance the Animal Shelter.

   Veronica Vargas stated the City is supposed to be building basins to utilize as a recreational area when they are not needed for overflow or water. Back in 2018 and 2020 staff was instructed to develop a policy to make sure basins are utilized for dual purpose for green spaces. See new basin being finalized on Valpico Road which is not being done the way it was instructed to be built. Hope Council revisits the policy to create more green areas and park areas for citizens.

   Blakee agreed with previous speaker about the animal issue. Another animal shelter would be beneficial for the City as we are a developing area including animals. Believe a veterinary clinic would be beneficial as well.

Ramsey stated his golden retriever called Brody met his demise on July 4 as a result of fireworks and shared his concerns regarding the absurd amount of fireworks. There are not enough facilities/hospitals for animals in Tracy. Shared concerns about needing a Pediatric Emergency Room. City has lost focus on what is important.

Danielle stated the pet facility on Paradise is small and does not accommodate the City. Veterinary Clinics are now corporations and the rates have increased and requested the City be an example for other cities to have an effective animal facility where they are housed until they find foster homes and get the animals rescued fixed affordably.

Rachel Knight Scott stated this is Council's opportunity to look at other communities and do better in Tracy and for Tracy. There is nothing for kids to do in Tracy.

Karen Moore spoke about AB 413 and stated other cities are educating people regarding implementing this new law which will reduce parking spaces around Tracy and don't see anything on the City's website. Is the City going to start enforcing this new law that passed on January 1 that requires people not to park or stop within 20 feet of a crosswalk during daylight hours so people crossing can be seen and reduce injuries.

Kristina Darling with Tracy DogGirls Rescue stated people are dumping dogs, are backyard breeders and dumping puppies and shared experiences. Had over 20 dogs roaming streets of Tracy. Don't have fines for people who let their dogs roam. Seeing dogs loose that have been returned to the owner ten times. Need kennel spaces and staff to support our growing City and dog owner growth.

5. DISCUSSION ITEMS

5.A. Discuss and Amend, by Motion, revisions to City Council Policy C-10 on Filling City Council Vacancies

Andrew Shen, Interim City Attorney and Arturo Sanchez, Acting City Manager provided the staff report and presentation and responded to Council's questions.

Steve Nicolaou stated if Mr. McIntire was third highest vote-getter we would not be here today. Follow the rules, Council approved unanimously to adopt the policy. More situational ethics come into play in our society. When they don't suit us, we try to change it. Stick to the policy now, change it prospectively. When ballots were cast the rule was in place.

Ubbo Coty agreed with the previous speaker. The options were not necessary. Need to go along with what was already established. You can anonymously initiate a Grand Jury investigation. Go with first option or go with special election.

Robert Tanner stated every Council Member voted yes on the policy and to avoid this fiasco, bring Mateo in, let him do his two years. He beat the other eight candidates by a large margin, and he was 250 votes from Dotty Nygard.

Dan Randall spoke about a rule being put in place weeks before election. Drawn from the Grand Jury special report 2018-2019. Report is old and dead. New report issued in June, did not have a recommendation. Most cities make appointments, the Council selects. Going to trust in Council to make the right

decision to fill the seat. Democracy, the majority rules. Incumbent should not be included.

Michael Page stated he needed to be here because of will of people are asking him to speak and reminded Council that this is the residents of Tracy's house. Our votes mean something and should mean something to Council. Council is all up there because they got the votes so why is it not good enough for Mateo Bedolla, he was democratically elected, he got the votes.

Todd Lieberg stated prior to November 2024, election Council voted unanimously to institute a set of rules. Those were the rules on election day – the next highest vote-getter would be the candidate selected if there became a vacancy. All citizens knew the rules or had the opportunity to know the rules. Mateo Bedolla was the next highest vote-getter and should be appointed. If Council made a mistake, they could change it for the next election. Follow existing rules. Disenfranchising 7,000 voters.

Blakee stated Tracy residents were not for sure aware of the situation. He did not vote for Mr. Bedolla but believed that appointing him to the remaining Council seat would restore trust in government. Offered an alternative and recommended a runoff election for the remainder of the term. Mr. Bedolla could be appointed for now and the City could prepare for a runoff election.

Lisa Roth stated former Mayor Pro Tem Davis, Council Member Bedolla and current Council Member Evans have a history of picking and choosing Grand Jury recommendations they prefer to follow. Tracyites feel it is manipulative and a damaged political process that has attempted to expand fairness, honor will of voters and increase trust in our government. The previous vote was for a non-binding policy. If you were to go forward with that policy tonight, you would then have an opportunity to vote as a full Council as whether or not you would want to continue that policy going forward.

Council Member Evans responded to Ms. Roths' comments regarding the Grand Jury Report.

Danielle Smith objected to proposal to disregard the people's vote and consider an alternate method to fill the vacant seat. Election results are clear. Why would the City Council bypass Mateo Bedolla who placed third and consider Guy McIntire. Do not need to spend money in court. Respect voters' choice by honoring the democratic process.

Kelly Moran hoped Council hear the people and respect our decisions. If you want to spend money on special election, give us a spay and neuter clinic. Don't spend money on a special election. Respect the will of the people.

Veronica Vargas encouraged Council to do the right thing. Option 4 would be the best solution because policies have changed. During the election, the Council modified the policy. She was a Council Member from 2014-2022. Choose the best person that you can work together with to benefit our community and move forward.

Ramsey voiced concern for public trust. People voted in a democratic election that is based on the will of the people and the will of the people was that Mateo Bedolla came in third place. Ethical duty of Council is that you represent the people in this City, at times that is contentious and deservingly so. No one was being ambushed. Prove to the people why they chose you.

A resident stated she was very excited about the new Council. Has always voted in elections. Was horrified Council was considering not putting Mateo Bedolla on Council. Change policy after you put Mateo Bedolla on Council.

Leanne Stauss stated every Tracy resident is going to look at your vote and that will show your integrity. Mateo Bedolla won fair and square. You need leave it the way it is and move on.

Rosario Arulappan shared concerns regarding Council trying to ignore the recommendation made in 2019 by the Grand Jury to appoint the third highest vote-getter to fill a vacancy on City Council. A new policy can be applied moving forward and requested Council appoint Mateo Bedolla to fill the vacancy on City Council.

Amer Roushed stated he was here to support democracy and shared his support for Mateo Bedolla being appointed to the vacant Council seat. He ran against ten other people and came up third, it speaks volumes that the people have made their minds up. Do right by the people.

A resident stated she did not care what names are on there but the person who got the next highest votes should be on Council as that is what the people spoke for. It's about integrity. Stand by what Council voted for in October, stand by your word and asked why Council is making a different decision. Desperate to see change in Tracy but Council can't start like this.

Pat Howell spoke about a past election where Council had to fill a vacancy and the third highest vote-getter was told Council had an appointment policy. The Chambers were filled with angry people who believed the third highest vote-getter should have been appointed. Ms. Howell believed Council needs to follow the current policy to appoint the third highest vote-getter.

Robin Cole stated Council are leaders and need to make the best decisions for Tracy. People did not vote for Mateo Bedolla to keep the job. They voted for a new Council. Do not trust or respect the role Mateo Bedolla has played on Council. Restore trust by appointing another Council Member.

A resident stated the Grand Jury recommended creating a policy that adhered to the will of the voters and did not foster loyalty, allegiance, and personal obligations to Council Members. The City Council adopted a policy to appoint the next highest vote-getter from the most recent election to fill a vacancy. People voted and knew what they were voting for, people voted for Mateo Bedolla. Just because the third person is not who you want, you cannot change the policy.

Roy Hawkins stated 87% of the people of Tracy asked for a big change and you are being asked to complete that change. Your leadership and decisions going

forward will continue to make our town a place to be proud of. Please know we support you and your decisions and look forward to your leadership.

Richard Williams stated he felt embarrassed at the last meeting for the City of Tracy for not invoking a policy they had in place to put Mr. Bedolla in the vacant Council seat. Understand Council Members received emails, but how many of those emails were sent, was it over 1,100, the difference between third and fourth place. On October 15, 2024, Council made a policy to address this issue because of what happened in the past in regard to Mr. Morelos. You had a system in place, and on December 17, 2024, it was supposed to take place, but it didn't. Council needs to live by their rules. Make the changes after this election but not during this course of action. Time to move forward.

Sandy Taylor stated public trust has been lost the last couple of years. The previous Council changed the policy after voting was started. It is fair and reasonable for the current Council to have the opportunity to change the policy.

Mary Mitracos stated she has both benefited and been victim of the policy Council is considering. Was appointed to Council and there was a policy that said the third person should be appointed and she was bypassed. Council needs to have a runoff election. Council should do whatever is best. If appointing it should be anyone other than Guy McIntire because if he is appointed, everyone will know where three Council Members stand.

A new resident voted in the 2024 election and asked that the commitments that were in place on election day 2024 be honored.

Alice English echoed the same sentiment as Steve Nicolaou and Todd Lieberg. The voters spoke. We are talking about a policy. The Grand Jury Report in 2019 was enacted and amended in 2024. Voters saw the flyers, there were three people on the PACs, not two. Now that Mateo got third, it can't be taken away. If Council goes against the will of the people, Council will have lost respect.

Cynthia Camacho hoped Council would go with Mateo Bedolla and stated she is not looking at the name of the person, we voted for him and what is Council saying to those people who voted for him if he is not put in the seat. If you want to change it after the fact, then as a new Council it can be changed. We want transparency and want to see you succeed. Pick that third person which would be Mateo Bedolla.

Maurice Francis stated we just concluded a fair and democratic election. The third highest vote-getter would be Mateo Bedolla.

Mateo Bedolla thanked those who came out and spoke from the heart and spoke about his honor serving on Council for four years and shared information about his life in Tracy, career and how he has served the Tracy community. Mr. Bedolla asked for Council's support to maintain the policy the way he believed all of Council understood it was meant to be since it was implemented in 2019 and appoint the third highest vote-getter.

Ann Langley encouraged Council to do what is best for Tracy. Policies can be changed. Make a decision that is best for Tracy going into the future.

Michel Bazinet stated the current appointment process does not leave a level playing field, any incumbent has name recognition and has a huge advantage over anyone else and received large donations from donors with vested interests. Council has discretion to decline the policy and policies need to meet the needs of the people. The appointment should exclude an incumbent. The Grand Jury did recommend a process by which Council does select a next voter but did not contemplate an incumbent could be one of those people.

Phillip stated it is obvious if Council does not continue with what is in place, then our City will face litigation and suggested having a special election so people can feel their voices are heard. The recommendations brought forward by staff did not include going with what is in place or hold a special election but hopefully Council will make the right decision and what is best for Tracy.

Council questions and comments followed.

ACTION: Motion was made by Council Member Evans and seconded by Mayor Pro Tem Abercrombie to adopt Option 1 to maintain the current City Council Policy C-10 on Filling City Council Vacancies. Roll call found Council Member Evans, Mayor Pro Tem Abercrombie, and Mayor Arriola in favor; passed and so ordered. Council Member Nygard opposed.

5.B. By Motion, Appoint as Council Member of the Tracy City Council for the Remaining Term of the Vacated Council Seat, with the term ending in December 2026, a Qualified Citizen residing in the City of Tracy.

Arturo Sanchez, Acting City Manager provided the staff report.

Blakee stated he loved how the previous item was handled. It was the right thing to do. There will be opportunity to change that in the future.

Cynthia Camacho thanked Council for the outcome of the previous item.

Lisa Roth stated she was happy that Mayor Pro Tem Abercrombie was able to have a civil, respectful conversation for Mateo Bedolla and look forward to him continuing in that vein and encouraged Council to help the City move forward with that trust, respect, civility and address the concerns of the community and make it the best it can be.

Robert Tanner asked why we are having the discussion for item 5.B and just swear in Mateo Bedolla and get the job done.

Council questions and comments followed.

ACTION: Motion was made by Council Member Evans and seconded by Mayor Pro Tem Abercrombie to appoint as Council Member of the Tracy City Council for the remaining term of the vacated Council seat, with the term ending in December 2026, Mateo Bedolla. Roll call found all in favor; passed and so ordered.

Diego Bedolla administered a ceremonial Oath of Office to appointed Council Member Mateo Bedolla.

City Council shared congratulations and comments regarding Council Member Bedolla's appointment to City Council.

Council Member Bedolla shared comments and spoke about his time on Council and moving forward.

Mayor Arriola called for a two-minute recess at 9:21 p.m.

Council Member Bedolla took a seat on the dais.

5.C. Staff recommends that the City Council discuss and, by motion, make appointments of City Councilmembers as representatives on City Council committees and regional and multi-agency committees, boards and commissions.

Adrianne Richardson, City Clerk provided the staff report.

Mayor Arriola stated he had a proposed slate, which he prepared when there was only four sitting Council Members and made the following amendments to the proposed slate.

Tracy Homelessness Advisory Committee - Mayor Pro Tem Abercrombie
Council Member Bedolla

Ava Community Energy Authority - Council Member Nygard
Council Member Bedolla (Alternate)

Tri-Valley–San Joaquin Valley Regional Rail Authority (Valley Link) –
Council Member Nygard
Council Member Bedolla (Alternate)

Mayor Pro Tem Abercrombie recommended combining the Investment Review Committee and Tracy Finance Committee and making them quarterly on Mondays. If necessary, have a separate Finance Committee meeting. Council Member Evans agreed with the recommendation.

Mayor Pro Tem Abercrombie suggested City/School Liaison should be disbanded.

Karin Schnaider, Assistant City Manager responded to the recommendation to combine the Investment Review Committee and Finance Committee and stated concerns are timeliness of items. The meetings are short and don't take up much time but they are frequent enough to allow for conversations about regular budget augmentation so would recommend modifications to the bylaws in order to do this so things can go directly to Council in the months meetings are not taking place. There may be more frequent meetings during the budget cycle and the rest of the year remaining quarterly. The Treasurer has indicated he would

like to go back to a reporting out process and to make that modification would be an ordinance change, and staff could work with the City Attorney's Office to make those changes.

Mayor Arriola asked Andrew Shen, Interim City Attorney if he anticipates any concerns with the City Treasurer being able to leave after his portion since he would not have a vote on the finance matters, only the investment matters or did Mr. Shen anticipate amending the ordinance and resolution as necessary to allow for that.

Mr. Shen responded it is a policy decision for the Treasurer and City Council. Can accommodate either approach.

Ms. Schnaider stated the only requirement in the Government Code is that the Treasurer's Report has to be published in a public manner which we do on our website as well as be reported out to the Council and the Investment Review Committee by reporting to two Council Members. We are satisfying that by reporting to two members and the Council, it satisfies that requirement.

There was no public comment.

Mayor Arriola amended his proposed slate to combine the Tracy Finance Committee and the Investment Review Committee and still proposed Council Member Evans and Mayor Pro Tem Abercrombie for the combined committee.

Council Member Evans pulled the South San Joaquin Fire Authority from the proposed slate.

Mayor Pro Tem Abercrombie pulled the City/School Liaison Committee from the slate.

Mayor Arriola supported keeping the City/School Liaison Committee to continue engaging with our schools and is also working on a few policy initiatives focusing on youth opportunities in the City where we would have opportunities to do some good policy work with schools. At this time he asked to keep City/School Liaison Committee.

Mayor Pro Tem Abercrombie suggested changing the City/School Liaison Committee meetings to quarterly. Council Member Evans agreed.

Ms. Schnaider said there are no concerns to change the meetings to quarterly, but need to look at who runs the meeting and return with the bylaws.

Mayor Arriola amended his proposed slate to make the City/School Liaison Committee a quarterly meeting and proposed Council Member Evans and Mayor Pro Tem Abercrombie to serve on the committee and Mayor Arriola as alternate.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to make the City/School Liaison quarterly meetings and Council Member Evans and Mayor Pro Tem Abercrombie to serve on the committee and Mayor Arriola as alternate. Roll call found all in favor; passed and so ordered.

Mayor Arriola shared his reasons for selecting Mayor Pro Tem Abercrombie and Council Member Nygard to serve on the South San Joaquin County Fire Authority Board.

Council Member Evans shared his reasons for wishing to remain serving on South San Joaquin County Fire Authority.

Council Member Nygard shared her reasons for wishing to serve on the South San Joaquin County Fire Authority.

Council Member Evans asked if Council would appoint Council Member Nygard and himself to the South San Joaquin County Fire Authority.

Mayor Pro Tem Abercrombie shared his reasons for wishing to serve on the South San Joaquin County Fire Authority.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Mayor Arriola to keep the appointment of Mayor Pro Tem Abercrombie and Council Member Nygard to the South San Joaquin County Fire Authority. Roll call found Council Members Bedolla, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered. Council Member Evans opposed.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Bedolla to accept the list of City Council representatives on various committees, boards and commissions as amended (below) and proposed by Mayor Arriola. Roll call found all in favor; passed and so ordered.

Committee/Commission/ Board	Council Members
City Standing Committees	
Investment Review Committee *(to be combined with Finance Committee)*	1. Council Member Evans 2. Mayor Pro Tem Abercrombie
Tracy Finance Committee *(to be combined with Investment Review Committee)*	1. Council Member Evans 2. Mayor Pro Tem Abercrombie
Tracy Homelessness Advisory Committee	1. Mayor Pro Tem Abercrombie 2. Council Member Bedolla
City Partnerships	
City/Chamber Liaison Committee	1. Council Member Evans 2. Mayor Pro Tem Abercrombie (Alternate)
City/Schools Liaison *(Meetings to be quarterly)*	1. Council Member Evans 2. Mayor Pro Tem Abercrombie 3. Mayor Arriola (Alternate)

South San Joaquin County Fire Authority (SSJCFA) JPA	1. Mayor Pro Tem Abercrombie 2. Council Member Nygard
Tracy Chamber Governmental Affairs Committee	1. Mayor Pro Tem Abercrombie 2. Council Member Evans (Alternate)
Multi-Agency /Third Agency Appointments	
Altamont Regional Traffic Authority (ARTA) JPA	1. Mayor Arriola
Ava Community Energy Authority (Formerly East Bay Community Energy - EBCE)	1. Council Member Nygard 2. Council Member Bedolla (Alternate)
City Selection Committee	1. Mayor Arriola
Integrated Waste Management Task Force (Formerly Solid Waste Management Plan Advisory Task Force)	1. Council Member Nygard 2. Mayor Arriola (Alternate)
LAFCO *(Next rotation for City of Tracy will be in May 2025 as Alternate)*	1. Mayor Arriola
League of California Cities, Central Valley Division Executive Committee	1. Mayor Pro Tem Abercrombie 2. Council Member Evans (Alternate)
San Joaquin Council of Governments (SJCOG)	1. Mayor Arriola 2. Council Member Nygard (Alternate)
San Joaquin County Water Advisory Commission	1. Council Member Nygard
San Joaquin Partnership	1. Council Member Nygard 2. Mayor Arriola (Alternate)
San Joaquin Regional Rail Commission	1. Mayor Arriola
Special City Selection Committee, SJVAPCD	1. Mayor Arriola 2. Mayor Pro Tem Abercrombie (Alternate)
Tri-Valley- San Joaquin Valley Regional Rail Authority (Valley Link)	1. Council Member Nygard 2. Council Member Bedolla (Alternate)

6. Council Items and Comments – Council Member Nygard asked for a memo in regard to the comment earlier on AB 413 on how that may impact our streets. Mayor Arriola seconded the request.

   Council Member Nygard asked for a memo on where we are with the Housing Element as well as our General Plan. Council Member Evans seconded the request.

   Council Member Nygard shared a social media rave to the City of Tracy regarding loss of water to a house and contacting the afterhours emergency line and workers were there within half an hour and got it working and they appreciated the great service.

   Karin Schnaider, Assistant City Manager announced beginning construction for sewer upgrade going from Valpico north all the way up to Grant Line which will include series of intersection closures that we will be announcing ongoing over the next few months. First one is north bound Corral Hollow will be closed from 8:30 a.m. to as late as 8:00 p.m. on the following intersections as soon as next Monday. Cypress Lane to Tennis Lane, will be a 13-15 trench as it moves along and is too fragile to allow traffic to go over it. Will open north bound lane when construction is not in place. Lennar is doing this to make sure there are proper notifications to each neighborhood as it moves up and down. Check website for updates.

   Mayor Arriola asked to work with our Public Information Officer to have notice going out on social media, so folks are aware of the closures.

7. Adjournment – Time: 9:54 p.m.

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

The above agenda was posted at the Tracy City Hall on January 2, 2025. The above are action minutes. A recording is available at the office of the City Clerk.

_____
Mayor

ATTEST:

_____
City Clerk

January 21, 2025

Agenda Item 1.B

RECOMMENDATION

Staff recommends that City Council adopt a Resolution approving the execution of a General Services Agreement with Petroleum Solids Control, Inc., a California Corporation, for repairs and transport services for certain equipment for the City of Tracy Wastewater Treatment Plant for a total not-to-exceed amount of $100,372 and for a one (1) year term.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution by the City Council approving the execution of a General Services Agreement (GSA) with Petroleum Solids Control, Inc. (Contractor) to repair a failed sludge dewatering centrifuge at the City of Tracy (City) Wastewater Treatment Plant. On September 13, 2024, pursuant to Tracy Municipal Code 2.20.170, the City Manager authorized a contract for a one-month rental (including setup and delivery) of an emergency centrifuge and for the Contractor to diagnose the repairs needed on the existing failed centrifuge. The total not-to-exceed amount of this contract was $41,100. Staff determined that the repairs would take longer than one month and on October 15, 2024, under Resolution 2024-173 the City Council authorized a six (6) month lease with administrative authorization of up to six additional one-month extensions. The Contractor has completed the diagnosis and developed a repair plan. Staff is requesting that City Council approve the execution of a GSA with the Contractor to provide repair and transport services for certain equipment necessary in the Wastewater Treatment process for a total not-to-exceed amount of $100,372 (includes $5,000 for delivery upon completion) from Fund 521 -Wastewater Operations and Maintenance Budget; and a one (1) year term.

BACKGROUND

On August 18, 2020, pursuant to Resolution No. 2020-148, the City leased a Flottweg sludge dewatering centrifuge with an option to purchase at the end of the term, through a GSA with the Contractor. In May 2022, the City purchased the centrifuge per the terms of the agreement. This centrifuge provides a high-speed rotation process that forces the separation of solids from the liquids in the wastewater treatment process. This process reduces the volume of residuals, removes solids from the activated sludge operation, is a critical part of the activated sludge process, and reduces costs for subsequent storage, processing, transfer, end use, and disposal of waste material.

As a part of the Wastewater Treatment Plant Phase IIB expansion, a new and larger centrifuge was designed and underwent construction with a planned startup date of late summer 2024. The existing centrifuge would then serve as a redundant unit that could be utilized during maintenance or any needed repair of the new centrifuge. The initial startup of the newly designed and constructed centrifuge has been delayed and implementation is pending resolution of several issues that arose during initial testing. In August of 2024, staff discovered that the existing centrifuge was no longer separating solids effectively, which is an essential part of the treatment process. Maintenance staff determined that an outside contractor was required to provide the necessary diagnosis of the needed repairs. As the new centrifuge had not been brought on-line, and the existing centrifuge was in need of repair, installation of a temporary emergency centrifuge was required until repairs could be completed on the existing failing centrifuge.

On September 13, 2024, the City Manager authorized a contract for a one-month rental (including setup and delivery) of an emergency centrifuge, pursuant to Tracy Municipal Code 2.20.170, and for initial diagnosis of repair needs on the existing failed centrifuge. The existing centrifuge was transported to the Contractor's facility for diagnosis. Staff realized that the repairs would take longer than one month and on October 15, 2024, under Resolution 2024-173, the City Council authorized a six (6) month lease with administrative authorization of up to six additional one-month extensions. The Contractor provided an initial diagnosis report and upon review, staff anticipated that the repairs would cost no more than $50,000. Based on this assumption, on October 15, 2024, staff conducted an informal bid process requesting three quotes via email from Flottweg, Centrisys, and Petroleum Solids with a response by date of October 25, 2024. These vendors were targeted as they each had the requisite knowledge, skills, ability, and authorization to work on Flottweg equipment.

ANALYSIS

On October 28, 2024, only one proposal from Petroleum Solids Control, Inc. was received by the City, with a quote of $95,372. As stated, staff fully anticipated the quote prices to be below the City Manager's authority and therefore conducted an informal bid process. Staff requested an updated quote as the original was nearing expiration and on December 5, 2024, received an additional quote good through February 4, 2025. The price for the repair work was unchanged from the original quote; however, as the City does not have the required transport vehicle for the return of this unit, an additional amount of $5,000 was added to the quoted price in anticipation of delivery fees to have the repaired unit returned to the Wastewater Treatment Plant upon completion. The total cost of the repair project is therefore $100,372.

As there are a limited number of vendors able to work on Flottweg equipment, and only one responded to the City's initial request, it is unlikely that re-bidding the project would lead to a different result. In addition, delaying repair will extend the need for the rental centrifuge at a monthly cost of nearly $20,000.

Staff is recommending that the City Council adopt a resolution approving the execution of a General Services Agreement with Petroleum Solids Control, Inc. to provide repair and transport services for certain equipment for the City of Tracy Wastewater Treatment Plant for a not-to-exceed amount of $100,372 and for a one (1) year term.

CEQA DETERMINATION

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines section 15301(b) which includes the maintenance of a publicly owned utility facility. No expansion of use will occur because of the Project.

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure physical infrastructure and systems necessary for the health and safety of the Tracy community through improved water quality.

FISCAL IMPACT

The total not-to-exceed amount of $100,372 will be funded through the adopted FY24/25 Wastewater Operations and Maintenance Budget (Fund 521).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a Resolution approving the execution of a General Services Agreement with Petroleum Solids Control, Inc., a California Corporation, for repairs and transport services for certain equipment for the City of Tracy Wastewater Treatment Plant for a total not-to-exceed amount of $100,372 and for a one (1) year term.

Prepared by: Stephanie Reyna-Hiestand, Assistant Director of Utilities

Reviewed by: Sara Castro, Director of Finance
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager
Gordon MacKay, Interim Director of Public Works

Approved by: Arturo M. Sanchez, Acting City Manager

Attachments:
A – General Services Agreement with Petroleum Solids Control, Inc.

CITY OF TRACY
GENERAL SERVICES AGREEMENT

This General Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), Petroleum Solids Control, Inc. (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to provide repair of a failed sludge dewatering centrifuge for the City of Tracy Wastewater Treatment Plant as a vital part of the separation of liquids and solids in the wastewater treatment process; and

B. On September 13, 2024, the City Manager authorized an initial one month rental of a sludge dewatering centrifuge and the initial diagnostic for repair of the existing failed centrifuge pursuant to Tracy Municipal Code 2.20.170; and

C. On October 21, 2024, under resolution 2024-173, the City Council authorized the continuation of the rental centrifuge for an additional six (6) months with the administrative option to extend monthly, up to one year, by the City Manager; and

D. On October 15, 2024, the City, based upon an informed review of the repair diagnostic provided by the Contractor, requested three informal bids for the repair of the failed sludge dewatering centrifuge; and

E. By October 28, 2024, the City had received only one bid, and after careful review, the Contractor was determined to be the lowest qualified bidder; and

F. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

G. This Agreement is being executed pursuant to Resolution No. _____ approved by Tracy City Council on January 21, 2025.

Now therefore, the Parties mutually agree as follows:

1. Scope of Work. Contractor shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representatives: Eugene Rogachevsky and/or Manuel Tollins. Contractor shall not replace its Authorized Representatives, nor shall Contractor use or replace any subcontractors or subconsultants, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor may result in the termination of this Agreement.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of

the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall begin on January 16, 2025, and end no later than January 15, 2026, unless terminated in accordance with Section 6.

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

3.1 Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $100,372 which includes up to $5,000 for delivery to the City's facility at 3900 Holly Drive of the completed unit. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Contractor shall submit monthly invoices to the City that describe the services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoices in accordance with these requirements may result in the City rejecting said invoices and thereby delaying payment to Contractor.

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

4. Indemnification. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Contractor" means the Contractor, its employees, agents, and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

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

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

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

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

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

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

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

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

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

5.6 Notice of Cancellation. Contractor 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. Contractor shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Contractor 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. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

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

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

6. Termination. The City may terminate this Agreement by giving ten days' written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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

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

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

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

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

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

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

8 Labor Code Compliance. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

8.1 Rates. These prevailing wage rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

8.2 Registration with DIR. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5.

8.3 Monitoring. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

9. Ownership of Work. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

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

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

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

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

To City:
Stephanie Reyna-Hiestand
Assistant Director – Utilities
3900 Holly Drive
Tracy, CA 95376

To Contractor:
Eugene Rogachevsky
Petroleum Solids Control, Inc.,
1320 E. Hill Street
Signal Hill, CA 90755

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

14. Miscellaneous.

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

14.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

14.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

14.4 Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

14.6.1 Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

_____
By: Dan Arriola
Title: City of Tracy Mayor

Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Contractor

Derek Vignovich
By: Derek Vignovich
Title: President

Date: 12/12/24

Federal Employer Tax ID No. 95-1912960

By: Manuel Tollins
Title: Operations Manager CFO

Date: 12/12/24

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)

EXHIBIT A - Scope of Work

Scope of work shall address all items found during inspection of unit to compose repair estimate. These repairs shall include but are not limited to:

1. Repair of hydraulic motor Parker unit.
2. Repair/replacement of any damaged sensors.
3. Replacement with new O-rings, bearings, and seals for all equipment
4. High speed balance of rotating assembly (scroll and bowl).
5. Replacement of high-pressure hydraulic filters with new.
6. Replacement of hydraulic oil with new manufacturer recommended ISO 68.
7. Clean any rust and treat for prevention of spread prior to painting.
8. Repair of other miscellaneous defects found on unit while repairs are being made.
9. Procurement and installation of New Rotodiff assembly.
10. Repair/correction of any issues found while inspecting and repairing electrical control panel, burned wires, contactors, relays, and fuses showing signs of wear, etc.
11. Transportation from repair facility to 3900 Holly Dr Tracy Ca. 95304
12. Removal of rental skid and installation of City owned Skid.
13. Start up and optimization of repaired unit.

TERM: All work should be completed within 12 weeks of being awarded contract.

EXHIBIT B - Compensation

Billing rate for labor is $100/hr for all staff that will work on the repair of the equipment.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING THE EXECUTION OF A GENERAL SERVICES AGREEMENT WITH PETROLEUM SOLIDS CONTROL, INC., A CALIFORNIA CORPORATION, FOR REPAIRS AND TRANSPORT SERVICES FOR CERTAIN EQUIPMENT FOR THE CITY OF TRACY WASTEWATER TREATMENT PLANT FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $100,372 AND FOR A ONE (1) YEAR TERM

WHEREAS, the City of Tracy (City) utilizes a sludge dewatering centrifuge in its wastewater treatment process to remove the liquids from the solids that was purchased in 2020 pursuant to Resolution 2020-148; and

WHEREAS, as a part of the Wastewater Treatment Plant Phase IIB expansion, a new and larger centrifuge was designed and underwent construction with a planned startup date of late summer of 2024, and it was determined that the existing centrifuge would serve as a redundant unit that could be utilized during maintenance or repairs of the new centrifuge; and

WHEREAS, the initial startup of the newly designed and constructed centrifuge was delayed due to several issues and is not operational at this time; and

WHEREAS, this sludge dewatering centrifuge failed in August 2024 creating a need for a rental of similar build until either the existing centrifuge is repaired, or the new unit becomes operational; and

WHEREAS, due to urgency of the need to provide uninterrupted services to the Community considering human health and safety reasons, and to avoid costly violations from the State Water Resources Control Board and time restraints for Council approval the City Manager authorized a one (1) month rental that included an initial diagnosis report on September 13, 2024, under Tracy Municipal Code, Section 2.20.170; and

WHEREAS, based on the assessment by the Contractor, staff anticipated that the rental would be required for a minimum of six months before the new centrifuge becomes operational or repairs are completed on the exiting unit; and

WHEREAS, on October 21, 2024, under Resolution 2024-173, the City Council authorized the execution of the General Services Agreement with Contractor (GSA) to provide the continued lease of the sludge dewatering centrifuge on a month-to-month basis for an initial term of six months and an administrative option to extend up to one year by the City Manager; and

WHEREAS, the Contractor provided the initial diagnosis report and upon staff review it was fully anticipated that the informal bid process should be conducted; and

WHEREAS, on October 15, 2024, staff followed established protocols and requested three informal bids with a bid by date of October 25, 2024; and

WHEREAS, the City only received one bid from the Contractor in the amount of $95,372 by the deadline; and

WHEREAS, the City does not have the necessary equipment to return the repaired item to the facility therefore there is an additional transportation estimate of $5,000 included for delivery of said equipment; and

WHEREAS, the cost of the services provided by the Contractor will be accounted for in the Fiscal Year (FY) 24/25 annual operations and maintenance budget of the Wastewater Fund (521); and

WHEREAS, the GSA is for the repair and transport services of the equipment and approval of this GSA will not result in a physical change in the environment, therefore is not considered as a project as defined by Section 21065 of the Public Resources Code; and

NOW, THEREFORE, be it resolved as follows:

RESOLVED: That the above recitals are true and correct and incorporated herein; and be it

FURTHER RESOLVED: That the City Council of the City of Tracy, hereby approves the execution of the General Services Agreement attached hereto as Exhibit A for a one (1) year term and for a total not to exceed amount of $100,372 with Petroleum Solids Control, Inc. a California Corporation; and be it

FURTHER RESOLVED: The City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(b) which includes the maintenance of a publicly owned utility facility.

****

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on January 21, 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

Exhibit A: GSA with Petroleum Solids Control, Inc.

CITY OF TRACY
GENERAL SERVICES AGREEMENT

This General Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), Petroleum Solids Control, Inc. (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to provide repair of a failed sludge dewatering centrifuge for the City of Tracy Wastewater Treatment Plant as a vital part of the separation of liquids and solids in the wastewater treatment process; and

B. On September 13, 2024, the City Manager authorized an initial one month rental of a sludge dewatering centrifuge and the initial diagnostic for repair of the existing failed centrifuge pursuant to Tracy Municipal Code 2.20.170; and

C. On October 21, 2024, under resolution 2024-173, the City Council authorized the continuation of the rental centrifuge for an additional six (6) months with the administrative option to extend monthly, up to one year, by the City Manager; and

D. On October 15, 2024, the City, based upon an informed review of the repair diagnostic provided by the Contractor, requested three informal bids for the repair of the failed sludge dewatering centrifuge; and

E. By October 28, 2024, the City had received only one bid, and after careful review, the Contractor was determined to be the lowest qualified bidder; and

F. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

G. This Agreement is being executed pursuant to Resolution No. _____ approved by Tracy City Council on January 21, 2025.

Now therefore, the Parties mutually agree as follows:

1. Scope of Work. Contractor shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representatives: Eugene Rogachevsky and/or Manuel Tollins. Contractor shall not replace its Authorized Representatives, nor shall Contractor use or replace any subcontractors or subconsultants, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor may result in the termination of this Agreement.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of

the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall begin on January 16, 2025, and end no later than January 15, 2026, unless terminated in accordance with Section 6.

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

3.1 Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $100,372 which includes up to $5,000 for delivery to the City's facility at 3900 Holly Drive of the completed unit. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Contractor shall submit monthly invoices to the City that describe the services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoices in accordance with these requirements may result in the City rejecting said invoices and thereby delaying payment to Contractor.

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

4. Indemnification. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Contractor" means the Contractor, its employees, agents, and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

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

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

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

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

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

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

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

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

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

5.6 Notice of Cancellation. Contractor 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. Contractor shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Contractor 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. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

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

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

6. Termination. The City may terminate this Agreement by giving ten days' written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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

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

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

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

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

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

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

8 Labor Code Compliance. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

8.1 Rates. These prevailing wage rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

8.2 Registration with DIR. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5.

8.3 Monitoring. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

9. Ownership of Work. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

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

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

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

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

To City:
Stephanie Reyna-Hiestand
Assistant Director – Utilities
3900 Holly Drive
Tracy, CA 95376

To Contractor:
Eugene Rogachevsky
Petroleum Solids Control, Inc.,
1320 E. Hill Street
Signal Hill, CA 90755

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

14. Miscellaneous.

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

14.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

14.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

14.4 Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

14.6.1 Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

_____
By: Dan Arriola
Title: City of Tracy Mayor

Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Contractor

Derek Vignovich
By: Derek Vignovich
Title: President

Date: 12/12/24

Federal Employer Tax ID No. 95-1912960

By: Manuel Tollins
Title: Operations Manager CFO

Date: 12/12/24

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)

EXHIBIT A - Scope of Work

Scope of work shall address all items found during inspection of unit to compose repair estimate. These repairs shall include but are not limited to:

1. Repair of hydraulic motor Parker unit.
2. Repair/replacement of any damaged sensors.
3. Replacement with new O-rings, bearings, and seals for all equipment
4. High speed balance of rotating assembly (scroll and bowl).
5. Replacement of high-pressure hydraulic filters with new.
6. Replacement of hydraulic oil with new manufacturer recommended ISO 68.
7. Clean any rust and treat for prevention of spread prior to painting.
8. Repair of other miscellaneous defects found on unit while repairs are being made.
9. Procurement and installation of New Rotodiff assembly.
10. Repair/correction of any issues found while inspecting and repairing electrical control panel, burned wires, contactors, relays, and fuses showing signs of wear, etc.
11. Transportation from repair facility to 3900 Holly Dr Tracy Ca. 95304
12. Removal of rental skid and installation of City owned Skid.
13. Start up and optimization of repaired unit.

TERM: All work should be completed within 12 weeks of being awarded contract.

EXHIBIT B - Compensation

Billing rate for labor is $100/hr for all staff that will work on the repair of the equipment.

January 21, 2025

Agenda Item 1.C

RECOMMENDATION

Staff recommends that the City Council adopt resolutions:

1) **approving an On-Call Professional Services List, for Various Water-Related Reports, for a term of five years, and**
2) **authorizing:**
   A) **the execution of a Master Professional Services Agreement with Black Water Consulting Engineers, to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year; and**
   B) **the execution of a Master Professional Services Agreement with Cavanaugh and Associates, P.A. dba Cavanaugh Engineering to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year, and**
   C) **the City Manager to administratively extend the length for up to three additional years upon satisfactory performance.**

EXECUTIVE SUMMARY

The City of Tracy must provide complex Water Operations reports to maintain compliance with various Federal, State, and Local regulatory agencies. In order for the City to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports. Due to the complexity of the reports and the amount of data needed, these reports generally require the assistance of a consultant familiar with the subject matter. This agenda item seeks adoption of resolutions approving an On-Call Professional Services List for various water-related reports for five years; authorization to execute a Master Professional Services Agreement with Black Water Consulting Engineers, and Cavanaugh and Associates, P.A., selected from the approved On-Call List, for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year, per contract. Staff is also seeking authorization for administrative extensions by the City Manager to administratively extend the length of contract up to three years.

The Utilities Division has reviewed all four (4) proposals received in the Request for Proposal (RFP) to solicit experienced and qualified consultants to provide various water-related report writing. The Division has determined that all four (4) consultants possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City. The Division is recommending that all four (4) consultants be deemed qualified to remain on the On-Call List.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies. Examples of such reports are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand

Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Due to the complexity of the reports, the amount of data needed, the coordination of data from other departments, the analysis of the data, and understanding the outcomes of that data, the City requires the assistance of a consultant familiar with the subject matter. Staff recommends obtaining these consultant services by establishing an On-Call Professional Services List for various water-related reports.

On-Call Lists entail the practice of prequalifying consultants to be available at specific times for specific expertise areas, so that the City may utilize them on an as-needed basis by the terms outlined in separate agreements between the City of Tracy and the qualified consultants.

On September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated.

On October 28, 2024, the City received four (4) proposals. The Utilities Division carefully evaluated these received based on the criteria described in the On-Call RFP and determined that all four (4) consultants possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City. Staff is recommending that all four (4) consultants be placed on the On-Call List. Two (2) of the four (4) contracts are being submitted for approval, while the other two are in review and possible negotiation with the City Attorney's Office.

Consultants	Status
Black Water Consulting Engineers Inc.	Contract Signed by Consultant
Cavanaugh and Associates, P.A.	Contract Signed by Consultant
West Yost and Associates	Contract in Review by City Attorney
EKI Environmental & Water Inc.	Contract in Review by City Attorney

ANALYSIS

The proposed On-Call List and Master Professional Service Agreements will allow staff to increase their current workload capacity to keep up with the demand to complete both new and ongoing local, State and Federal mandated reporting.

This On-Call List of selected consultants creates efficiency and does not bind the City or its budgets to a particular scope of work until it is required and through necessity. By Council approval of these contracts for each consultant on the list, staff may more readily move into contracting with one of the consultants on the list and then return to City Council for approval of a project-specific agreement. This allows for efficiencies in both time and the ability to meet new and upcoming reporting mandates.

As noted above, staff is recommending that all four (4) consultants ultimately be awarded a MPSA with two (2) being approved by the recommended action. The additional two will be submitted for approval following completion of negotiations with the City Attorney's Office.

FISCAL IMPACT

The MPSA agreement for an On-Call Professional Service List will be funded from the Water Fund (511), other funds related to water revenues and future grants. Extensions to the MPSAs will be granted subject to budget appropriation. The funding for the MPSAs also exists on an annual basis within the department's annual adopted budget and the MPSAs included the ability to terminate if there is insufficient budget availability.

CEQA DETERMINATION

The approvals requested in this item are for project planning work only and will not result in a physical change in the environment. Therefore, none of the actions are considered as a "project" as defined by Section 21065 of the Public Resources Code, and thus the approval of these contracts is not a project subject to review under the California Environmental Quality Act. Further, the approval of these contracts is an administrative activity categorially exempt from CEQA review per CEQA Guidelines section 15278, subdivisions (b)(2 & 5).

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure physical infrastructure and systems necessary for the health and safety of the Tracy community through improved water quality.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt resolutions:

1) approving an On-Call Professional Services List, for Various Water-Related Reports, for a term of five years, and
2) authorizing A) the execution of a Master Professional Services Agreement with Black Water Consulting Engineers, to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year; and
B) the execution of a Master Professional Services Agreement with Cavanaugh and Associates, P.A. dba Cavanaugh Engineering to provide report writing consulting for an initial term of two years and a not-to-exceed amount of $200,000 per fiscal year, and
C) the City Manager to administratively extend the length for up to three additional years upon satisfactory performance.

Prepared by: Robin Kloepfer, Management Analyst

Reviewed by: Stephanie Reyna-Hiestand, Assistant Director of Utilities
Gordon MacKay, Interim Public Works Director
Sara Castro, Director of Finance
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Arturo M. Sanchez, Acting City Manager

ATTACHMENTS:
Attachment A – Master Professional Services Agreement with Black Water Engineering
Attachment B - Master Professional Services Agreement with Cavanaugh and Associates, P.A.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Black Water Consulting Engineers, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Black Water Consulting Engineers, Inc, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Aja Verburg**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Public Works or designee ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

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1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 21st, 2025 and expire and terminate automatically on January 20, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of three year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $200,000 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index – All Items, for the Sacramento Metropolitan Region. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

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To City:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

Black Water Consulting Engineers, Inc
Aja Veburg
602 Lyell Drive
Modesto, CA 95356

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: _____
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
, City Attorney

Consultant
Black Water Consulting Engineers, Inc. A California Corporation

DocuSigned by:
Ilja Verburg, P.E., C73020
By: _____
Title: Vice President
Date: 11/21/2024 | 9:01 AM PST

Federal Employer Tax ID No. 46-1504431

DocuSigned by:
Jeff Black
By: _____
Title: Secretary
Date: 11/21/2024 | 12:13 PM EST

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

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EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

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EXHIBIT B

Compensation

2024 RATE SCHEDULE

ENGINEERING:	HOURLY RATE
Engineering Intern	$113.00
Engineer Technician	$173.00
Assistant Engineer	$184.00
Associate Engineer	$228.00
Project Manager	$262.00
Principal	$288.00
TECHNICAL STAFF:	
CAD Technician	$155.00
Senior CAD Technician	$178.00
Senior CAD Designer	$213.00
FIELD SERVICES:	
Construction Intern	$113.00
Construction Inspector	$212.00
Construction Manager	$262.00
ADMINISTRATION:	
Administration	$113.00
EXPERT WITNESS:	$374.00

DIRECT COSTS: Cost Plus 10 Percent

SUBCONSULTANTS: Cost Plus 10 Percent

MILEAGE: IRS Rate

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EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Cavanaugh and Associates, P.A.. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Cavanaugh and Associates, P.A. a S-Corp, North Carolina dba Cavanaugh Engineering ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Drew Blackwell, Director of Water Efficiency. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Public Works or designee ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

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1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 21st, 2025 and expire and terminate automatically on January 20, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of three year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $200,000 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index – All Items, for the Sacramento Metropolitan Region. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

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

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9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

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To City:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

Cavanaugh and Associates, P.A.
PO Box 11197
Winston-Salem, NC 27101

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: _____
Title: Mayor Dan Arriola
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
City Attorney

Consultant
Cavanaugh & Associates, PA dba Cavanaugh Engineering

Signed by:
Tory Wagoner
C2[illegible]614...
By: Tory Wagoner
Title: Vice-President
Date: 12/18/2024 | 3:45 PM PST

Federal Employer Tax ID No. 56-1943091

Signed by:
Will Jernigan
3CA5[illegible]459...
By: Will Jernigan
Title: COO
Date: 12/19/2024 | 9:16 AM PST

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

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EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due January

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

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EXHIBIT B

Compensation

Fee shall be lump sum. Additional services, if requested by the Client, may be provided on an hourly basis. Hourly rates for additional services shall be those prevailing at the time services are rendered. Billing rates will be determined and negotiated based on the specific scope of work, services, and resources required after the contract has been awarded. Rates will be finalized and mutually agreed upon prior to the commencement of work, ensuring alignment with the project's specific needs and requirements.

Rates below are per water audit validation and based on the date your call is held for each year (e.g. the CY2024 Water Audit Validation will take place sometime between February and December 2025). If the call is rescheduled by the Cavanaugh water audit validator, your rate will not change. If a local business license is required, then an additional $500 fee will be applied.

- $3,000 February 1 – May 31
- $4,000 June 1 – August 31
- $5,000 September 1 – December 8

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EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AN ON-CALL PROFESSIONAL SERVICES LIST, FOR VARIOUS WATER-RELATED REPORTS, FOR FIVE YEARS

WHEREAS, the City must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies; and

WHEREAS, to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies; and

WHEREAS, examples of reports that could be requested are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated; and

WHEREAS, On October 28, 2024, the City received four (4) proposals. The Utilities Division carefully evaluated all four (4) proposals received based on the criteria described in the On-Call RFP. The committee has reviewed and determined that all four (4) consultants possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City and should remain on the On-Call List; and

WHEREAS, the Utilities Division is recommending that all four (4) consultants be deemed qualified to remain on the On-Call List. Two (2) of the four (4) contracts are being presented while the other two are in review and possible negotiation with the City Attorney's Office; and

Consultant
Black Water Consulting Engineers
Cavanaugh and Associates, P.A.
West Yost & Associates, Inc.
EKI Environmental & Water, Inc.

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 Task Orders for the scope of work needed, through future City Council action, as may be needed to comply with the Tracy Municipal Code; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby approves an On-Call Professional Services List, for five years, for On-Call Service for Various Water-Related Reports; and be it

FURTHER RESOLVED: That the City Council directs staff to return for future approvals of any specific agreement with any specific firm listed on the foregoing On-Call List, to the extent may be needed for either budgetary or contract authority under the Tracy Municipal Code; and be it

FURTHER RESOLVED: The approvals requested in this item are for project planning work only and will not result in a physical change in the environment. Therefore, none of the actions are considered as a “project” as defined by Section 21065 of the Public Resources Code, and thus the approval of these contracts is not a project subject to review under the California Environmental Quality Act. Further, the approval of these contracts is an administrative activity categorially exempt from CEQA review per CEQA Guidelines section 15278, subdivisions (b)(2 & 5).

* * * * * * * * * * * * * *

The foregoing Resolution 2025-____ was adopted by the Tracy City Council on the 21st day of January 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE A) EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH BLACK WATER CONSULTING ENGINEERS, TO PROVIDE REPORT WRITING CONSULTING FOR AN INITIAL TERM OF TWO YEARS FOR A NOT-TO-EXCEED AMOUNT OF $200,000 PER FISCAL YEAR, AND B) THE CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH FOR UP TO THREE ADDITIONAL YEARS UPON SATISFACTORY PERFORMANCE.

WHEREAS, the City must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies; and

WHEREAS, to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies; and

WHEREAS, examples of reports that could be requested are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an On Call List of qualified consultants to provide land surveying services; and

WHEREAS, Black Water Consulting Engineers is on the On-Call List; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and the consultant will invoice the City based on the scope of work for each Task Order; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves the execution of the Master Professional Service Agreement, to provide On-Call Service for Various Water-Related Reports with Black Water Consulting Engineers, attached hereto as Exhibit 1, with an initial term of two years, and annual not to exceed budget of $200,000; and be it

FURTHER RESOLVED: The City Manager is authorized to administratively extend the term of Agreement for up to three additional years following a written determination that the respective Consultant has satisfactorily met all the requirements of the MPSA, and further subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: The approvals requested in this item are for project planning work only and will not result in a physical change in the environment. Therefore, none of the actions are considered as a "project" as defined by Section 21065 of the Public Resources Code, and thus the approval of these contracts is not a project subject to review under the California Environmental Quality Act. Further, the approval of these contracts is an administrative activity categorially exempt from CEQA review per CEQA Guidelines section 15278, subdivisions (b)(2 & 5).

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on 21st day of January, 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

EXHIBITS: Exhibit A - Master Professional Service Agreement with Black Water Consulting Engineers, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Black Water Consulting Engineers, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Black Water Consulting Engineers, Inc, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Aja Verburg**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Public Works or designee ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

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1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 21st, 2025 and expire and terminate automatically on January 20, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of three year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $200,000 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index – All Items, for the Sacramento Metropolitan Region. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

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To City:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

Black Water Consulting Engineers, Inc
Aja Veburg
602 Lyell Drive
Modesto, CA 95356

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: _____
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
, City Attorney

Consultant
Black Water Consulting Engineers, Inc. A California Corporation

DocuSigned by:
Ilja Verburg, P.E., C73020
By: _____
Title: Vice President
Date: 11/21/2024 | 9:01 AM PST

Federal Employer Tax ID No. 46-1504431

DocuSigned by:
Jeff Black
By: _____
Title: Secretary
Date: 11/21/2024 | 12:13 PM EST

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

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EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

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EXHIBIT B

Compensation

2024 RATE SCHEDULE

ENGINEERING:	HOURLY RATE
Engineering Intern	$113.00
Engineer Technician	$173.00
Assistant Engineer	$184.00
Associate Engineer	$228.00
Project Manager	$262.00
Principal	$288.00
TECHNICAL STAFF:	
CAD Technician	$155.00
Senior CAD Technician	$178.00
Senior CAD Designer	$213.00
FIELD SERVICES:	
Construction Intern	$113.00
Construction Inspector	$212.00
Construction Manager	$262.00
ADMINISTRATION:	
Administration	$113.00
EXPERT WITNESS:	$374.00

DIRECT COSTS: Cost Plus 10 Percent

SUBCONSULTANTS: Cost Plus 10 Percent

MILEAGE: IRS Rate

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EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE A) EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH CAVANAUGH AND ASSOCIATES, P.A., DBA CAVANAUGH ENGINEERING TO PROVIDE REPORT WRITING CONSULTING FOR AN INITIAL TERM OF TWO YEARS FOR A NOT-TO-EXCEED AMOUNT OF $200,000 PER FISCAL YEAR, AND B) THE CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH FOR UP TO THREE ADDITIONAL YEARS UPON SATISFACTORY PERFORMANCE.

WHEREAS, the City must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies; and

WHEREAS, to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies; and

WHEREAS, examples of reports that could be requested are AWWA Urban Water Loss Audit and Validation, staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an On Call List of qualified consultants to provide land surveying services; and

WHEREAS, Cavanaugh and Associates, P.A. is on the On-Call List; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and the consultant will invoice the City based on the scope of work for each Task Order; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves the execution of the Master Professional Service Agreement, to provide On-Call Service for Various Water-

Related Reports with Cavanaugh and Associates, P.A., attached hereto as Exhibit A, with an initial term of two years, and annual not to exceed budget of $200,000; and be it

FURTHER RESOLVED: The City Manager is authorized to administratively extend the term of Agreement for up to three additional years following a written determination that the respective Consultant has satisfactorily met all the requirements of the MPSA, and further subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: The approvals requested in this item are for project planning work only and will not result in a physical change in the environment. Therefore, none of the actions are considered as a "project" as defined by Section 21065 of the Public Resources Code, and thus the approval of these contracts is not a project subject to review under the California Environmental Quality Act. Further, the approval of these contracts is an administrative activity categorially exempt from CEQA review per CEQA Guidelines section 15278, subdivisions (b)(2 & 5).

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on 21st day of January, 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

Exhibit A - Master Professional Service Agreement with Cavanaugh and Associates, P.A, dba Cavanaugh Engineering

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Cavanaugh and Associates, P.A.. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Cavanaugh and Associates, P.A. a S-Corp, North Carolina dba Cavanaugh Engineering ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Drew Blackwell, Director of Water Efficiency. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Public Works or designee ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

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1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 21st, 2025 and expire and terminate automatically on January 20, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of three year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $200,000 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index – All Items, for the Sacramento Metropolitan Region. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

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6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

Docusign Envelope ID: 274AB6DA-3836-49FA-BFF8-88CD8E134BEB

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: _____
Title: Mayor Dan Arriola
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
City Attorney

Consultant
Cavanaugh & Associates, PA dba Cavanaugh Engineering

Signed by:
Tory Wagoner
C2[illegible]614...
By: Tory Wagoner
Title: Vice-President
Date: 12/18/2024 | 3:45 PM PST

Federal Employer Tax ID No. 56-1943091

Signed by:
Will Jernigan
3CA5[illegible]459...
By: Will Jernigan
Title: COO
Date: 12/19/2024 | 9:16 AM PST

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

Docusign Envelope ID: 274AB6DA-3836-49FA-BFF8-88CD8E134BEB

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due January

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

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EXHIBIT B

Compensation

Fee shall be lump sum. Additional services, if requested by the Client, may be provided on an hourly basis. Hourly rates for additional services shall be those prevailing at the time services are rendered. Billing rates will be determined and negotiated based on the specific scope of work, services, and resources required after the contract has been awarded. Rates will be finalized and mutually agreed upon prior to the commencement of work, ensuring alignment with the project's specific needs and requirements.

Rates below are per water audit validation and based on the date your call is held for each year (e.g. the CY2024 Water Audit Validation will take place sometime between February and December 2025). If the call is rescheduled by the Cavanaugh water audit validator, your rate will not change. If a local business license is required, then an additional $500 fee will be applied.

- $3,000 February 1 – May 31
- $4,000 June 1 – August 31
- $5,000 September 1 – December 8

Docusign Envelope ID: 274AB6DA-3836-49FA-BFF8-88CD8E134BEB

EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

January 21, 2025

Agenda Item 1.D

RECOMMENDATION

Staff recommends that the City Council adopt a resolution accepting the City of Tracy's Annual Comprehensive Financial Report (ACFR) for the fiscal year ending June 30, 2024.

EXECUTIVE SUMMARY

The City of Tracy's (City) auditor, The Pun Group, has completed the review of the City's annual financial statements for the fiscal year ending June 30, 2024. The audited financial statements are incorporated into an Annual Comprehensive Financial Report (ACFR). The auditors have issued an unmodified ("clean") audit opinion. An unmodified opinion indicates that the financial data of the City is fairly presented in accordance with accounting principles generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. These standards require that the City's auditors plan and perform the audits to obtain reasonable assurance as to whether the financial statements are free of material misstatement.

BACKGROUND AND LEGISLATIVE HISTORY

The City Council, on January 19, 2021, authorized the appointment of The Pun Group as the City's Auditor for fiscal years 2020-2021 through 2022-2023. Based on satisfactory performance, their contract was extended for three additional years through fiscal year 2025-2026. The City is required to have an independent audit of its financial records conducted on an annual basis. The auditors have completed their review of the June 30, 2024, financial statements and have issued an unmodified opinion stating that the "financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Tracy…"

The audited financial statements are incorporated into an Annual Comprehensive Financial Report, which provides additional analytical and statistical information to fully describe the City's financial condition. The ACFR is submitted to the Government Financial Officers Association of the United States and Canada (GFOA) for consideration of Award of the Certificate of Achievement for Excellence in Financial Reporting. The City has received this award for 36 consecutive years.

At June 30, 2024, the City's governmental funds reported combined fund balances of $518 million, which is an increase of $131 million or 34.0%, from $387 million at June 30, 2023. Total governmental funds revenues increased by $58 million or 30.25%, from $192 million at June 30, 2023, to $250 million at June 30, 2024. Of this total, $172 million was in the General Fund. Total governmental funds expenditures increased by $16 million or 10.6%, from $157 million at June 30, 2023, to $173 million at June 30, 2024. Of this total, $121 million was in the General Fund. Expenditures increased due to MOU increases, retiree medical and transfers out.

	FY 2024	FY 2023	Difference
	(in thousands of dollars)		
Governmental Fund Balance	$ 518,163	$ 386,722	$ 131,441
Total Citywide Revenues	$ 357,548	$ 288,517	$ 69,031
Total Citywide Expenditures	$ 266,661	$ 239,636	$ 27,025

At June 30, 2024, the General Fund balance of $55.3 million, was comprised of $9.4 million restricted funds for medical leave banks, $19.9 million committed funds for Contingency/Emergency reserve, and $15.9 million in assigned funds for Economic/Budget stability and carryover to fiscal year 2024-25. There were $4.0 million in unassigned funds and $6.0M in non-spendable funds at June 30, 2024. Fund balances have been classified in accordance with generally accepted accounting principles. While amounts have been categorized as unassigned, they may be informally earmarked by the City Council for specific purposes.

	Fiscal Year				
(in thousands)	2024	2023	2022	2021	2020
General Fund:					
Non-spendable	$ 5,989	$ 5,535	$ -	$ 40	$ 40
Restricted	9,433	3,596	3,175	2,348	-
Committed	19,919	16,489	14,505	16,401	14,479
Assigned	15,897	12,952	11,435	11,277	6,112
Unassigned	4,017	1,857	7,762	3,964	-
Total General Fund	$ 55,255	$ 40,429	$ 36,877	$ 34,030	$ 20,631

Fiscal Year 2023-2024 was the eighth year of “Measure V” collection; a voter approved additional half cent sales tax approved in the November 2016 elections. The amount of Measure V tax proceeds received and recorded during fiscal year 2023-2024 was $12.1 million. The City Council has committed Measure V funds toward the development of a new aquatic center and multi-generational community gymnasium center, improvements at Legacy Fields Sports Complex, and a nature park.

Measure V Capital Funded City Amenities

Project	**Accumulated Fund Balance as of June 30, 2024**
Aquatic Center	$53.7M
Multi-Gen Rec Center	$4.0M
Nature Park	$1.0M
Ritter Family Ball Park	$3.0M
Senior Center-Complete	$1.0M
Ongoing Operations & Maintenance	$2.5M
Debt Service	$3.3M

The Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2024, can be found on the City of Tracy's website.

STRATEGIC PLAN

This agenda item addresses Goal 2 of the Governance Strategy to ensure continued fiscal sustainability through financial and budgetary stewardship.

FISCAL IMPACT

There is no fiscal impact associated with this action.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution accepting the City of Tracy's Annual Comprehensive Financial Report (ACFR) for the fiscal year ending June 30, 2024.

Prepared by: Robert Harmon, Accounting Manager

Reviewed by: Sara Cowell, Finance Director
Karin Schnaider, Assistant City Manager
Andrew Shen, Interim City Attorney

Approved by: Arturo M. Sanchez, Acting City Manager

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

ACCEPTING THE ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2024

WHEREAS, the financial statements of the City of Tracy (City) for the fiscal year ended June 30, 2024, have been prepared by the City's Finance Department; and

WHEREAS, the annual financial statements were examined by the independent public accounting firm of The Pun Group; and

WHEREAS, the City prepared the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2024 and the auditor's opinion is included therein; and

WHEREAS, in the auditor's opinion these financial statements present fairly the financial position of the City as of June 30, 2024, and were prepared in accordance with accounting principles generally accepted in the United States of America; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy does hereby accept the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2024.

* *

The foregoing Resolution 2025-_____was adopted by the Tracy City Council on January 21, 2025, by the following vote:

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

_____
Dan Arriola
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.E

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving an amended Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of $2,101,800.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution by the City Council an amended Master Service Agreement (MSA) with Flock Group Inc. (Flock) for the purchase, installation, operation, and maintenance of new and existing equipment and related services. The Tracy Police Department has contracted with Flock!since September 2022 for the purchase, installation, and maintenance of its existing Automated License Plate Reader (ALPR) program. The most recent five-year agreement was approved by City Council on September 17, 2024.

The amended agreement seeks to add additional Automated License Plate Readers, various cameras, and installation and equipment for the department's Real Time Information Center. The City Council also approved the Real Time Information Center project and the use of the 2024 US Department of Justice Community Oriented Policing Services (COPS) Technology and Equipment Program Grant award of $391,400 on October 15, 2024. As part of that staff report, it was noted that staff would come back before Council to approve any necessary agreements.

As discussed below, staff recommends that the City enter into an amended agreement, in the form of the proposed MSA. The MSA will include retaining all existing Flock ALPRs, expanding the program with more ALPRs, and adding new camera technology to support the Police Department's upcoming Real Time Information Center.

BACKGROUND AND LEGISLATIVE HISTORY

Cameras and ALPR technology have been used by police agencies to help solve crimes. ALPR technology has continued to evolve and has become less cost prohibitive. Traditional ALPR systems included expensive fixed camera locations or mobile devices mounted in patrol cars.

The City of Tracy, through various departments, already uses technology programs such as mobile and fixed License Plate Reader (LPR) programs (Police Department), the parks camera program (Parks & Recreation) and the traffic camera infrastructure (Engineering) to enhance traffic monitoring and safety in strategic locations within the City. To increase efficiency and effectiveness, as well as introduce additional technology, the City has already approved current 60 ALPR cameras and 11 Flock Condor cameras.

Through this amended agreement, 13 more ALPRs will be added to the City along with 29 cameras at the following locations:

Flock Safety Condor PTZ w/Service

Lammers @ 11th
Corral Hollow @ 11th (NW Corner)
Corral Hollow @ 11th (SE Corner)
11th @ Lincoln
International Pkwy @ W Schulte Rd
11th @ Tracy
11th @ Holly
11th @ MacArthur
6th @ Central
Corral Hollow @ Starflower
Corral Hollow @ Valpico
Valpico @ Tracy
Valpico @ Mac Arthur
Tracy @ Linne
Corral Hollow @ Linne
Corral Hollow @ Tracy Hills
Schulte @ MacArthur
Schulte @ Tracy
Hansen @ Schulte
Corral Hollow Rd @ Schulte Rd
S Tracy Blvd @ W 6th St
N Tracy Blvd @ W Lowell Ave
Corral Hollow Rd @ W Lowell Ave
Byron Rd @ S Lammers Rd
Arbor Rd @ N Macarthur
Grant Line Rd @ Lammers
Holly Dr @ Grant Line Rd
Corral Hollow Rd @ W Valley Mall
S MacArthur Dr @ Vine Ln

Flock Safety Falcon
N Tracy Blvd @ Legacy Fields
Grant Line Rd @ Holly Dr - WB
Grant Line Rd @ Holly Dr – EB
Corral Hollow Rd @ Sierra View Dr SB
Corral Hollow Rd @ West Valley - SB
Corral Hollow Rd @ W Schulte Rd - EB
Corral Hollow Rd @ W Schulte Rd - NB
Corral Hollow Rd @ W Schulte Rd
Corral Hollow @ Valpico Rd - direction
6th St @ Central Ave - SB
Central Ave @ Tracy Blvd - EB
Tracy Blvd @ Central Ave - NB
Tracy Blvd @ Central Ave – SB

It should be noted that cameras are not permanent in nature, and they can be moved to meet the needs of the City. For example, if it is determined the placement of the camera would be beneficial in an area with increased crime activity, the location can be changed. Additionally, the following equipment, to include installation, will be added to support the Department's Real Time Information Center.

With the amended agreement and the grant funding, TPD will move forward with implementing the Real Time Information Center which will utilize this camera technology along with Flock's OS Platform and Live 9-1-1 audio feed to provide more efficient police response and to fight, deter, and reduce criminal activity.

ANALYSIS

Flock's ALPR System deploys cameras throughout an area to provide greater coverage and more detailed information for law enforcement. Flock's cameras capture date, time, location, license plate (state, partial, paper, and no plate), vehicle details (type and color), as well as objects (bicycle, animals, and people). The system alerts police of wanted vehicles which are identified by the system. Flock is already present in our community through the police department's 46 existing ALPRs, and private contracts in neighborhoods supported by Homeowners' Associations, such as Ellis Town and Hidden Lake.

Flock provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the Flock system provides the ability to cover more area of the City with system maintenance provided by the vendor rather than City staff. The Flock program is an all-inclusive model for deploying the ALPR cameras. Flock is the sole manufacturer and developer of the Flock Safety camera.

The key benefits of Flock are that they charge an annual flat lease rate per camera of $3,000, which is wireless, free of infrastructure setup, and has the option for solar or direct power. They also include a warranty, Criminal Justice Information Services (CJIS) compliant cloud-based hosting, unlimited user licenses, ongoing software enhancements, camera setup, mounting, shipping, handling, and a cellular connection. The Flock lease program prevents the City from being burdened with maintaining costly equipment at the end of the agreement, which could require replacement.

The outcome of maintaining and expanding this project would be increased investigative capabilities for the Police Department, directly contributing to the level of safety and quality of life in the community. In addition, new information related to flow of traffic would provide crucial metrics for the Traffic Enforcement Unit in the Police Department, allowing staff to be more responsive to changing traffic conditions or concerns coming from the community.

The partnership with Flock gives the Tracy Police Department access to their network of over 500,000,000 license plate reads per month through Northern California Regional Intelligence Center (NCRIC). Since beginning the ALPR program in 2022, the City has experienced many success stories:

> In December 2023, officers responded to a Flock ALPR alert for a stolen minivan. Upon further investigation, officers observed two subjects enter the stolen vehicle; a traffic stop was conducted, and officers located a concealed firearm loaded with a 31-round magazine. The two subjects were arrested.

In February 2024, officers responded to a Flock ALPR alert for a stolen vehicle. Upon further investigation, officers were able to locate the vehicle, initiate brief pursuit of the driver, and ultimately arrest 3 subjects.

In March 2024, officers responded to a Flock ALPR alert regarding a vehicle wanted in connection to an attempted murder investigation by San Joaquin County Sheriff's Office. Officers located the vehicle and detained four subjects until the Sheriff's Office arrived and took over the investigation.

In May 2024, officers responded to a Flock ALPR alert for a Ford Mustang that had reportedly been involved in an armed robbery in the City of Stockton. Tracy Police Department located the vehicle and stopped the driver and passenger. Stockton Police Department responded to take over the investigation.

On September 17, 2024, City Council approved Flock as an exclusive vendor of Flock Safety ALPR cameras and significant Flock Safety infrastructure and approved an exception to the procurement procedure requiring a competitive process pursuant to Tracy Municipal Code 2.20.180(b)(4). The provision allows the City Council to waive a procurement process when it determines that, compliance with the procedure is not in the best interest of the City for those commodities, equipment, or general services the costs of which equal or exceed Fifty Thousand and no/100ths ($50,000.00) Dollars.

To address concerns regarding the collection of data through ALPRs, Tracy Police Department's Lexipol Policy 439, attached as Attachment B, establishes administration, confidentiality, accountability, measures regarding the collection, dissemination, and retention of all data collected by the use of ALPRs. The proposed MSA also contains confidentiality clauses which outlines measures to protect data collection. These measures ensure that the City is complying with SB 34 non-disclosure requirements related to any data collected through the ALPRs.

FISCAL IMPACT

Amending this agreement will increase the original contract amount from $1,092,850 to $2,101,800, resulting in a $1,008,950 difference over the five-year contract term.

Funding for the amended General Services Agreement with Flock will be funded through the Police Department's annual adopted operating budget and offset by the 2024 COPS Technology and Equipment Program Grant ($391,400). The five-year agreement will not exceed $2,101,800. The annual cost is as follows:

Year 1: $441,800
Year 2: $415,000
Year 3: $415,000
Year 4: $415,000
Year 5: $415,000
Total: $2,101,800

PUBLIC OUTREACH/ INTEREST

Through many community engagement activities and proactive policing, residents have many opportunities to meet, interact with department personnel, and discuss issues impacting the community. The community supports the Police Department's initiatives and goals to promote officer safety and community safety, improve efficiency, and advance department technology.

COORDINATION

The Police Department has coordinated with the City's Innovation and Technology Department, Engineering Department, and Parks and Recreations on various aspects of this project including purchasing quotes, infrastructure, camera locations, and computer technology.

CEQA DETERMINATION

The proposed action is not a "project" under the California Environmental Quality Act. Pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment.

STRATEGIC PLAN

This agenda item relates to Council's Strategic Priorities for Public Safety, specifically to continue to strengthen community safety through crime prevention reduction activities and continuing to enhance and implement the use of technology to generate evidence-based intelligence to enhance enforcement efforts.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving an amended Master Service Agreement with Flock Group, Inc. for the purchase, installation, operation, and maintenance of new and existing equipment and technology for a five-year term and for a total not-to-exceed amount of $2,101,800.

Prepared by: Beth Lyons-McCarthy, Support Operations Manager

Reviewed by: Sekou Millington, Chief of Police
Sara Castro, Finance Director
Karin Schnaider, Assistant City Manager
Matthew Summers, Interim Assistant City Attorney
Approved by: Arturo M. Sanchez, Acting City Manager

ATTACHMENTS:
Attachment A: Proposed amended Master Service Agreement, Flock Group, Inc.
Attachment B: Tracy Police Department Lexipol Policy 439

Flock Safety + CA - Tracy CA PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Caroline Fraher
caroline.fraher@flocksafety.com
310-844-3659

flock safety

EXHIBIT A

ORDER FORM

Customer:	CA - Tracy CA PD	Initial Term:	60 Months
Legal Entity Name:	CA - Tracy CA PD	Renewal Term:	24 Months
Accounts Payable Email:		Payment Terms:	Net 30
Address:	1000 Civic Center Tracy, California 95376	Billing Frequency:	Annual
		Retention Period:	30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			**$415,000.00**
Flock Safety Flock OS			
FlockOS® Elite Package	Included	1	Included
FlockOS ™ 911	Included	1	Included
FlockOS ™ - Essentials	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon ®	Included	73	Included
Flock Safety Falcon ® Flex Bundle	Included	1	Included
Flex - Trailer Kit	Included	1	Included
Flock Safety Video Products			
Flock Safety Condor ™ PTZ w/ LTE Service	Included	40	Included
Flock Mobile Security Trailer - Subscription	Included	1	Included
Flock Safety FlockOS Add Ons			
Flock Safety Advanced Search	Included	1	Included
Flock Safety Platform Add Ons			
FlockOS Community Program - 50 / 400	Included	400	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	$650.00	1	$650.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	12	$1,800.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	29	$4,350.00
Professional Services - Community Program Implementation Fee - 50 / 400	$20,000.00	1	$20,000.00

Subtotal Year 1:	$441,800.00
Annual Recurring Subtotal:	$415,000.00
Discounts:	$145,000.00
Estimated Tax:	$0.00
Contract Total:	$2,101,800.00

The Term for Flock Hardware shall commence upon first installation and validation, except that the Term for any Flock Hardware that requires self-installation shall commence upon execution of the Agreement. In the event a Customer purchases more than one type of Flock Hardware, the earliest Term start date shall control. In the event a Customer purchases software only, the Term shall commence upon execution of the Agreement.

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Special Terms:
• This Agreement supersedes any and all previously executed agreement between the Parties, relating to the provision of services by Flock to Customer and any exhibits attached thereto or incorporated therein by reference. Upon execution of this Agreement, all previously executed agreements pertaining to the Services provided shall run coterminous with the Term of this Agreement. In the event of any overlap in subscription terms and prior invoices, payments will be provided in pro rata credit. Any estimates provided on credits are subject to change based on execution of new contract.

Item	Cost	Quantity	Total
Additional Products			
Flock Safety Platform			**$226,000.00**
Flock Safety Falcon ®	$3,000.00	13	$39,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	29	$87,000.00
FlockOS® Elite Package	$20,000.00	1	$20,000.00
FlockOS ™ 911	$35,000.00	1	$35,000.00
FlockOS Community Program - 50 / 400	$15,000.00	1	$15,000.00
Flock Safety Mobile Surveillance Trailer	$25,000.00	1	$25,000.00
Flock Safety Falcon Flex w/ Power	$5,000.00	1	$5,000.00
Flex Trailer - Kit	$0.00	1	$0.00
Existing Products (Renewal)			**$216,500.00**
Flock Safety Falcon ®	$3,000.00	60	$180,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	11	$33,000.00
Flock Safety Advanced Search	$3,500.00	1	$3,500.00
FlockOS ™ - Essentials	$0.00	1	$0.00
Recurring (Additional + Existing)			**$442,500.00**
Flock Safety Falcon ®	$3,000.00	73	$219,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	40	$120,000.00
Flock Safety Advanced Search	$3,500.00	1	$3,500.00
FlockOS® Elite Package	$20,000.00	1	$20,000.00
FlockOS ™ 911	$35,000.00	1	$35,000.00
FlockOS Community Program - 50 / 400	$15,000.00	1	$15,000.00
Flock Safety Mobile Surveillance Trailer	$25,000.00	1	$25,000.00
Flock Safety Falcon Flex w/ Power	$5,000.00	1	$5,000.00
Flex Trailer - Kit	$0.00	1	$0.00
One Time Fees	**Cost**	**Qty**	**Total**
Professional Services - Standard Implementation Fee	$650.00	1	$650.00
Condor Professional Services - Standard Implementation Fee	$150.00	29	$4,350.00
Professional Services - Community Program Implementation Fee - 50 / 400	$20,000.00	1	$20,000.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	12	$1,800.00
Discounts Applied			

FlockOS ™ 911	-$27,500.00	1	-$27,500.00

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	$441,800.00
Annual Recurring after Year 1	$415,000.00
Contract Total	$2,101,800.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	$137,500.00
Flock Safety Add-ons	$7,500.00
Flock Safety Professional Services	$0.00

Product and Services Description

Flock Safety Platform Items	Product Description
Flock Safety Advanced Search	Advanced Search is an optional upgrade for Law Enforcement Grade Falcon cameras. Advanced Search includes Convoy Analysis, Multi Geo Search, and Visual Search.
FlockOS ™ -	An integrated public safety platform that detects, centralizes and decodes actionable evidence to increase safety, improve efficiency, and connect the community.
FlockOS® Elite Package	Distinguishing itself from traditional brick-and-mortar real-time crime centers (RTCCs) and other cloud-based solutions, FlockOS® Elite is scalable and community-powered, offering a versatile, cloud-based RTCC platform.
FlockOS ™ 911	FlockOS® 911 enables users to access live 911 calls directly within the FlockOS® software, delivering real-time situational context that ensures faster, safer, and more efficient responses to calls for service.
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Flock Safety Condor ™ PTZ w/ LTE Service	Law enforcement grade live streamed PTZ camera with 30 days of edge storage. VMS included and server free. Installed and maintained by Flock Safety, turn key-no additional software or integrations required. *Flock provided sim card camera is limited to 25 hours per month of live streaming.
FlockOS ™ - Essentials	An integrated public safety platform that detects, centralizes and decodes actionable evidence to increase safety, improve efficiency, and connect the community.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Existing Infrastructure Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment of existing vertical infrastructure location, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Existing Infrastructure Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment of existing vertical infrastructure location, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
FlockOS Community Program - 50 / 400	Flock Community Program with Rollover Devices. Package of 50 Locations OR 400 Connections, whichever occurs first. Flock will coordinate with the Agency on which submissions receive agency-paid connections.
Professional Services - Community Program Implementation Fee - 50 / 400	
Flock Safety Falcon ® Flex Bundle	Law enforcement grade tactical deployment (portable + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Flock Mobile Security Trailer - Subscription	Mobile Security Trailer package provides the Flock technology to deter crime and capture evidence through: - Blue Deterrence Light - 2 x Condor PTZ Camera - 1 360 Degree Multisensor Camera - Audio Talk Down
Flex - Trailer Kit	Falcon 2.2 Camera and Standard DC kit to support deployment installed by customer on a mobile trailer

Docusign Envelope ID: 9C5BFE29-5AD4-4A7F-9C84-92E40FF588DF

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached. As well as the Prepared911 Terms and Conditions, available at https://www.prepared911.com/prepared-live-terms-and-conditions.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

By: Signed by: Garrett Langley 7BAB51933ED3438...

Name: Garrett Langley

Title: President / CEO

Date: 12/20/2024

Customer: CA - Tracy CA PD

By:

Name:

Title:

Date:

PO Number:

Signed by: C4AAB784CF81427...

Kathy Arcano

VP, Finance

12/20/2024

Master Services Agreement

This Master Services Agreement (this "***Agreement***") is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 ("***Flock***") and the entity identified in the signature block ("***Customer***") (each a "***Party***," and together, the "***Parties***"). This Agreement is effective on the date of mutual execution ("***Effective Date***"). Parties will sign an Order Form ("***Order Form***") which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**.

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock's technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer ("***Notifications***");

WHEREAS, Customer desires access to the Flock Services (defined below) on all devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock's standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the ***Order Form***. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "***Agreement***" means the order form (to be provided as Exhibit A, "Order Form"), these terms and conditions, and any document therein incorporated by reference in section 11.4.
1.2 "***Anonymized Data***" means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.
1.3 "***Authorized End User(s)***" means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.
1.4 "***Customer Data***" means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.
1.5. "***Customer Hardware***" means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.
1.6 "***Effective Date***" means the date this Agreement is mutually executed (valid and enforceable) by both Parties.
1.7 "***Embedded Software***" means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.
1.8 "***Flock Hardware***" means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.
1.9 "***Flock IP***" means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).
1.10 "***Flock Services***" means the provision of Flock's software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.
1.11 "***Footage***" means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 "***Installation Services***" means the services provided by Flock for installation of Flock Services.
1.13 "***Permitted Purpose***" means for legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.
1.14 "***Retention Period***" means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form. Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices.
1.15 "***Term***" means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.
1.16 "***Web Interface***" means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 **Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 **Support Services.** Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as ***"Support Services"***).

2.4 **Updates to Platform.** Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services, such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 **Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for

malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 **Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 **Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 **Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up-to-date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***"Customer Obligations"***).

3.2 **Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 **Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 **Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information,

content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (***"Customer Generated Data"***). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 **Anonymized Data.** Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 **Confidentiality.** To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 **Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 **Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or

third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 **Billing and Payment of Fees**. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 **Notice of Changes to Fees.** In the event of any changes to fees, Flock shall provide Customer with sixty (60) days' notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 **Taxes.** To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "***Term***"). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "***Renewal Term***") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("***Cure Period***"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the ***Cure Period***, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival**. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a ***"Defect"***), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION

11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware**. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 **Deployment Plan**. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 **Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (https://www.flocksafety.com/reinstall-fee-schedule). Customer will receive prior notice and confirm approval of any such fees.

10.4 **Customer Installation Obligations**. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 **Flock's Obligations**. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 **Compliance With Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the

chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("***Special Terms***"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.15 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS: _____

ATTN: _____

EMAIL: _____

EXHIBIT B

INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A" and "VII". Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees. For the avoidance of doubt, all required insurance limits by Customer can be met through a combination of primary and excess/umbrella coverage.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars ($5,000,000).

Automated License Plate Readers (ALPRs)

439.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

439.2 POLICY

The policy of the Tracy Police Department is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this department. Because such data may contain confidential information, it is not open to public review.

439.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Tracy Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to assist officers in a criminal investigation.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Bureau of Operations Commander. The Bureau of Operations Commanderwill assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

439.3.1 ALPR ADMINISTRATOR

The Bureau of Investigations Commander shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.

(b) Training requirements for authorized users.

(c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.

(e) The title and name of the current designee in overseeing the ALPR operation.

(f) Working with the Bureau of Support Services Manager on the retention and destruction of ALPR data.

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(g) Ensuring this policy and related procedures are conspicuously posted on the department's website.

439.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Department members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(a) An ALPR shall only be used for official law enforcement business.

(b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No member of this department shall operate ALPR equipment or access ALPR data without first completing department-approved training.

(e) No ALPR operator may access department, state or federal data unless otherwise authorized to do so.

(f) If practicable, the officer should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

439.5 DATA COLLECTION AND RETENTION

The Bureau of Investigations Commander is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with department procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year (Government Code § 34090.6) and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

439.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Tracy Police Department will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

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(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or administrative action.

(c) ALPR system audits should be conducted on a regular basis by the Bureau of Investigations Commander or his/her designee.

For security or data breaches, see the Records Release and Maintenance Policy.

439.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

(a) The agency makes a request through official channels (e.g. verified email, confirmed phone contact) for the ALPR data that includes:

1. The name of the agency.
2. The name of the person requesting.
3. The intended purpose of obtaining the information.

(b) The request is reviewed by the Watch Commander or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

439.8 TRAINING

The Training Manager should ensure that members receive department-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

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APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AN AMENDED MASTER SERVICE AGREEMENT WITH FLOCK GROUP, INC. FOR THE PURCHASE, INSTALLATION, OPERATION, AND MAINTENANCE OF NEW AND EXISTING EQUIPMENT AND TECHNOLOGY FOR A FIVE-YEAR TERM, AND FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $2,101,800

WHEREAS, cameras and Automated License Plate Reader (ALPR) technology have been used by Police agencies to help solve crimes and ALPR technology has continued to evolve and has become less cost prohibitive; and

WHEREAS, the Tracy Police Department (TPD) currently uses mobile ALPRs and is now looking to maintain its existing program and add 13 more ALPRs and 29 Condor cameras, as well as necessary equipment for the Department's Real Time Information Center; and

WHEREAS, the Flock ALPR system deploys cameras throughout an area to provide greater coverage and more detailed information for law enforcement and capture date, time, location, license plate (state, partial, paper, and no plate), vehicle details (type and color), as well as objects (bicycle, animals, and people); and

WHEREAS, the City has been using Flock Group, Inc. (Flock) automated license plate readers since 2022; and

WHEREAS, with the amended agreement and the grant funding, TPD will move forward with implementing the Real Time Information Center which will utilize this camera technology along with Flock's OS Platform and Live 9-1-1 audio feed to provide more efficient police response and to fight, deter, and reduce criminal activity; and

WHEREAS, the previous agreement was approved by City Council on September 17, 2024; and

WHEREAS, grant funding, also approved by City Council on October 15, 2024, has now been awarded for this project; and

WHEREAS, pursuant to the amended agreement with Flock is attached hereto as Exhibit 1, Flock will provide the purchase, installation, operation, and maintenance of new and existing equipment and technology including automated license plate readers and condor cameras, and Real Time Information Center equipment; and

WHEREAS, the initial locations for the ALPRs and Flock Safety Condors, identify as follows:

Flock Safety Condor PTZ w/Service

Lammers @ 11th
Corral Hollow @ 11th (NW Corner)
Corral Hollow @ 11th (SE Corner)
11th @ Lincoln
International Pkwy @ W Schulte Rd
11th @ Tracy
11th @ Holly
11th @ MacArthur
6th @ Central
Corral Hollow @ Starflower
Corral Hollow @ Valpico
Valpico @ Tracy
Valpico @ Mac Arthur
Tracy @ Linne
Corral Hollow @ Linne
Corral Hollow @ Tracy Hills
Schulte @ MacArthur
Schulte @ Tracy
Hansen @ Schulte
Corral Hollow Rd @ Schulte Rd
S Tracy Blvd @ W 6th St
N Tracy Blvd @ W Lowell Ave
Corral Hollow Rd @ W Lowell Ave
Byron Rd @ S Lammers Rd
Arbor Rd @ N Macarthur
Grant Line Rd @ Lammers
Holly Dr @ Grant Line Rd
Corral Hollow Rd @ W Valley Mall
S MacArthur Dr @ Vine Ln

Flock Safety Falcon

N Tracy Blvd @ Legacy Fields
Grant Line Rd @ Holly Dr - WB
Grant Line Rd @ Holly Dr – EB
Corral Hollow Rd @ Sierra View Dr SB
Corral Hollow Rd @ West Valley - SB
Corral Hollow Rd @ W Schulte Rd - EB
Corral Hollow Rd @ W Schulte Rd - NB
Corral Hollow Rd @ W Schulte Rd
Corral Hollow @ Valpico Rd - direction
6th St @ Central Ave - SB
Central Ave @ Tracy Blvd - EB
Tracy Blvd @ Central Ave - NB
Tracy Blvd @ Central Ave – SB

WHEREAS, as per Flock's requirements, the City is using the agreement template provided by Flock, which agreement has a heading of "Master Services Agreement" (MSA); and

WHEREAS, Flock Safety provides a desirable approach to deploying ALPR cameras throughout the community. Unlike other fixed or mobile ALPR devices, the Flock system provides the ability to cover more area of the City with system maintenance provided by the vendor rather than City staff. The Flock program is an all-inclusive model for deploying the ALPR cameras. Flock Safety is the sole manufacturer and developer of the Flock Safety camera; and

WHEREAS, the City seeks to amend its five-year agreement with Flock Group, Inc. for a total cost not to exceed $2,101,800 to be funded through the 2024 COPS Technology and Equipment Program Grant ($391,400) and the remainder through TPD's operating budget;

NOW, THEREFORE, be it resolved as follows:

RESOLVED: That the above recitals are true and correct; and be it further

RESOLVED: That City Council does hereby approve an amended Master Services Agreement with Flock Group, Inc., attached hereto as Exhibit 1, for the purchase, installation, operation, and maintenance of new and existing equipment and technology including automated license plate readers and condor cameras, for a term of five years and for a total not-to-exceed amount of $2,101,800; and be it further

RESOLVED: That City Council finds that the proposed action is not a "project" under the California Environmental Quality Act (CEQA) and that pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment.

* * * * * * * * * * * * * *

The foregoing Resolution 2024-____ was adopted by the Tracy City Council on January 21, 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

EXHIBITS:
(1) Master Services Agreement with Flock Group, Inc.

Exhibit 1

Flock Safety + CA - Tracy CA PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Caroline Fraher
caroline.fraher@flocksafety.com
310-844-3659

flock safety

EXHIBIT A

ORDER FORM

Customer:	CA - Tracy CA PD	Initial Term:	60 Months
Legal Entity Name:	CA - Tracy CA PD	Renewal Term:	24 Months
Accounts Payable Email:		Payment Terms:	Net 30
Address:	1000 Civic Center Tracy, California 95376	Billing Frequency:	Annual
		Retention Period:	30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			**$415,000.00**
Flock Safety Flock OS			
FlockOS® Elite Package	Included	1	Included
FlockOS ™ 911	Included	1	Included
FlockOS ™ - Essentials	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon ®	Included	73	Included
Flock Safety Falcon ® Flex Bundle	Included	1	Included
Flex - Trailer Kit	Included	1	Included
Flock Safety Video Products			
Flock Safety Condor ™ PTZ w/ LTE Service	Included	40	Included
Flock Mobile Security Trailer - Subscription	Included	1	Included
Flock Safety FlockOS Add Ons			
Flock Safety Advanced Search	Included	1	Included
Flock Safety Platform Add Ons			
FlockOS Community Program - 50 / 400	Included	400	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	$650.00	1	$650.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	12	$1,800.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	29	$4,350.00
Professional Services - Community Program Implementation Fee - 50 / 400	$20,000.00	1	$20,000.00

Subtotal Year 1:	$441,800.00
Annual Recurring Subtotal:	$415,000.00
Discounts:	$145,000.00
Estimated Tax:	$0.00
Contract Total:	$2,101,800.00

The Term for Flock Hardware shall commence upon first installation and validation, except that the Term for any Flock Hardware that requires self-installation shall commence upon execution of the Agreement. In the event a Customer purchases more than one type of Flock Hardware, the earliest Term start date shall control. In the event a Customer purchases software only, the Term shall commence upon execution of the Agreement.

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Special Terms:
• This Agreement supersedes any and all previously executed agreement between the Parties, relating to the provision of services by Flock to Customer and any exhibits attached thereto or incorporated therein by reference. Upon execution of this Agreement, all previously executed agreements pertaining to the Services provided shall run coterminous with the Term of this Agreement. In the event of any overlap in subscription terms and prior invoices, payments will be provided in pro rata credit. Any estimates provided on credits are subject to change based on execution of new contract.

Item	Cost	Quantity	Total
Additional Products			
Flock Safety Platform			**$226,000.00**
Flock Safety Falcon ®	$3,000.00	13	$39,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	29	$87,000.00
FlockOS® Elite Package	$20,000.00	1	$20,000.00
FlockOS ™ 911	$35,000.00	1	$35,000.00
FlockOS Community Program - 50 / 400	$15,000.00	1	$15,000.00
Flock Safety Mobile Surveillance Trailer	$25,000.00	1	$25,000.00
Flock Safety Falcon Flex w/ Power	$5,000.00	1	$5,000.00
Flex Trailer - Kit	$0.00	1	$0.00
Existing Products (Renewal)			**$216,500.00**
Flock Safety Falcon ®	$3,000.00	60	$180,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	11	$33,000.00
Flock Safety Advanced Search	$3,500.00	1	$3,500.00
FlockOS ™ - Essentials	$0.00	1	$0.00
Recurring (Additional + Existing)			**$442,500.00**
Flock Safety Falcon ®	$3,000.00	73	$219,000.00
Flock Safety Condor ™ PTZ w/ LTE Service	$3,000.00	40	$120,000.00
Flock Safety Advanced Search	$3,500.00	1	$3,500.00
FlockOS® Elite Package	$20,000.00	1	$20,000.00
FlockOS ™ 911	$35,000.00	1	$35,000.00
FlockOS Community Program - 50 / 400	$15,000.00	1	$15,000.00
Flock Safety Mobile Surveillance Trailer	$25,000.00	1	$25,000.00
Flock Safety Falcon Flex w/ Power	$5,000.00	1	$5,000.00
Flex Trailer - Kit	$0.00	1	$0.00
One Time Fees	**Cost**	**Qty**	**Total**
Professional Services - Standard Implementation Fee	$650.00	1	$650.00
Condor Professional Services - Standard Implementation Fee	$150.00	29	$4,350.00
Professional Services - Community Program Implementation Fee - 50 / 400	$20,000.00	1	$20,000.00
Professional Services - Existing Infrastructure Implementation Fee	$150.00	12	$1,800.00
Discounts Applied			

FlockOS ™ 911	-$27,500.00	1	-$27,500.00

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	$441,800.00
Annual Recurring after Year 1	$415,000.00
Contract Total	$2,101,800.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	$137,500.00
Flock Safety Add-ons	$7,500.00
Flock Safety Professional Services	$0.00

Product and Services Description

Flock Safety Platform Items	Product Description
Flock Safety Advanced Search	Advanced Search is an optional upgrade for Law Enforcement Grade Falcon cameras. Advanced Search includes Convoy Analysis, Multi Geo Search, and Visual Search.
FlockOS ™ -	An integrated public safety platform that detects, centralizes and decodes actionable evidence to increase safety, improve efficiency, and connect the community.
FlockOS® Elite Package	Distinguishing itself from traditional brick-and-mortar real-time crime centers (RTCCs) and other cloud-based solutions, FlockOS® Elite is scalable and community-powered, offering a versatile, cloud-based RTCC platform.
FlockOS ™ 911	FlockOS® 911 enables users to access live 911 calls directly within the FlockOS® software, delivering real-time situational context that ensures faster, safer, and more efficient responses to calls for service.
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Flock Safety Condor ™ PTZ w/ LTE Service	Law enforcement grade live streamed PTZ camera with 30 days of edge storage. VMS included and server free. Installed and maintained by Flock Safety, turn key-no additional software or integrations required. *Flock provided sim card camera is limited to 25 hours per month of live streaming.
FlockOS ™ - Essentials	An integrated public safety platform that detects, centralizes and decodes actionable evidence to increase safety, improve efficiency, and connect the community.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Existing Infrastructure Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment of existing vertical infrastructure location, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Existing Infrastructure Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment of existing vertical infrastructure location, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
FlockOS Community Program - 50 / 400	Flock Community Program with Rollover Devices. Package of 50 Locations OR 400 Connections, whichever occurs first. Flock will coordinate with the Agency on which submissions receive agency-paid connections.
Professional Services - Community Program Implementation Fee - 50 / 400	
Flock Safety Falcon ® Flex Bundle	Law enforcement grade tactical deployment (portable + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Flock Mobile Security Trailer - Subscription	Mobile Security Trailer package provides the Flock technology to deter crime and capture evidence through: - Blue Deterrence Light - 2 x Condor PTZ Camera - 1 360 Degree Multisensor Camera - Audio Talk Down
Flex - Trailer Kit	Falcon 2.2 Camera and Standard DC kit to support deployment installed by customer on a mobile trailer

Docusign Envelope ID: 9C5BFE29-5AD4-4A7F-9C84-92E40FF588DF

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached. As well as the Prepared911 Terms and Conditions, available at https://www.prepared911.com/prepared-live-terms-and-conditions.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

By: Signed by: Garrett Langley 7BAB51933ED3438...

Name: Garrett Langley

Title: President / CEO

Date: 12/20/2024

Customer: CA - Tracy CA PD

By:

Name:

Title:

Date:

PO Number:

Signed by: C4AAB784CF81427...

Kathy Arcano

VP, Finance

12/20/2024

Master Services Agreement

This Master Services Agreement (this "***Agreement***") is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 ("***Flock***") and the entity identified in the signature block ("***Customer***") (each a "***Party***," and together, the "***Parties***"). This Agreement is effective on the date of mutual execution ("***Effective Date***"). Parties will sign an Order Form ("***Order Form***") which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**.

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock's technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer ("***Notifications***");

WHEREAS, Customer desires access to the Flock Services (defined below) on all devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock's standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the ***Order Form***. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "***Agreement***" means the order form (to be provided as Exhibit A, "Order Form"), these terms and conditions, and any document therein incorporated by reference in section 11.4.
1.2 "***Anonymized Data***" means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.
1.3 "***Authorized End User(s)***" means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.
1.4 "***Customer Data***" means the data, media, and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.
1.5. "***Customer Hardware***" means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.
1.6 "***Effective Date***" means the date this Agreement is mutually executed (valid and enforceable) by both Parties.
1.7 "***Embedded Software***" means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.
1.8 "***Flock Hardware***" means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable Order Form.
1.9 "***Flock IP***" means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).
1.10 "***Flock Services***" means the provision of Flock's software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.
1.11 "***Footage***" means still images, video, audio, and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.12 "***Installation Services***" means the services provided by Flock for installation of Flock Services.
1.13 "***Permitted Purpose***" means for legitimate public safety and/or business purpose, including but not limited to the awareness, prevention, and prosecution of crime; investigations; and prevention of commercial harm, to the extent permitted by law.
1.14 "***Retention Period***" means the time period that the Customer Data is stored within the cloud storage, as specified in the applicable Order Form. Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices.
1.15 "***Term***" means the date, unless otherwise stated in the Order Form, upon which the cameras are validated by both Parties as operational.
1.16 "***Web Interface***" means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the Retention Period. Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 **Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 **Support Services.** Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as ***"Support Services"***).

2.4 **Updates to Platform.** Flock may make any updates to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services, such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such updates are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 **Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Services are being used for

malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 **Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 **Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, or toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 **Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up-to-date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services (e.g., laptops, internet connection, mobile devices, etc.). Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***"Customer Obligations"***).

3.2 **Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 **Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 **Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information,

content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (***"Customer Generated Data"***). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 **Anonymized Data.** Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 **Confidentiality.** To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the

foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 **Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 **Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or

third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 **Billing and Payment of Fees**. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. To the extent the Order Form is silent, Customer shall pay all invoices net thirty (30) days from the date of receipt. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 **Notice of Changes to Fees.** In the event of any changes to fees, Flock shall provide Customer with sixty (60) days' notice (email sufficient) prior to the end of the Initial Term or Renewal Term (as applicable). Any such changes to fees shall only impact subsequent Renewal Terms.

6.3 **Taxes.** To the extent Customer is not a tax exempt entity, Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge Customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "***Term***"). Unless otherwise indicated on the Order Form, the Term shall commence upon first installation of Flock Hardware, as applicable. Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "***Renewal Term***") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("***Cure Period***"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the ***Cure Period***, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival**. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a ***"Defect"***), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that Flock is not liable for any resulting impact to Flock service, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION

11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware**. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's

rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 **Deployment Plan**. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 **Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (https://www.flocksafety.com/reinstall-fee-schedule). Customer will receive prior notice and confirm approval of any such fees.

10.4 **Customer Installation Obligations**. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C. Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 **Flock's Obligations**. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this Agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 **Compliance With Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the

chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the Order Form and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("***Special Terms***"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Upon prior written consent, Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts. Nothing contained in this Agreement shall be construed as conferring on any Party, any right to use the other Party's name as an endorsement of product/service.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or

commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing upon the Effective Date.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.15 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of public funds are conditioned on the availability of said funds appropriated for that purpose. To the extent applicable, Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

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FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS: _____

ATTN: _____

EMAIL: _____

EXHIBIT B

INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A" and "VII". Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees. For the avoidance of doubt, all required insurance limits by Customer can be met through a combination of primary and excess/umbrella coverage.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars ($5,000,000).

January 21, 2025

Agenda Item 1.F

RECOMMENDATION

Staff recommends that the City Council adopt the following, each by separate resolution:

(A) approving (1) the execution of a Master Professional Services Agreement for storm drainage engineering services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorizing two administrative options to extend for a one-year term each; and

(B) approving (1) the execution of a Master Professional Services Agreement for water pressure and capacity analysis and engineering assistance services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, and for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorizing two administrative options to extend for a one-year term each.

EXECUTIVE SUMMARY

This agenda item seeks the adoption of a resolution approving two Master Professional Services Agreements (MPSAs) with West Yost & Associates, Inc. (Consultant) for services for storm drainage engineering services and water pressure and capacity analysis and engineering assistance. Each MPSA will be for an initial term of three years, effective as of January 1, 2025, and for a total not-to-exceed amount of $300,000 per fiscal year. Staff is also requesting authorization for two administrative options to extend for one-year terms, based on performance, if needed. The Consultant has been selected from an On-Call List approved pursuant to Resolution No. 2024-084. Staff has successfully worked with the Consultant on several engineering projects and is seeking to utilize their skills to further benefit the City.

BACKGROUND AND LEGISLATIVE HISTORY

On March 1, 2024, the City issued a Request for Proposals (RFP) for On-Call Roadway and Utility Design Services. The requested services include, but are not limited to, the preparation of plans, specifications, estimates, engineering operational support, and environmental document preparation. On April 4, 2024, the City received nine (9) separate proposals, including one from the Consultant. The City's consultant selection committee carefully evaluated all the received proposals based on the criteria described in the RFP. The selection committee determined that all the Consultants possessed the skills, experience, competence, professional qualifications, and certifications required to provide at least one of the roadway and utility design services requested by the City.

On June 4, 2024, the City Council adopted Resolution No. 2024-084 approving the nine (9) consultants for an On-Call Professional Service List (List) valid for five (5) years. This List of selected Consultants created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each Consultant on the List, as the project needs arise, the City may more readily move into contracting with one of

the Consultants on the List and then return to the City Council for approval of a project-specific Professional Services Agreement.

ANALYSIS

The City of Tracy Engineering Division consists of the Capital Improvement Projects (CIP), Land Development, and Traffic Engineering. The Division works with various developers on a large number of entitlement applications, most of which require storm drainage-related engineering analysis, water pressure and capacity analysis, and other engineering assistance. Staff requires assistance from consultants to review development projects in terms of these analyses.

The need to utilize a capable and qualified consultant for storm and water-related analysis services has prompted staff to recommend that the City Council award an MPSA to the Consultant to assist with engineering projects. Staff has successfully worked with the Consultant on several projects in the past and seeks to continue to utilize their services.

The term of this MPSA will be for three (3) fiscal years with an option to extend for two (2) consecutive one (1) year terms based on performance if needed, with an annual fiscal year not-to-exceed budget of $300,000 for each MPSA. Staff asks that City Council approve the MPSAs to be effective as of January 1, 2025 since staff have multiple ongoing projects with the Consultant and the current agreement with the Consultant expired as of December 31, 2024. This will ensure that work on various Engineering projects is not delayed.

FISCAL IMPACT

The cost of the work performed by the Consultant will be recoverable in part through the developer's fee, CIP budgets, or Federal and State grant funds. Funding for the agreement with the Consultant exists on an annual basis within the department's adopted budget, and the contract includes the ability to terminate if there is insufficient budget availability.

CEQA DETERMINATION

The MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code. Any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act (CEQA) before future discretionary actions are taken.

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

That the City Council, by separate resolution, adopt the following:

(A) approve (1) the execution of a Master Professional Services Agreement for storm drainage engineering services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorize two administrative options to extend for a one-year term each; and

(B) approve (1) the execution of a Master Professional Services Agreement for water pressure and capacity analysis and engineering assistance services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, for a total not-to-exceed amount of $300,000 per fiscal year, and (2) authorize two administrative options to extend for a one-year term each.

Prepared by: Veronica Child, Management Analyst II
Al Gali, Associate Engineer

Reviewed by: Sara Castro, Finance Director
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Arturo M. Sanchez, Acting City Manager

ATTACHMENTS

Attachment A – Master Professional Services Agreement with West Yost & Associates, Inc. for Storm Drainage Engineering Services
Attachment B – Master Professional Services Agreement with West Yost & Associates, Inc. for Water Pressure and Capacity Analysis

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc.
For Storm Drainage Engineering Services

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant for Storm Drainage Engineering Services for land development projects as further described herein and in Exhibit A.

B. On June 2, 2024, the City Council approved adding the Consultant to an On-Call List for certain services through resolution 2024-084. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Elizabeth Drayer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the City Engineer, or his approved designee, ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 1, 2025 and expire and terminate automatically on December 31, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of 2 year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 300,000.00 (Three Hundred Thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective January 1, 2026, Consultant's billing rates under this Agreement may be annually increased in January of each year by up to 4.5%. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City

replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

To City: To Consultant:

Koosun Kim, PE
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

West Yost & Associates
ATTN: Elizabeth Drayer, PE
2020 Research Drive, Suite 100
Davis, CA 95618

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant

Charles Duncan
By: Charles Duncan
Title: Chief Executive
Date: December 18, 2024

Federal Employer Tax ID No. 68-0370826

Lindsay Smith
By: Lindsay Smith
Title: Treasurer
Date: December 18, 2024

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A
Scope of Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Consultant will conduct/perform services for various projects as determined by City Staff.

General Description of Services the Consultant will Provide:
Upon request by the City, Consultant will prepare a tailored task order and associated budget to complete tasks as assigned by the City. In general, Consultant shall provide the following professional services as requested:

1. Conduct/perform storm drainage studies in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's storm drainage infrastructure impacts on the City's storm drainage system. The studies will include review of the various proposed on-site and off-site storm water drainage plans, low impact development and hydro-modification plans. The Consultant may be tasked to perform the following professional services, among others:
    a. Conduct/perform storm water drainage hydrologic studies and hydraulic calculations. The studies shall conform to the methodologies and assumptions provided in the City's Storm Drainage Master Plan and City of Tracy Design Documents as applicable.
2. Conduct peer review of storm drainage studies prepared by others in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's storm drainage infrastructure impacts on the City's storm drainage system. The Consultant may be tasked to perform the following professional services, among others:
    a. Review hydrologic studies/reports submitted by developer to confirm conformance to the methodologies and assumptions provided in the City's Storm Drainage Master Plan and City of Tracy Design Documents as applicable.
    b. Review storm drainage hydraulic calculations submitted by developer for technical accuracy and conformance with City of Tracy Design Standards.
    c. Review project for conformance with the Manual for Stormwater Quality Control Standards for New Development and Redevelopment and verify compliance with post-construction stormwater quality standards.
3. In both conducted/performed and peer-reviewed studies, identify potential trigger points for the construction of off-site Storm Drainage Water System Master Plan Program Improvements within the drainage basin and assist with the determination of the Project's fair share of such capital improvements.
4. To properly document the findings and recommendations of the Project's storm drainage infrastructure analysis, prepare and submit a Technical Memorandum to the City to describe the proposed Project, summarize the evaluation methodology, document any recommended storm drainage system impacts and recommend mitigations to address those impacts.

5. Attend meetings with City staff and/or public hearings, Planning Commission meetings or City Council meetings.
6. Provide plan check of developer's improvement plans to confirm compliance with the storm drainage study and required mitigations. Review project plans and specifications for technical accuracy and conformance with the City of Tracy Design Standards, Standard Plans, and Standard Specifications.
7. If requested, provide engineering services during construction and/or provide construction inspection services.
8. Provide other services as mutually agreed to.

SCHEDULE

The schedule for each evaluation will be mutually agreed to and documented in the scope of work prepared for each assignment.

TEAM MEMBERS

Charles Duncan, P.E.
Elizabeth Drayer, P.E.
Doug Moore, P.E.
Melissa Duffy, P.E.
Lauren Rodriguez, P.E.
Josh Steiner, E.I.T.
Other staff as needed based on assignment

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$373
Engineer/Scientist/Geologist Manager I / II	$352 / $369
Principal Engineer/Scientist/Geologist I / II	$317 / $338
Senior Engineer/Scientist/Geologist I / II	$286 / $300
Associate Engineer/Scientist/Geologist I / II	$237 / $255
Engineer/Scientist/Geologist I / II	$185 / $215
Engineering Aide	$111
Field Monitoring Services	$138
Administrative I / II / III / IV	$102 / $127 / $152 / $168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$366 / $369
Principal Tech Specialist I / II	$336 / $348
Senior Tech Specialist I / II	$308 / $321
Senior GIS Analyst	$278
GIS Analyst	$264
Technical Specialist I / II / III / IV	$196 / $224 / $251 / $280
Technical Analyst I / II	$141 / $168
Technical Analyst Intern	$113
Cross-Connection Control Specialist I / II / III / IV	$147 / $159 / $179 / $198
CAD Manager	$222
CAD Designer I / II	$172 / $194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$355
Construction Manager I / II / III / IV	$211 / $226 / $239 / $303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$190 / $211 / $235 / $244
Apprentice Inspector	$172
CM Administrative I / II	$91 / $124
Field Services	$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	$300 / day
Aquacalc / Pygmy or AA Flow Meter	$28 / day
Emergency SCADA System	$35 / day
Field Vehicles (Groundwater)	$1.02 / mile
Gas Detector	$80 / day
Generator	$60 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Hydrant Pressure Recorder, Standard	$40 / day
Low Flow Pump Back Pack	$135 / day
Low Flow Pump Controller	$200 / day
Powers Water Level Meter	$32 / day
Precision Water Level Meter 300ft	$30 / day
Precision Water Level Meter 500ft	$40 / day
Precision Water Level Meter 700ft	$45 / day
QED Sample Pro Bladder Pump	$65 / day
Skydio 2+ Drone (2 hour mimimum)	$100 / hour
Storage Tank	$20 / day
Sump Pump	$24 / day
Transducer Communications Cable	$10 / day
Transducer Components (per installation)	$23 / day
Trimble GPS – Geo 7x	$220 / day
Tube Length Counter	$22 / day
Turbidity Meter	$30 / day
Turbidity Meter (2100Q Portable)	$35 / day
Vehicle (Construction Management)	$10 / hour
Water Flow Probe Meter	$20 / day
Water Quality Meter	$50 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

EXHIBIT C - Task Order Form

(See Attached)

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc.
For Water Pressure and Capacity Analyses and Engineering Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant for water pressure and capacity analyses and engineering assistance for land development projects as further described herein and in Exhibit A.

B. On June 2, 2024, the City Council approved adding the Consultant to an On-Call List for certain services through resolution 2024-084. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Elizabeth Drayer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the City Engineer, or his approved designee, ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 1, 2025 and expire and terminate automatically on December 31, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of 2 year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 300,000.00 (Three Hundred Thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective January 1, 2026, Consultant's billing rates under this Agreement may be annually increased in January of each year by up to 4.5%. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City

replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

To City: To Consultant:

Koosun Kim, PE
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

West Yost & Associates
ATTN: Elizabeth Drayer, PE
2020 Research Drive, Suite 100
Davis, CA 95618

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant

_____
By: Charles Duncan
Title: Chief Executive
Date: December 18, 2024

Federal Employer Tax ID No. 68-0370826

_____
By: Lindsay Smith
Title: Treasurer
Date: December 18, 2024

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A

Scope of Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Consultant will conduct/perform services for various projects as determined by City Engineering Staff.

GENERAL DESCRIPTION OF SERVICES THE CONSULTANT WILL PROVIDE:

Upon request by the City, West Yost (Consultant) will prepare a tailored task order and associated budget to complete tasks as assigned by the City. In general, Consultant shall provide the following professional services as requested:

1. Conduct/perform water pressure and capacity studies in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's water infrastructure impacts on the City's water system. The studies will evaluate service pressures and flows for domestic use and fire protection and confirm water storage and pumping capacity needs. The Consultant may be tasked to perform the following professional services, among others:
    a. Conduct/perform hydraulic modeling and capacity calculations to assess water service pressures and flows and confirm infrastructure capacity. The studies shall conform to the methodologies and assumptions provided in the Citywide Water System Master Plan, Urban Water Management Plan, and City of Tracy Design Documents as applicable.
    b. Conduct/perform water supply studies.
    c. Conduct/perform feasibility evaluations of recycled water opportunities and infrastructure requirements to meet future development project needs.
2. Conduct peer review of water pressure and capacity studies prepared by others in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's water infrastructure impacts on the City's water system. The Consultant may be tasked to perform the following professional services, among others:
    a. Review hydraulic modeling and capacity calculations to confirm conformance to the methodologies and assumptions provided in the Citywide Water System Master Plan, Urban Water Management Plan, and City of Tracy Design Documents as applicable.
    b. Review water supply studies.
    c. Review feasibility evaluations of recycled water opportunities and infrastructure requirements to meet future development project needs.
3. In both conducted/performed and peer-reviewed studies, identify potential trigger points for the construction of off-site Water System Master Plan Program Improvements and assist with the determination of the Project's fair share of such capital improvements.

4. In both conducted/performed and peer-reviewed studies, confirm and/or recommend on-site Project pipeline infrastructure sizing and alignment modifications and/or other off-site infrastructure modifications to mitigate identified Project impacts.
5. To properly document the findings and recommendations of the Project's water pressure and capacity studies, prepare and submit a Technical Memorandum to the City to describe the proposed Project, summarize the evaluation methodology, document any recommended system impacts and recommend mitigations to address those impacts.
6. Attend meetings with City staff and/or public hearings, Planning Commission meetings or City Council meetings.
7. Provide plan check of developer's improvement plans to confirm compliance with the water pressure and capacity study and required mitigations. Review project plans and specifications for technical accuracy and conformance with the City of Tracy Design Standards, Standard Plans, and Standard Specifications.
8. If requested, provide engineering services during construction and/or provide construction inspection services.
9. Provide other services as mutually agreed to.

SCHEDULE

The schedule for each evaluation will be mutually agreed to and documented in the scope of work prepared for each assignment.

TEAM MEMBERS

Charles Duncan, P.E.
Elizabeth Drayer, P.E.
Jim Connell, P.E.
Amy Kwong, P.E.
Rhodora Biagtan, P.E.
Jeff Wanlass, P.E.
J.P. Davis, P.E.
Other staff as needed based on assignment

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$373
Engineer/Scientist/Geologist Manager I / II	$352 / $369
Principal Engineer/Scientist/Geologist I / II	$317 / $338
Senior Engineer/Scientist/Geologist I / II	$286 / $300
Associate Engineer/Scientist/Geologist I / II	$237 / $255
Engineer/Scientist/Geologist I / II	$185 / $215
Engineering Aide	$111
Field Monitoring Services	$138
Administrative I / II / III / IV	$102 / $127 / $152 / $168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$366 / $369
Principal Tech Specialist I / II	$336 / $348
Senior Tech Specialist I / II	$308 / $321
Senior GIS Analyst	$278
GIS Analyst	$264
Technical Specialist I / II / III / IV	$196 / $224 / $251 / $280
Technical Analyst I / II	$141 / $168
Technical Analyst Intern	$113
Cross-Connection Control Specialist I / II / III / IV	$147 / $159 / $179 / $198
CAD Manager	$222
CAD Designer I / II	$172 / $194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$355
Construction Manager I / II / III / IV	$211 / $226 / $239 / $303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$190 / $211 / $235 / $244
Apprentice Inspector	$172
CM Administrative I / II	$91 / $124
Field Services	$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
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Gas Detector	$80 / day
Generator	$60 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Hydrant Pressure Recorder, Standard	$40 / day
Low Flow Pump Back Pack	$135 / day
Low Flow Pump Controller	$200 / day
Powers Water Level Meter	$32 / day
Precision Water Level Meter 300ft	$30 / day
Precision Water Level Meter 500ft	$40 / day
Precision Water Level Meter 700ft	$45 / day
QED Sample Pro Bladder Pump	$65 / day
Skydio 2+ Drone (2 hour mimimum)	$100 / hour
Storage Tank	$20 / day
Sump Pump	$24 / day
Transducer Communications Cable	$10 / day
Transducer Components (per installation)	$23 / day
Trimble GPS – Geo 7x	$220 / day
Tube Length Counter	$22 / day
Turbidity Meter	$30 / day
Turbidity Meter (2100Q Portable)	$35 / day
Vehicle (Construction Management)	$10 / hour
Water Flow Probe Meter	$20 / day
Water Quality Meter	$50 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

EXHIBIT C - Task Order Form

(See Attached)

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

(A) APPROVING (1) THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT FOR STORM DRAINAGE ENGINEERING SERVICES WITH WEST YOST & ASSOCIATES, INC. FOR AN INITIAL TERM OF THREE YEARS, EFFECTIVE AS OF JANUARY 1, 2025, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $300,000 PER FISCAL YEAR, AND (2) AUTHORIZING TWO ADMINISTRATIVE OPTIONS TO EXTEND FOR A ONE-YEAR TERM EACH.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP) projects and Land Development projects requiring specialized professional services; and

WHEREAS, on March 1, 2024, the City issued a Request for Proposals (RFP) for On-Call Roadway and Utility Design Services; and

WHEREAS, the requested services include, but are not limited to, the preparation of plans, specifications, and estimates, engineering operational support, and environmental document preparation; and

WHEREAS, on April 4, 2024, the City received nine (9) separate proposals, including one from the Consultant and the City's consultant selection committee carefully evaluated all the received proposals based on the criteria described in the RFP; and

WHEREAS, the selection committee determined that all the Consultants possessed the skills, experience, competence, professional qualifications, and certifications required to provide at least one of the roadway and utility design services requested by the City; and

WHEREAS, on June 4, 2024, the City Council adopted Resolution No. 2024-084 approving the nine (9) consultants for an On-Call Professional Services List (List) valid for five (5) years; and

WHEREAS, the List of selected Consultants created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise; and

WHEREAS, having previously undertaken the public contracting procedures for each Consultant on the List, as the project needs arise, the City may more readily move into contracting with one of the Consultants on the List and then return to the City Council for approval of a project-specific Professional Services Agreement; and

WHEREAS, the City of Tracy Engineering Division consists of the CIP, Land Development, and Traffic Engineering and it works with various developers on a large number of entitlement applications, most of which include the need for storm drainage-related engineering analysis, water pressure and capacity analysis, and other engineering assistance; and

WHEREAS, staff requires assistance from consultants to review development projects in terms of these analyses; and

WHEREAS, the need to utilize a capable and qualified consultant for storm and water related analysis services has prompted staff to recommend that the City Council award an MPSA to the Consultant to assist with engineering projects and staff has successfully worked with the Consultant on several projects in the past and seeks to continue to utilize their services; and

WHEREAS, the term of this MPSA will be for three (3) fiscal years with an option to extend for two (2) consecutive one (1) year terms based on performance, if needed, with an annual fiscal year not-to-exceed a budget of $300,000 for each MPSA; and

WHEREAS, the cost of the work performed by the Consultant will be cost recoverable in part, through the developer's fee, CIP budgets, or Federal and State grant funds. Funding for the agreement with the Consultant exists on an annual basis within the department's adopted budget and the contract includes the ability to terminate if there is insufficient budget availability; and

WHEREAS, the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code; any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act (CEQA) before future discretionary actions are taken; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves a Master Professional Services Agreement, in the form attached as Exhibit 1, for storm drainage engineering services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, and for a total-not to-exceed amount of $300,000 per fiscal year; and be it

FURTHER RESOLVED: That the City Council authorizes the City Manager, to administratively extend the term of the MPSA, for up to two, one-year terms based on performance if needed; and be it

FURTHER RESOLVED: That the City Council finds that the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code. Any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act before future discretionary actions are taken.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

EXHIBITS

Exhibit 1 – Master Professional Services Agreement with West Yost & Associates, Inc.. for Storm Drainage Engineering Services

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc.
For Storm Drainage Engineering Services

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant for Storm Drainage Engineering Services for land development projects as further described herein and in Exhibit A.

B. On June 2, 2024, the City Council approved adding the Consultant to an On-Call List for certain services through resolution 2024-084. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Elizabeth Drayer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the City Engineer, or his approved designee, ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 1, 2025 and expire and terminate automatically on December 31, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of 2 year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 300,000.00 (Three Hundred Thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective January 1, 2026, Consultant's billing rates under this Agreement may be annually increased in January of each year by up to 4.5%. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City

replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

To City: To Consultant:

Koosun Kim, PE
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

West Yost & Associates
ATTN: Elizabeth Drayer, PE
2020 Research Drive, Suite 100
Davis, CA 95618

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant

Charles Duncan
By: Charles Duncan
Title: Chief Executive
Date: December 18, 2024

Federal Employer Tax ID No. 68-0370826

Lindsay Smith
By: Lindsay Smith
Title: Treasurer
Date: December 18, 2024

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A
Scope of Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Consultant will conduct/perform services for various projects as determined by City Staff.

General Description of Services the Consultant will Provide:
Upon request by the City, Consultant will prepare a tailored task order and associated budget to complete tasks as assigned by the City. In general, Consultant shall provide the following professional services as requested:

1. Conduct/perform storm drainage studies in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's storm drainage infrastructure impacts on the City's storm drainage system. The studies will include review of the various proposed on-site and off-site storm water drainage plans, low impact development and hydro-modification plans. The Consultant may be tasked to perform the following professional services, among others:
    a. Conduct/perform storm water drainage hydrologic studies and hydraulic calculations. The studies shall conform to the methodologies and assumptions provided in the City's Storm Drainage Master Plan and City of Tracy Design Documents as applicable.
2. Conduct peer review of storm drainage studies prepared by others in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's storm drainage infrastructure impacts on the City's storm drainage system. The Consultant may be tasked to perform the following professional services, among others:
    a. Review hydrologic studies/reports submitted by developer to confirm conformance to the methodologies and assumptions provided in the City's Storm Drainage Master Plan and City of Tracy Design Documents as applicable.
    b. Review storm drainage hydraulic calculations submitted by developer for technical accuracy and conformance with City of Tracy Design Standards.
    c. Review project for conformance with the Manual for Stormwater Quality Control Standards for New Development and Redevelopment and verify compliance with post-construction stormwater quality standards.
3. In both conducted/performed and peer-reviewed studies, identify potential trigger points for the construction of off-site Storm Drainage Water System Master Plan Program Improvements within the drainage basin and assist with the determination of the Project's fair share of such capital improvements.
4. To properly document the findings and recommendations of the Project's storm drainage infrastructure analysis, prepare and submit a Technical Memorandum to the City to describe the proposed Project, summarize the evaluation methodology, document any recommended storm drainage system impacts and recommend mitigations to address those impacts.

5. Attend meetings with City staff and/or public hearings, Planning Commission meetings or City Council meetings.
6. Provide plan check of developer's improvement plans to confirm compliance with the storm drainage study and required mitigations. Review project plans and specifications for technical accuracy and conformance with the City of Tracy Design Standards, Standard Plans, and Standard Specifications.
7. If requested, provide engineering services during construction and/or provide construction inspection services.
8. Provide other services as mutually agreed to.

SCHEDULE

The schedule for each evaluation will be mutually agreed to and documented in the scope of work prepared for each assignment.

TEAM MEMBERS

Charles Duncan, P.E.
Elizabeth Drayer, P.E.
Doug Moore, P.E.
Melissa Duffy, P.E.
Lauren Rodriguez, P.E.
Josh Steiner, E.I.T.
Other staff as needed based on assignment

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$373
Engineer/Scientist/Geologist Manager I / II	$352 / $369
Principal Engineer/Scientist/Geologist I / II	$317 / $338
Senior Engineer/Scientist/Geologist I / II	$286 / $300
Associate Engineer/Scientist/Geologist I / II	$237 / $255
Engineer/Scientist/Geologist I / II	$185 / $215
Engineering Aide	$111
Field Monitoring Services	$138
Administrative I / II / III / IV	$102 / $127 / $152 / $168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$366 / $369
Principal Tech Specialist I / II	$336 / $348
Senior Tech Specialist I / II	$308 / $321
Senior GIS Analyst	$278
GIS Analyst	$264
Technical Specialist I / II / III / IV	$196 / $224 / $251 / $280
Technical Analyst I / II	$141 / $168
Technical Analyst Intern	$113
Cross-Connection Control Specialist I / II / III / IV	$147 / $159 / $179 / $198
CAD Manager	$222
CAD Designer I / II	$172 / $194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$355
Construction Manager I / II / III / IV	$211 / $226 / $239 / $303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$190 / $211 / $235 / $244
Apprentice Inspector	$172
CM Administrative I / II	$91 / $124
Field Services	$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	$300 / day
Aquacalc / Pygmy or AA Flow Meter	$28 / day
Emergency SCADA System	$35 / day
Field Vehicles (Groundwater)	$1.02 / mile
Gas Detector	$80 / day
Generator	$60 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Hydrant Pressure Recorder, Standard	$40 / day
Low Flow Pump Back Pack	$135 / day
Low Flow Pump Controller	$200 / day
Powers Water Level Meter	$32 / day
Precision Water Level Meter 300ft	$30 / day
Precision Water Level Meter 500ft	$40 / day
Precision Water Level Meter 700ft	$45 / day
QED Sample Pro Bladder Pump	$65 / day
Skydio 2+ Drone (2 hour mimimum)	$100 / hour
Storage Tank	$20 / day
Sump Pump	$24 / day
Transducer Communications Cable	$10 / day
Transducer Components (per installation)	$23 / day
Trimble GPS – Geo 7x	$220 / day
Tube Length Counter	$22 / day
Turbidity Meter	$30 / day
Turbidity Meter (2100Q Portable)	$35 / day
Vehicle (Construction Management)	$10 / hour
Water Flow Probe Meter	$20 / day
Water Quality Meter	$50 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

EXHIBIT C - Task Order Form

(See Attached)

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

(B) APPROVING (1) THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT FOR WATER PRESSURE AND CAPACITY ANALYSIS AND ENGINEERING ASSISTANCE SERVICES WITH WEST YOST & ASSOCIATES, INC. FOR AN INITIAL TERM OF THREE YEARS, EFFECTIVE AS OF JANUARY 1, 2025, AND FOR A TOTAL NOT-TO-EXCEED AMOUNT OF $300,000 PER FISCAL YEAR, AND (2) AUTHORIZING TWO ADMINISTRATIVE OPTIONS TO EXTEND FOR A ONE-YEAR TERM EACH.

WHEREAS, the City of Tracy (City) has a variety of Capital Improvement Projects (CIP) projects and Land Development projects requiring specialized professional services; and

WHEREAS, on March 1, 2024, the City issued a Request for Proposals (RFP) for On-Call Roadway and Utility Design Services; and

WHEREAS, the requested services include, but are not limited to, the preparation of plans, specifications, and estimates, engineering operational support, and environmental document preparation; and

WHEREAS, on April 4, 2024, the City received nine (9) separate proposals, including one from the Consultant; and

WHEREAS, the City's consultant selection committee carefully evaluated all the received proposals based on the criteria described in the RFP and determined that all the Consultants possessed the skills, experience, competence, professional qualifications, and certifications required to provide at least one of the roadway and utility design services requested by the City; and

WHEREAS, on June 4, 2024, the City Council adopted Resolution No. 2024-084 approving the nine (9) consultants for an On-Call Professional Service List (List) valid for five (5) years which created an efficient process for future project proposal requests and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise; and

WHEREAS, having previously undertaken the public contracting procedures for each Consultant on the List, as the project needs arise, the City may more readily move into contracting with one of the Consultants on the list and then return to the City Council for approval of a project-specific Professional Services Agreement; and

WHEREAS, the City of Tracy Engineering Division consists of the CIP, Land Development, and Traffic Engineering and works with various developers on a large number of entitlement applications, most of which include the need for storm drainage-related engineering

analysis, water pressure and capacity analysis and other engineering assistance. Staff requires assistance from consultants to review development projects in terms of these analyses; and

WHEREAS, the need to utilize a capable and qualified consultant for water related analysis services has prompted staff to recommend that the City Council award an MPSA to the Consultant to assist with engineering projects as staff has successfully worked with the Consultant on several projects in the past and seeks to continue to utilize their services; and

WHEREAS, the term of this MPSA will be for three (3) fiscal years with an option to extend for two (2) consecutive one (1) year terms based on performance if needed, with an annual fiscal year not-to-exceed a budget of $300,000 for each MPSA; and

WHEREAS, the cost of the work performed by the Consultant will be cost recoverable in part, through the developer's fee, CIP budgets, or Federal and State grant funds; funding for the agreement with the Consultant exists on an annual basis within the department's adopted budget and the contract includes the ability to terminate if there is insufficient budget availability; and

WHEREAS, the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code; any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act (CEQA) before future discretionary actions are taken; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves a Master Professional Service Agreement, in the form attached as Exhibit 1, for water pressure and capacity analysis and engineering services with West Yost & Associates, Inc. for an initial term of three years, effective as of January 1, 2025, and for a total-not to-exceed amount of $300,000 per fiscal year; and be it

FURTHER RESOLVED: That the City Council authorizes the City Manager, to administratively extend the term of each MPSA, for up to two, one-year terms based on performance if needed; and be it

FURTHER RESOLVED: That the City Council finds that the MPSA is for services equivalent to "planning and feasibility services" and, therefore, is not considered a "project" as defined by Section 21065 of the Public Resources Code. Any projects for which such services are performed will be reviewed as required under the California Environmental Quality Act before future discretionary actions are taken.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

EXHIBITS

Exhibit 1 – Master Professional Services Agreement with West Yost & Associates, Inc. for Water Pressure and Capacity Analysis

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc.
For Water Pressure and Capacity Analyses and Engineering Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant for water pressure and capacity analyses and engineering assistance for land development projects as further described herein and in Exhibit A.

B. On June 2, 2024, the City Council approved adding the Consultant to an On-Call List for certain services through resolution 2024-084. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Elizabeth Drayer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the City Engineer, or his approved designee, ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on January 1, 2025 and expire and terminate automatically on December 31, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of 2 year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

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

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 300,000.00 (Three Hundred Thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. Effective January 1, 2026, Consultant's billing rates under this Agreement may be annually increased in January of each year by up to 4.5%. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

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

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

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

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

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City

replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

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

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

To City: To Consultant:

Koosun Kim, PE
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

West Yost & Associates
ATTN: Elizabeth Drayer, PE
2020 Research Drive, Suite 100
Davis, CA 95618

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

12. Miscellaneous.

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

12.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

12.3 Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

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

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

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

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

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

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

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

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant

_____
By: Charles Duncan
Title: Chief Executive
Date: December 18, 2024

Federal Employer Tax ID No. 68-0370826

_____
By: Lindsay Smith
Title: Treasurer
Date: December 18, 2024

Exhibits:

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

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A

Scope of Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Consultant will conduct/perform services for various projects as determined by City Engineering Staff.

GENERAL DESCRIPTION OF SERVICES THE CONSULTANT WILL PROVIDE:

Upon request by the City, West Yost (Consultant) will prepare a tailored task order and associated budget to complete tasks as assigned by the City. In general, Consultant shall provide the following professional services as requested:

1. Conduct/perform water pressure and capacity studies in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's water infrastructure impacts on the City's water system. The studies will evaluate service pressures and flows for domestic use and fire protection and confirm water storage and pumping capacity needs. The Consultant may be tasked to perform the following professional services, among others:
    a. Conduct/perform hydraulic modeling and capacity calculations to assess water service pressures and flows and confirm infrastructure capacity. The studies shall conform to the methodologies and assumptions provided in the Citywide Water System Master Plan, Urban Water Management Plan, and City of Tracy Design Documents as applicable.
    b. Conduct/perform water supply studies.
    c. Conduct/perform feasibility evaluations of recycled water opportunities and infrastructure requirements to meet future development project needs.
2. Conduct peer review of water pressure and capacity studies prepared by others in connection with proposed development projects within City limits and within the City's Sphere of Influence to assess the development's water infrastructure impacts on the City's water system. The Consultant may be tasked to perform the following professional services, among others:
    a. Review hydraulic modeling and capacity calculations to confirm conformance to the methodologies and assumptions provided in the Citywide Water System Master Plan, Urban Water Management Plan, and City of Tracy Design Documents as applicable.
    b. Review water supply studies.
    c. Review feasibility evaluations of recycled water opportunities and infrastructure requirements to meet future development project needs.
3. In both conducted/performed and peer-reviewed studies, identify potential trigger points for the construction of off-site Water System Master Plan Program Improvements and assist with the determination of the Project's fair share of such capital improvements.

4. In both conducted/performed and peer-reviewed studies, confirm and/or recommend on-site Project pipeline infrastructure sizing and alignment modifications and/or other off-site infrastructure modifications to mitigate identified Project impacts.
5. To properly document the findings and recommendations of the Project's water pressure and capacity studies, prepare and submit a Technical Memorandum to the City to describe the proposed Project, summarize the evaluation methodology, document any recommended system impacts and recommend mitigations to address those impacts.
6. Attend meetings with City staff and/or public hearings, Planning Commission meetings or City Council meetings.
7. Provide plan check of developer's improvement plans to confirm compliance with the water pressure and capacity study and required mitigations. Review project plans and specifications for technical accuracy and conformance with the City of Tracy Design Standards, Standard Plans, and Standard Specifications.
8. If requested, provide engineering services during construction and/or provide construction inspection services.
9. Provide other services as mutually agreed to.

SCHEDULE

The schedule for each evaluation will be mutually agreed to and documented in the scope of work prepared for each assignment.

TEAM MEMBERS

Charles Duncan, P.E.
Elizabeth Drayer, P.E.
Jim Connell, P.E.
Amy Kwong, P.E.
Rhodora Biagtan, P.E.
Jeff Wanlass, P.E.
J.P. Davis, P.E.
Other staff as needed based on assignment

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$373
Engineer/Scientist/Geologist Manager I / II	$352 / $369
Principal Engineer/Scientist/Geologist I / II	$317 / $338
Senior Engineer/Scientist/Geologist I / II	$286 / $300
Associate Engineer/Scientist/Geologist I / II	$237 / $255
Engineer/Scientist/Geologist I / II	$185 / $215
Engineering Aide	$111
Field Monitoring Services	$138
Administrative I / II / III / IV	$102 / $127 / $152 / $168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$366 / $369
Principal Tech Specialist I / II	$336 / $348
Senior Tech Specialist I / II	$308 / $321
Senior GIS Analyst	$278
GIS Analyst	$264
Technical Specialist I / II / III / IV	$196 / $224 / $251 / $280
Technical Analyst I / II	$141 / $168
Technical Analyst Intern	$113
Cross-Connection Control Specialist I / II / III / IV	$147 / $159 / $179 / $198
CAD Manager	$222
CAD Designer I / II	$172 / $194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$355
Construction Manager I / II / III / IV	$211 / $226 / $239 / $303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$190 / $211 / $235 / $244
Apprentice Inspector	$172
CM Administrative I / II	$91 / $124
Field Services	$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	$300 / day
Aquacalc / Pygmy or AA Flow Meter	$28 / day
Emergency SCADA System	$35 / day
Field Vehicles (Groundwater)	$1.02 / mile
Gas Detector	$80 / day
Generator	$60 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Hydrant Pressure Recorder, Standard	$40 / day
Low Flow Pump Back Pack	$135 / day
Low Flow Pump Controller	$200 / day
Powers Water Level Meter	$32 / day
Precision Water Level Meter 300ft	$30 / day
Precision Water Level Meter 500ft	$40 / day
Precision Water Level Meter 700ft	$45 / day
QED Sample Pro Bladder Pump	$65 / day
Skydio 2+ Drone (2 hour mimimum)	$100 / hour
Storage Tank	$20 / day
Sump Pump	$24 / day
Transducer Communications Cable	$10 / day
Transducer Components (per installation)	$23 / day
Trimble GPS – Geo 7x	$220 / day
Tube Length Counter	$22 / day
Turbidity Meter	$30 / day
Turbidity Meter (2100Q Portable)	$35 / day
Vehicle (Construction Management)	$10 / hour
Water Flow Probe Meter	$20 / day
Water Quality Meter	$50 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

EXHIBIT C - Task Order Form

(See Attached)

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

January 21, 2025

Agenda Item 1.G

RECOMMENDATION

Staff recommends that the City Council adopt a resolution reinstating the Professional Services Agreement with De Novo Planning Group to perform transit-oriented development planning services, extending the term of the Agreement and revising the scope of work to be consistent with the revised approach approved by the City Council, which includes the Downtown Vision Plan, preparation of Downtown Design Guidelines, and amendments to the Central Business District Zone.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution by the City Council reinstating the Professional Services Agreement (hereinafter the "Agreement") with De Novo Planning Group (hereinafter the "Consultant") which expired on March 2, 2024, for transit-oriented development planning services. Staff is also requesting adoption of a resolution extending the term of the Agreement and revising the scope of work. This action will not result in an increase to the Consultant's total compensation under the Agreement, which has a Not to Exceed Amount of $707,962. The remaining budget for the Agreement is $198,984 and the estimated cost for completing the revised scope of work is approximately $48,000. On October 1, 2024, the City Council approved the Downtown Vision Plan and directed staff and the Consultant to move forward with a revised approach, which includes, in addition to the Downtown Vision Plan, preparation of Downtown Design Guidelines and amendments to the Central Business District (CBD) Zone. Since the Agreement with the Consultant expired on March 2, 2024, this action is necessary for the staff to utilize services of this Consultant.

DISCUSSION

On June 18, 2019, the City Council approved the Agreement with the Consultant for transit-oriented development planning services. The Agreement scope of work included preparation of a Downtown Transit-Oriented Development (TOD) Study, which was presented to the City Council on July 21, 2020. On March 2, 2021, the City Council approved Amendment No. 1 to the Agreement to proceed with the second phase of the planning effort, which was preparation of a Downtown TOD Specific Plan and Environmental Impact Report (EIR). Since the time of approving Amendment No. 1, factors occurred that affected the planning area boundary and the desired planning approach.

On October 1, 2024, the City Council approved a Downtown Vision Plan and directed staff and the Consultant to move forward with a revised approach, which includes, in addition to the Downtown Vision Plan, preparation of Downtown Design Guidelines and amendments to the Central Business District (CBD) Zone, rather than preparation of a Specific Plan and EIR.

The Agreement with the Consultant expired on March 2, 2024. In order to proceed with the project, this action is needed. This reinstatement will also include updating the Consultant's compensation to be billed at the Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City. However, it will not result in an increase to the Consultant's total compensation under the Agreement, which has a Not to Exceed Amount of $707,962. The remaining budget for the Agreement is $198,984 and the estimated cost for completing the revised scope of work is approximately $48,000.

FISCAL IMPACT

No appropriations are required with approval of this action. The Agreement is funded by a combination of State planning grants previously awarded to the City, including Senate Bill No. 2 (SB 2) planning grant funds, Local Early Action Planning (LEAP), and Regional Early Action Planning (REAP) grant funds, as well as funds from the Community and Economic Development Department operating budget.

CEQA DETERMINATION

The proposed Reinstatement of the Agreement is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), the "common sense exemption," which pertains to projects that do not have the potential for causing a significant effect on the environment, because the Reinstatement Agreement itself will not have any effect on the environment and any subsequent projects will be subject to separate CEQA analysis prior to consideration by the Planning Commission and the City Council.

STRATEGIC PLAN

This project is related to the following City Council Strategic Priorities:

- Economic Development Strategy, Goal 3: Advance Downtown Specific Plan including provisions for a Transit Oriented Development (TOD) Plan
    - 3.a. Complete the TOD market and fiscal analysis
    - 3.b. Conduct Downtown Specific Plan stakeholder and community outreach
    - 3.c. Draft the Downtown Specific Plan and Environmental Impact Report (EIR)

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution reinstating the Professional Services Agreement with De Novo Planning Group to perform transit-oriented development planning services, extending the term of the Agreement and revising the scope of work to be consistent with the revised approach approved by the City Council, which includes the Downtown Vision Plan, preparation of Downtown Design Guidelines, and amendments to the Central Business District Zone.

Prepared by: Scott Claar, Planning Manager

Reviewed by: Forrest Ebbs, Director of Community and Economic Development
Sara Castro, Director of Finance
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Arturo M. Sanchez, Acting City Manager

ATTACHMENTS

Attachment A – Reinstatement of the Professional Services Agreement with De Novo Planning Group for transit-oriented development planning services

CITY OF TRACY
REINSTATEMENT OF PROFESSIONAL SERVICES AGREEMENT WITH
De Novo Planning Group – Transit-Oriented Development Planning Services

This Reinstatement Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and De Novo Planning Group, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. On June 18, 2019, the City Council approved a Professional Service Agreement (PSA) with the Consultant for transit-oriented development planning services. The scope of work included preparation of a Downtown Transit-Oriented Development (TOD) Study, which was presented to the City Council on July 21, 2020.

B. On March 2, 2021, the City Council approved Amendment No. 1 to the Agreement with the Consultant to proceed with the second phase of the planning effort, which was preparation of a Downtown TOD Specific Plan and Environmental Impact Report (EIR). Since the time of approving Amendment No. 1, factors occurred that affected the planning area boundary and the desired planning approach.

C. On October 1, 2024, the City Council approved a Downtown Vision Plan and directed staff and the Consultant to move forward with a revised approach, which includes, in addition to the Downtown Vision Plan, preparation of Downtown Design Guidelines and amendments to the Central Business District (CBD) Zone, rather than preparation of a Specific Plan and EIR.

D. The Agreement with the Consultant expired on March 2, 2024, but the parties desire to continue to be bound by the terms of the PSA and its amendments to allow to the Consultant to continue to provide the aforesaid services through March 2, 2026. In order to proceed with the project, an amendment is needed to ratify the Agreement, extend the term of the Agreement, and revise the scope of work to be consistent with the City Council's direction.

E. This Reinstatement Agreement was approved on January 21, 2025, pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2025-_____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. This Reinstatement will include updating the Consultant's compensation to be billed at the Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City. However, Amendment No. 2 will not result in an increase to the Consultant's total compensation under the Agreement, which has a Not to Exceed Amount of $707,962. The remaining budget for the Agreement is $198,984. The estimated cost for completing the revised scope of work is approximately $48,000.

2. The cost of the Agreement is being funded by a combination of State planning grants previously awarded to the City, including Senate Bill No. 2 (SB 2) planning grant funds, Local Early Action Planning (LEAP) and Regional Early Action Planning (REAP) grant funds, as well as funds from the Community and Economic Development Department operating budget.

A. Section 2.1 of the Agreement is replaced in its entirety to read as follows:

2.1 Term. The term of this Agreement shall commence on March 2, 2024, and expire and terminate automatically on March 2, 2026, or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two years and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

B. Exhibit A, "Scope of Work," of the Agreement shall be replaced with the amended scope of work described in Exhibit A attached hereto and incorporated herein by this reference.

C. Exhibit B, "Compensation," of the Agreement shall be replaced with the amended compensation described in Exhibit B attached hereto and incorporated herein by this reference.

3. Incorporation by Reference. This Amendment No. 2 incorporates by reference all terms set forth in the Agreement and Amendment No. 1, unless specifically modified by this Amendment No. 2. The terms which are not specifically modified by this Amendment No. 2 will remain in effect.

4. Signatures. The individuals executing this Amendment No. 2 to the Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment No. 2 to the Agreement on behalf of Consultant.

[Signature Page to Follow]

Docusign Envelope ID: 69D8790E-BC42-4FB5-A2C2-824218B24657

As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

City of Tracy, a Municipal Corporation

By: _____
Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Andrew Shen, Interim City Attorney

De Novo Planning Group

Signed by:
Ben Ritchie
EAFAA29D041942C...
By: _____
Ben Ritchie
Title: Principal / CEO
Date: 1/15/2025 | 5:52 AM PST

Federal Employer Tax ID No. 26-2962235

DocuSigned by:
Steve McMurtry
9378972DD8C5494...
By: _____
Steve McMurtry
Title: CFO
Date: 1/15/2025 | 3:51 PM PST

Exhibits:

A	Scope of Work
B	Compensation

EXHIBIT A - Scope of Work

Consultant shall complete the Scope of Work described below, under the direction of project manager, Ben Ritchie.

Task 1: Completion of the Downtown Vision Plan

Work on the Downtown Vision Plan is complete, and the Downtown Vision Plan was adopted by the City Council on October 1, 2024. However, the City and Consultant were not aware that the Agreement had expired on March 2, 2024. Between the time of the expiration of the Agreement and adoption of the Downtown Vision Plan by the City, the Consultant continued to provide project assistance, analysis, and attend public hearings. More specifically, during this time period the Consultant completed the following tasks:

- Finalization of the Downtown Vision Plan to respond to City comments
- Additional research and analysis related to site remediation cost estimates and research of past estimates for site cleanup
- Attendance at public hearings and workshops with the Planning Commission and Parks and Community Services Commission
- Preparation of hearing and workshop materials
- Ongoing project meetings with City staff

The City has received invoices from the Consultant for this work, but the invoices have not been paid yet due to the expired contract.

Task budget: $8,919.

Task 2: Update CBD Zoning Standards

Consultant will review all previous public input, past Planning Commission recommendations and City Council direction, and City Staff input to identify the standards and requirements in the Central Business District (CBD) Zone to be revised and updated. The CBD Zone update is expected to be targeted, rather than a wholesale rewrite or update. The anticipated areas for revision are related to, but not limited to, parking, allowed uses, heights, setbacks, frontage requirements, and administrative approval processes.

Consultant will work closely and collaboratively with City staff to develop updated standards, and will assist with presentations to local business groups, Planning Commission, and City Council. Consultant's role on this task will be advisory and supportive to City staff, as the City staff is expected to take a prominent role in the development of the updated standards.

The Consultant's role includes the following efforts related to completion of this task:

- Virtual meetings with City staff to provide input and feedback on potential code amendments, comments and feedback on draft code amendments, and review and discussion of the final code amendments.
- Research and analysis on best practices from other cities
- Assistance in drafting code sections, as requested by City staff
- Attendance at public hearings with the Planning Commission and City Council

Estimated task budget: $11,000.

Task 3: Completion of the Downtown Design Guidelines

Consultant has already prepared and submitted a preliminary working draft of the Downtown Design Guidelines for City staff review. The Design Guidelines address residential standards, commercial standards, streetscapes, public spaces, building facades, and other design criteria. Consultant will work collaboratively with City staff to ensure that the final Design Guidelines harmoniously blend modern standards with the historical context of Downtown Tracy, and meet new residential Objective Design requirements. The Guidelines will be clear, and easy to implement by both City staff and property owners.

This task includes responding to City staff comments and feedback on the preliminary draft, making revisions and additions as necessary, supplementing and enhancing graphics and design samples throughout the document, and ensuring compliance with applicable object design standards and State requirements. Consultant will also assist with presentations to local business groups, Planning Commission, and City Council.

Estimated task budget: $25,000.

Task 4: Meetings and Project Management

Consultant will be available to attend public meetings and hearings upon request, in addition to periodic meetings with City staff. All time will be billed on a time and materials basis.

Estimated task budget: $3,000.

EXHIBIT B - Compensation

Consultant shall complete the scope of work described in Exhibit A on a time and materials basis.

Time will be billed at Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City, and noted below.

Principal:	$235/hour
Principal Planner:	$210/hour
Senior Planner:	$175/hour
Associate Planner:	$145/hour
Assistant Planner:	$115/hour
GIS/Graphics	$135/hour

Consultant does not charge for travel, mileage or meals, nor does Consultant markup subconsultant costs. Direct costs are limited to charges for document printing and ship, and Consultant does not mark these charges up.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

REINSTATING THE PROFESSIONAL SERVICES AGREEMENT WITH DE NOVO PLANNING GROUP TO PERFORM TRANSIT-ORIENTED DEVELOPMENT PLANNING SERVICES, EXTENDING THE TERM OF THE AGREEMENT AND REVISING THE SCOPE OF WORK TO BE CONSISTENT WITH THE REVISED APPROACH APPROVED BY THE CITY COUNCIL, WHICH INCLUDES THE DOWNTOWN VISION PLAN, PREPARATION OF DOWNTOWN DESIGN GUIDELINES, AND AMENDMENTS TO THE CENTRAL BUSINESS DISTRICT ZONE.

WHEREAS, on June 18, 2019, the City Council approved a Professional Services Agreement (hereinafter the "Agreement") with De Novo Planning Group (hereinafter the "Consultant") for transit-oriented development planning services; and

WHEREAS, the scope of work included preparation of a Downtown Transit-Oriented Development (TOD) Study, which was presented to the City Council on July 21, 2020; and

WHEREAS, on March 2, 2021, the City Council approved Amendment No. 1 to the Agreement to proceed with the second phase of the planning effort, which was preparation of a Downtown TOD Specific Plan and Environmental Impact Report (EIR); and

WHEREAS, since the time of approving Amendment No. 1 to the Agreement, factors occurred that affected the planning area boundary and the desired planning approach; and

WHEREAS, on October 1, 2024, the City Council approved a Downtown Vision Plan and directed staff and the Consultant to move forward with a revised approach, which includes, in addition to the Downtown Vision Plan, preparation of Downtown Design Guidelines and amendments to the Central Business District (CBD) Zone, rather than preparation of a Specific Plan and EIR; and

WHEREAS, the Agreement with the Consultant expired on March 2, 2024; and

WHEREAS, in order to proceed with the project, staff is requesting to reinstate the existing Agreement as City has been utilizing services from the Consultant during this period; and

WHEREAS, staff is also requesting the City Council to adopt a resolution to adopt extending the term of the Agreement, and revise the scope of work to be consistent with the City Council's direction; and

WHEREAS, this action will also include updating the Consultant's compensation to be billed at the Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City, however, will not result in an increase to the Consultant's total compensation under the Agreement, which has a Not to Exceed Amount of $707,962; and

WHEREAS, the remaining budget for the Agreement is $198,984 and the estimated cost for completing the revised scope of work is approximately $48,000; and

WHEREAS, the Agreement is funded by a combination of State planning grants previously awarded to the City, including Senate Bill No. 2 (SB 2) planning grant funds, Local Early Action Planning (LEAP) and Regional Early Action Planning (REAP) grant funds, as well as funds from the Community and Economic Development Department operating budget; and

WHEREAS, the proposed reinstatement the Agreement is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), the "common sense exemption", which pertains to projects that do not have the potential for causing a significant effect on the environment, because the Reinstatement Agreement itself will not have any effect on the environment and any subsequent projects will be subject to separate CEQA analysis prior to consideration by the Planning Commission and the City Council; now, therefore, be it

RESOLVED, That the City Council of the City of Tracy hereby reinstates the Agreement, attached here as Exhibit 1, with De Novo Planning Group to perform transit-oriented development planning services and approves the Reinstatement Agreement to extend the term of the agreement and revise the scope of work, as shown in Exhibit 1.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on January 21, 2025, by the following vote:

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

_____
DAN ARRIOLA
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 – Reinstatement of Professional Services Agreement with De Novo Planning Group

CITY OF TRACY
REINSTATEMENT OF PROFESSIONAL SERVICES AGREEMENT WITH
De Novo Planning Group – Transit-Oriented Development Planning Services

This Reinstatement Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and De Novo Planning Group, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. On June 18, 2019, the City Council approved a Professional Service Agreement (PSA) with the Consultant for transit-oriented development planning services. The scope of work included preparation of a Downtown Transit-Oriented Development (TOD) Study, which was presented to the City Council on July 21, 2020.

B. On March 2, 2021, the City Council approved Amendment No. 1 to the Agreement with the Consultant to proceed with the second phase of the planning effort, which was preparation of a Downtown TOD Specific Plan and Environmental Impact Report (EIR). Since the time of approving Amendment No. 1, factors occurred that affected the planning area boundary and the desired planning approach.

C. On October 1, 2024, the City Council approved a Downtown Vision Plan and directed staff and the Consultant to move forward with a revised approach, which includes, in addition to the Downtown Vision Plan, preparation of Downtown Design Guidelines and amendments to the Central Business District (CBD) Zone, rather than preparation of a Specific Plan and EIR.

D. The Agreement with the Consultant expired on March 2, 2024, but the parties desire to continue to be bound by the terms of the PSA and its amendments to allow to the Consultant to continue to provide the aforesaid services through March 2, 2026. In order to proceed with the project, an amendment is needed to ratify the Agreement, extend the term of the Agreement, and revise the scope of work to be consistent with the City Council's direction.

E. This Reinstatement Agreement was approved on January 21, 2025, pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2025-_____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. This Reinstatement will include updating the Consultant's compensation to be billed at the Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City. However, Amendment No. 2 will not result in an increase to the Consultant's total compensation under the Agreement, which has a Not to Exceed Amount of $707,962. The remaining budget for the Agreement is $198,984. The estimated cost for completing the revised scope of work is approximately $48,000.

2. The cost of the Agreement is being funded by a combination of State planning grants previously awarded to the City, including Senate Bill No. 2 (SB 2) planning grant funds, Local Early Action Planning (LEAP) and Regional Early Action Planning (REAP) grant funds, as well as funds from the Community and Economic Development Department operating budget.

A. Section 2.1 of the Agreement is replaced in its entirety to read as follows:

2.1 Term. The term of this Agreement shall commence on March 2, 2024, and expire and terminate automatically on March 2, 2026, or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two years and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

B. Exhibit A, "Scope of Work," of the Agreement shall be replaced with the amended scope of work described in Exhibit A attached hereto and incorporated herein by this reference.

C. Exhibit B, "Compensation," of the Agreement shall be replaced with the amended compensation described in Exhibit B attached hereto and incorporated herein by this reference.

3. Incorporation by Reference. This Amendment No. 2 incorporates by reference all terms set forth in the Agreement and Amendment No. 1, unless specifically modified by this Amendment No. 2. The terms which are not specifically modified by this Amendment No. 2 will remain in effect.

4. Signatures. The individuals executing this Amendment No. 2 to the Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment No. 2 to the Agreement on behalf of Consultant.

[Signature Page to Follow]

Docusign Envelope ID: 69D8790E-BC42-4FB5-A2C2-824218B24657

As of the date of last signature below, the undersigned Parties agree to the full performance of the terms set forth in this Agreement and have caused this Agreement to be duly executed.

City of Tracy, a Municipal Corporation

By: _____
Dan Arriola
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Andrew Shen, Interim City Attorney

De Novo Planning Group

Signed by:
Ben Ritchie
EAFAA29D041942C...
By: _____
Ben Ritchie
Title: Principal / CEO
Date: 1/15/2025 | 5:52 AM PST

Federal Employer Tax ID No. 26-2962235

DocuSigned by:
Steve McMurtry
9378972DD8C5494...
By: _____
Steve McMurtry
Title: CFO
Date: 1/15/2025 | 3:51 PM PST

Exhibits:

A	Scope of Work
B	Compensation

EXHIBIT A - Scope of Work

Consultant shall complete the Scope of Work described below, under the direction of project manager, Ben Ritchie.

Task 1: Completion of the Downtown Vision Plan

Work on the Downtown Vision Plan is complete, and the Downtown Vision Plan was adopted by the City Council on October 1, 2024. However, the City and Consultant were not aware that the Agreement had expired on March 2, 2024. Between the time of the expiration of the Agreement and adoption of the Downtown Vision Plan by the City, the Consultant continued to provide project assistance, analysis, and attend public hearings. More specifically, during this time period the Consultant completed the following tasks:

- Finalization of the Downtown Vision Plan to respond to City comments
- Additional research and analysis related to site remediation cost estimates and research of past estimates for site cleanup
- Attendance at public hearings and workshops with the Planning Commission and Parks and Community Services Commission
- Preparation of hearing and workshop materials
- Ongoing project meetings with City staff

The City has received invoices from the Consultant for this work, but the invoices have not been paid yet due to the expired contract.

Task budget: $8,919.

Task 2: Update CBD Zoning Standards

Consultant will review all previous public input, past Planning Commission recommendations and City Council direction, and City Staff input to identify the standards and requirements in the Central Business District (CBD) Zone to be revised and updated. The CBD Zone update is expected to be targeted, rather than a wholesale rewrite or update. The anticipated areas for revision are related to, but not limited to, parking, allowed uses, heights, setbacks, frontage requirements, and administrative approval processes.

Consultant will work closely and collaboratively with City staff to develop updated standards, and will assist with presentations to local business groups, Planning Commission, and City Council. Consultant's role on this task will be advisory and supportive to City staff, as the City staff is expected to take a prominent role in the development of the updated standards.

The Consultant's role includes the following efforts related to completion of this task:

- Virtual meetings with City staff to provide input and feedback on potential code amendments, comments and feedback on draft code amendments, and review and discussion of the final code amendments.
- Research and analysis on best practices from other cities
- Assistance in drafting code sections, as requested by City staff
- Attendance at public hearings with the Planning Commission and City Council

Estimated task budget: $11,000.

Task 3: Completion of the Downtown Design Guidelines

Consultant has already prepared and submitted a preliminary working draft of the Downtown Design Guidelines for City staff review. The Design Guidelines address residential standards, commercial standards, streetscapes, public spaces, building facades, and other design criteria. Consultant will work collaboratively with City staff to ensure that the final Design Guidelines harmoniously blend modern standards with the historical context of Downtown Tracy, and meet new residential Objective Design requirements. The Guidelines will be clear, and easy to implement by both City staff and property owners.

This task includes responding to City staff comments and feedback on the preliminary draft, making revisions and additions as necessary, supplementing and enhancing graphics and design samples throughout the document, and ensuring compliance with applicable object design standards and State requirements. Consultant will also assist with presentations to local business groups, Planning Commission, and City Council.

Estimated task budget: $25,000.

Task 4: Meetings and Project Management

Consultant will be available to attend public meetings and hearings upon request, in addition to periodic meetings with City staff. All time will be billed on a time and materials basis.

Estimated task budget: $3,000.

EXHIBIT B - Compensation

Consultant shall complete the scope of work described in Exhibit A on a time and materials basis.

Time will be billed at Consultant's standard hourly rates, consistent with the rates established under the Consultant's 2024 Master Professional Services Agreement with the City, and noted below.

Principal:	$235/hour
Principal Planner:	$210/hour
Senior Planner:	$175/hour
Associate Planner:	$145/hour
Assistant Planner:	$115/hour
GIS/Graphics	$135/hour

Consultant does not charge for travel, mileage or meals, nor does Consultant markup subconsultant costs. Direct costs are limited to charges for document printing and ship, and Consultant does not mark these charges up.

January 21, 2025

Agenda Item 1.H

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving the City's Development Impact Fee Annual Report for Fiscal Year 2023-2024 on Development Impact Fee revenues and expenditures, in accordance with the Mitigation Fee Act.

EXECUTIVE SUMMARY

The AB 1600: Development Impact Fee Annual Report Fiscal Year 2023-2024 (FY23-24) is included as Attachment A. Government Code Sections 66006(b)(1) and (2) under the California Mitigation Fee Act requires that the City make this information available for public review within 180 days after the end of each fiscal year, present it at the next regularly scheduled public meeting, and make it publicly available no less than 15 days prior to that public meeting. Staff's timely publication of the report to the City's website and presentation of this item at this City Council meeting satisfy the annual reporting requirements.

BACKGROUND AND LEGISLATIVE HISTORY

Development Impact Fees (DIFs) are established by the City and imposed upon development projects for the purpose of mitigating the impact that the development projects have upon the City's ability to provide specified public facilities. DIFs are one-time fees that are generally collected at building permit issuance and vary based on the fee area and the development type. The DIF studies identify projects that are eligible for funding from each fund. The City is required by state law to issue an annual fiscal report identifying the information required in Government Code Section 66006(b)(1).

Government Code Section 66006(b)(1) requires the City to prepare and make available to the public annual information for each separate account or fund, including:

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

On October 11, 2023, California Governor Gavin Newsom signed into law AB516 which amended certain portions of the Mitigation Fee Act related to the annual and five-year reporting requirements. Under AB516, Requirements (f) and (h) have been expanded to include the following:

(f)a. Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted
(f)b. For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable
(h)a. For any refunds made, the number of persons or entities identified to receive those refunds

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

(a) An identification of the purpose to which the fee is to be put
(b) A demonstration of a reasonable relationship between the fee and the purpose for which it is charged
(c) An identification of all sources and amounts of funding anticipated to complete financing of incomplete improvements in the fee program
(d) A designation of the approximate dates on which the funding is expected to be deposited into the appropriate account or fund

The Report is intended to satisfy the annual reporting requirements for FY23-24. The City must make this information available for public review within 180 days after the end of each fiscal year and must present it at the next regularly scheduled public meeting no less than 15 days after this information is made available to the public.

Historically, the City has complied with this requirement through the City Council's acceptance of the Development Impact Fee Annual Report containing the required information and adopting a resolution confirming acceptance of the report.

ANALYSIS

The AB 1600: Development Impact Fee Annual Report FY23-24 was made publicly available within 180 days of the end of the fiscal year, and not less than 15 days prior to this City Council Meeting when it was published to the City website. A resolution approving the report will memorialize the City's publication and presentation of the annual fiscal report in compliance with California law.

Summary of Report:
During FY23-24, the City maintained 31 different DIF funds, with combined collected fees of $20,201,734 in FY23-24. Development impact fee expenditures for FY23-24 totaled $4,164,874.

The main fee areas are the Core Fees, Master Plan Fees, and the Ellis Fees. Gateway Phase 1 will be consolidated with the City Master Plan Area in the future. AB1600: Development Impact Fee Annual Report for FY23-24 (Attachment A) analyzes each fee program and reports on the required AB1600 requirements.

For Council consideration is the resolution approving the Report and the findings as to the unexpended development impact fees.

FISCAL IMPACT

There is no fiscal impact related to approving the report.

COORDINATION

Staff coordinated with the Finance Department.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving the City's Development Impact Fee Annual Report for Fiscal Year 2023-2024 on Development Impact Fee revenues and expenditures, in accordance with the Mitigation Fee Act.

Prepared by: Veronica Child, Management Analyst

Reviewed by: Sara Castro, Finance Director
Matthew Summers, Interim Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – AB1600: Development Impact Fee Annual Report (Fiscal Year 23-24)

AB1600: Development Impact Fee Annual Report

Fiscal Year 23-24

City of Tracy

Prepared By:

Harris & Associates

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Section 1 Executive Summary

Development Impact Fees are fees imposed by a local government on new or proposed development projects to ensure public services and infrastructure will be sufficient to serve those new development projects. California state law requires local agencies, on an annual basis, to prepare a report on the status of their Development Impact Fee (DIF) program in accordance with California Assembly Bill 1600 (AB1600). Additionally, every five years following the first deposit into the account or fund, the City must make additional findings. In 2023, AB 516 was signed into law and amended certain portions of the Mitigation Fee Act related to the annual and five-year reporting requirements. This report will serve as the City of Tracy's AB1600 report for the fiscal year starting July 1, 2023 and ending June 30, 2024. The City last completed the five-year reporting requirements along with the AB1600 report for the fiscal year starting July 1, 2021 and ending June 30, 2022. The next five-year report will be completed with the AB1600 report for the fiscal year starting July 1, 2026 and ending June 30, 2027.

The City of Tracy maintains three main fee areas: the Ellis Fees, the Master Plan Fees, and the Core Fees. Gateway Phase 1 will be consolidated with the City Master Plan Area in the future.

The Ellis Program Area

The Ellis Program Area (Ellis) is located between Lammers Road and Corral Hollow Road along the north side of the Union Pacific rail line. The infrastructure needed to serve the Ellis Program Area along with Ellis' fair share of the facilities in the City and the resulting fees required to mitigate the impacts of the Ellis development are outlined in the "Ellis Program Area Finance and Implementation Plan" adopted August 2013.

The Citywide Master Plan Area

As new development occurred throughout the years, specific plans were developed and technical studies were completed to identify the infrastructure necessary to serve the new development. Each specific plan area developed a Finance and Implementation Plan (FIP) to establish the development impact fees that would be required to fund the new infrastructure and summarize the required improvements. In 2012, the City completed Citywide Infrastructure Master Plans and established citywide development impact fees for the Master Planned Area, known as the "Master Plan Fees". The areas within the old, previously established specific plan areas with FIPs, were not included as a part of these new master plans and fee studies.

The Core Area

Many of the old FIPs established in the 1990's are largely built-out. The City found that implementing and updating eight different sets of fees has been burdensome, especially as

the areas approach build-out. The Core Fees Development Impact Fee Study adopted on January 18, 2022 through resolution consolidated the old impact fee programs areas into a single fee area called the "Core Fees".

The following are the development impact fee program areas in the City that were incorporated into the Core Fees:

- I-205 Development Area (I-205)
- Infill Development (Infill)
- Industrial Specific Plan-South (ISP South)
- Northeast Industrial Area - Phase I (NEI I)
- Northeast Industrial Area - Phase II (NEI II)
- Plan C Development (Plan C)
- Presidio Planning Area (Presidio)
- South MacArthur Planning Area (SMPA)

Development impact fee capital expenditures across all DIFs for FY23-24 totaled approximately $2.2 million.

While the fee revenues collected from DIFs can be used by the City to build improvements, they are largely used as a credit and reimbursement mechanism for developers who fund the construction of the improvements within their project development area.

The following sections provide the legal context for this annual report, required reporting information for each of the City's DIFs.

Section 2 Requirements of Mitigation Fee Act (AB1600)

Assembly Bill 1600 (AB1600), commonly known as the Mitigation Fee Act, was enacted by the state of California in 1987 and created Section 66000 et. seq. of the Government Code. AB1600 requires the City to report fee information annually with additional information reported every fifth year. Within 180 days after the last day of each fiscal year, the City must make available the following information from the prior fiscal year:

1. Brief description of the type of fee in the account or fund
2. Amount of the fee
3. Beginning and ending balance in the account or fund
4. Amount of fees collected and the interest earned during the previous year
5. Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete
7. Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each loan will be repaid and the rate of interest the account will receive on the loan
8. Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects

On October 11, 2023, California Governor Gavin Newson signed into law AB 516 which amended certain portions of the Mitigation Fee Act related to the annual and five-year reporting requirements. Under AB 516, Requirements 6 and 8 have been expanded to include the following:

6a. Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted

6b. For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable

8a. For any refunds made, the number of persons or entities identified to receive those refunds

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

1. An identification of the purpose to which the fee is to be put
2. A demonstration of a reasonable relationship between the fee and the purpose for which it is charged
3. An identification of all sources and amounts of funding anticipated to complete financing of incomplete improvements in the fee program
4. A designation of the approximate dates on which the funding is expected to be deposited into the appropriate account or fund

This report is intended to satisfy the annual reporting requirements for FY23-24. The City must make this information available for public review and must present it at the next regularly scheduled public meeting no less than 15 days after this information is made available to the public.

Section 3 City of Tracy Development Impact Fees

Table 1 lists the fees and corresponding fund numbers that comprises the City of Tracy's current DIF fee program.

Table 1: City of Tracy DIF Funds

Fund Number	Fee(s)
316	Infill Area, Downtown Improvements Parking
331	Ellis Program Area, Traffic
332	Ellis Program Area, Drainage
333	Ellis Program Area, Parks
334	Ellis Program Area, Public Buildings
335	Ellis Program Area, Water
336	Ellis Program Area, Recycled Water
337	Ellis Program Area, Wastewater
350	NEI, Storm Drain
356	Tracy Gateway Area: Arterials, Storm Drain, Pub Buildings, Water, Wastewater
358	Ellis Program Area, Program Management
360	Citywide Master Plan Fees, Public Safety Comm
361	Citywide Master Plan Fees, Parks
362	Citywide Master Plan Fees, Storm Drain
363	Citywide Master Plan Fees, Traffic
364	Citywide Master Plan Fees, Wastewater
365	Citywide Master Plan Fees, Water
366	Citywide Master Plan Fees, Public Facilities
367	Citywide Master Plan Fees, Public Safety PD
368	Citywide Master Plan Fees, Recycled Water
369	Citywide Master Plan Fees, Public Safety Fire
371	Core Public Facilities
372	Core Public Safety Fire
373	Core Public Safety Police
374	Core Public Safety Comm Facilities
375	Core Traffic
376	Core Wastewater
377	Core Water
378	Core Parks
379	Core Storm Drain
391	Urban Management Plan, Program Management

Section 4 Overview of Development Impact Fees

Below outlines the required information for each DIF fund.

Infill

The following section describes the fees imposed on new developments in the Infill area, based on the updated Infill Finance and Implementation Plan (FIP) adopted by City Council on April 3, 2012 by Resolution 2012-060. Most of the Infill fees were eliminated following the adoption of the Core Fee Program on January 18, 2022. The remaining Infill, Downtown Improvements Parking fee was closed out in FY22-23, however excess funds remained after the final audit was completed in FY22-23 and will be closed out in FY24-25.

Fund 316 – Infill Area, Downtown Improvements Parking

Requirement 1: Brief description of the type of fee

In conjunction with the adoption of Tracy Municipal Code chapter 6.20 regarding the Downtown Incentive Program, and TMC section 10.08.3470(d)(3), regarding off-street parking requirements within the Downtown Incentive Area, development impact fees were established to offset the City's costs in upgrading parking and streetscape improvements in the Downtown Incentive Area.

Requirement 2: Amount of fee

To spur revitalization of the Downtown, the Downtown Improvements Parking Fee had been reduced to $0 by Resolution 2015-168, adopted on October 6, 2015.

Requirement 3: Beginning and ending balance in the fund

Table 2 summarizes the beginning and ending fund balances for the Infill Area, Downtown Improvements Parking for FY23-24. It should be noted that the remaining fund balance will be transferred out due to no future planned projects.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 2 summarizes the fees collected and the interest earned for the Infill Area, Downtown Improvements Parking Fee for FY23-24.

Table 2: Infill Area, Downtown Improvements Parking Fund Summary

Infill, Parking	Total
Beginning Fund Balance (July 1, 2023)[1]	$ 2,478.00
Revenues	
Fees Collected	$ -
Interest/Investment Earnings	$ -
Other Revenues	$ -
Total Revenues	$ -
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 2,478.00

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

There are no future projects intended from this fund and the fund will be closed out.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Ellis

The following sections describe the fees imposed on new developments in the Ellis Specific Plan area, based on the Ellis Finance and Implementation Plan adopted by City Council on August 20, 2013 by Resolution 2013-136. The Public Building Fees were further updated on September 16, 2014, by Resolution 2014-158.

Fund 331 – Ellis Program Area, Traffic

Requirement 1: Brief description of the type of fee

The purpose of the Traffic Fee is to fund the intersection and roadways that are necessary to mitigate the traffic impacts created by new development within the Ellis Program Area. To accommodate this increased growth and travel demand, new or expanded intersections and roadways will be constructed as outlined in the Ellis Finance and Implementation Plan. The County traffic fee gets remitted to the Joint Power Authority to fund regional transportation improvements.

Requirement 2: Amount of fee

Table 3 identifies the Ellis Program Area, Traffic and County Traffic fee for FY23-24.

Table 3: Ellis Program Area, Traffic and County Traffic Fee

Land Use	Traffic Fee	County Traffic Fee
Residential (per unit)		
Low Density	$ 2,693.00	$ 1,500.00
Medium Density	$ 2,693.00	$ 1,500.00
High Density	$ 1,293.00	$ 720.00
Non-Residential (per acre)		
Commercial/Retail	$ 42,825.00	$ -
Storage	$ 2,693.00	$ -

Requirement 3: Beginning and ending balance in the fund

Table 4 summarizes the beginning and ending fund balances for the Ellis Program Area, Traffic fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 4 summarizes the fees collected and the interest earned for the Ellis Program Area, Traffic fund for FY23-24. This includes both the Traffic Fee and the County Traffic Fee. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 4: Ellis Program Area, Traffic Fund Summary

Ellis Area Traffic	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 1,755,791.15
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 67,052.00
Other Revenues	$ -
Total Revenues	$ 67,052.00
Expenses	
Project Expenses	$ (28,071.66)
Other Expenses	$ -
Total Expenses	$ (28,071.66)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 1,794,771.49

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees

Table 5 identifies the Ellis Program Area, Traffic expenditures for FY23-24.

Table 5 : Ellis Program Area, Traffic Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Intersection - Corral Hollow & Linne	72104	$ (28,071.66)	29%
Total		$ (28,071.66)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The improvements below in **Table 6** are compiled from the Ellis FIP and the City's CIP Budget FY24-25 and are currently in construction or soon to be constructed by the developer in exchange for fee credits and reimbursements. The developer will work with the City to determine timing of improvements based upon construction progress and project need. The County traffic fee gets remitted to the Joint Power Authority to fund regional transportation improvements. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 6: Ellis Program Area, Traffic CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Corral Hollow/ Linne Rd - Signalize. Convert intersection to T with no EB Approach, widen WB approach to add 1 LT and 1 TR lane, widen NB approach to provide 2 Thru lanes and 1 RT lane, Widen SB approach to provide 1 LT and 2 Thru lanes.	72104	$ 8,394.00	In Progress	29%	242 - Transp Sales Tax 363 - TIMP Traffic
Corral Hollow/Valpico Rd - Signalize & widen SB approach to provide 1 TL and 1 TR Lane	72095	$ 404,482.00	In Progress	10%	375 - Core Traffic
Corral Hollow Road - 2 lanes to 4 lane arterial (Linne to Old Schulte)	73144	$ 432,021.00	In Progress	7%	242 - Transp Sales Tax 245 - Gas Tax 363 - TIMP Traffic 392 - Reg Transport Impact
Corral Hollow Road - Rural to 4 lane Arterial (I580 - Linne)	73161	$ 821,260.00	In Progress	25%	301 - General Projects 363 - TIMP Traffic
Valpico Road - Rural to 4 lane Arterial	73190	$ 147,987.00	2025/2026	2%	375 - Core Traffic
Total		$ 1,814,144.00			

Table 7 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 7: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Corral Hollow/ Linne Rd - Signalize. Convert intersection to T with no EB Approach, widen WB approach to add 1 LT and 1 TR lane, widen NB approach to provide 2 Thru lanes and 1 RT lane, Widen SB approach to provide 1 LT and 2 Thru lanes.	72104	In Progress	NA	NA
Corral Hollow/Valpico Rd - Signalize & widen SB approach to provide 1 TL and 1 TR Lane	72095	In Progress	NA	NA
Corral Hollow Road - 2 lanes to 4 lane arterial (Linne to Old Schulte)	73144	In Progress	NA	NA
Corral Hollow Road - Rural to 4 lane Arterial (I580 - Linne)	73161	In Progress	NA	NA
Valpico Road - Rural to 4 lane Arterial	73190	2023/2024	2025/2026	Delay due to ROW acquisition issues.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 332 – Ellis Program Area, Storm Drainage

Requirement 1: Brief description of the type of fee

This fee is collected from development located within the Ellis Program Sub-basin to fund master plan drainage infrastructure needs and to pay for the use of excess capacity in existing downstream storm drainage facilities as outlined in the Ellis Finance and Implementation Plan and the Ellis Program Sub-Basin Reevaluation of Program Storm Drainage Infrastructure Memo prepared by Storm Water Consulting Inc. on August 4, 2015.

Requirement 2: Amount of fee

Table 8 identifies the Ellis Program Area, Storm Drainage Fee for FY23-24.

Table 8: Ellis Program Area, Storm Drainage Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 1,797.00
Medium Density	$ 981.00
High Density	$ 2,229.00
Non-Residential (per acre)	
Commercial/Retail	$ 23,836.00
Storage	$ 6,691.00

Requirement 3: Beginning and ending balance in the fund

Table 9 summarizes the beginning and ending fund balances for the Ellis Program Area, Storm Drainage for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 9 summarizes the fees collected and the interest earned for the Ellis Program Area, Storm Drainage Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 9: Ellis Program Area, Storm Drainage Fund Summary

Ellis Area Drainage	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 2,648,907.78
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 100,747.00
Other Revenues	$ -
Total Revenues	$ 100,747.00
Expenses	
Project Expenses	$ (1,004.63)
Other Expenses	$ -
Total Expenses	$ (1,004.63)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 2,748,650.15

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 10 identifies the Ellis Program Area, Storm Drain expenditures for FY23-24.

Table 10: Ellis Program Area, Storm Drain Project Expenditures

Project	CIP #	Amount Expended
Project Management	ELL3A	$ (1,004.63)
Total		$ (1,004.63)

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of improvements below in **Table 11** is identified in the Ellis FIP and the developer is working with the City to process reimbursements for completing the projects.

Table 11: Ellis Program Area, Storm Drainage CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund
Detention Basin 3A (36 AF plus 36 AF add'l excavation)	Developer Build	$ 972,000.00	Completed, Reimbursement Pending	100%
2,800 LF of 12" SD (100 LF of Bore & Jack)	Developer Build	$ 351,000.00	Completed, Reimbursement Pending	100%
2,640 LF of 60" SD	Developer Build	$ 1,960,200.00	Completed, Reimbursement Pending	100%
660 LF of 66" SD (Valpico Road)	Developer Build	$ 579,150.00	Completed, Reimbursement Pending	100%
2,100 LF of 66" SD (to DET 3A)	Developer Build	$ 1,842,750.00	Completed, Reimbursement Pending	100%
Total		$ 5,705,100.00		

Table 12 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 12: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Detention Basin 3A (36 AF plus 36 AF add'l excavation)	76PP-XXX	2023/2024	Completed, Reimbursement Pending	NA
2,800 LF of 12" SD (100 LF of Bore & Jack)	Developer Build	Completed	Completed, Reimbursement Pending	NA
2,640 LF of 60" SD	76PP-XXX	2023/2024	Completed, Reimbursement Pending	NA
660 LF of 66" SD (Valpico Road)	76PP-XXX	2023/2024	Completed, Reimbursement Pending	NA
2,100 LF of 66" SD (to DET 3A)	76PP-XXX	2023/2024	Completed, Reimbursement Pending	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 333 – Ellis Program Area, Parks and Recreation

Requirement 1: Brief description of the type of fee

The purpose of the Parks and Recreation Fee is to fund the park and recreation needs generated by growth in the Ellis Program Area. Each new resident creates a demand for additional park and recreation facilities such as neighborhood parks and community parks. The City's adopted standard is to provide three acres of Neighborhood Park and one acre of Community Park for each 1,000 new residents. In order to accommodate these needs, new facilities will be built and/or existing facilities will be expanded. The developer receives park credits for the construction of parks.

Requirement 2: Amount of fee

Table 13 identifies the Ellis Program Area, Parks and Recreation fee for FY23-24.

Table 13: Ellis Program Area, Parks and Recreation Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 8,128.00
Medium Density	$ 6,651.00
High Density	$ 5,419.00

Requirement 3: Beginning and ending balance in the fund

Table 14 summarizes the beginning and ending fund balances for the Ellis Program Area, Parks and Recreation fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 14 summarizes the fees collected and the interest earned for the Ellis Program Area, Parks and Recreation fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 14: Ellis Program Area, Parks and Recreation Fund Summary

Ellis Area Parks	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 185,762.29
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 7,100.00
Other Revenues	$ -
Total Revenues	$ 7,100.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 192,862.29

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The developer is building and dedicating neighborhood park improvements in exchange for fee credits, thus, this fund is not anticipated to fund any projects in the near future. Developer will work with the City to determine timing of improvements based upon construction progress and project need. No projects were identified in last year's report to report on.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 334 – Ellis Program Area, Public Buildings

Requirement 1: Brief description of the type of fee

The purpose of the Public Building Fee is to fund their fair share portion of the City Hall & Public Works facility, community center, library, and public safety facility projects that are needed to serve new development within the Ellis Program Area. In order to accommodate these needs, new facilities will be built or existing facilities will be expanded. The facilities are identified in the Ellis Finance and Implementation Plan.

Requirement 2: Amount of fee

Table 15 identifies the Ellis Program Area, Public Buildings fee for FY23-24.

Table 15: Ellis Program Area, Public Buildings Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 3,479.00
Medium Density	$ 2,846.00
High Density	$ 2,319.00
Non-Residential (per acre)	
Commercial/Retail	$ 2,369.00
Storage	$ 2,369.00

Note: Ellis met their Communication Tower and Equipment fee obligation by paying $155,141.50 at the first final map, as such, fees do not include the Communication Tower and Equipment fee.

Requirement 3: Beginning and ending balance in the fund

Table 16 summarizes the beginning and ending fund balances for the Ellis Program Area, Public Buildings fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 16 summarizes the fees collected and the interest earned for the Ellis Program Area, Public Buildings fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 16: Ellis Program Area, Public Buildings Fund Summary

Ellis Area Public Bldgs	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 2,940,749.70
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 111,846.00
Other Revenues	$ -
Total Revenues	$ 111,846.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 3,052,595.70

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Table 17 shows the current prioritization of funds which includes a multi-generational recreation facility which will include a police substation. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 17: Ellis Program Area, Public Buildings CIP Projects

Project	CIP #	Project Cost	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources
Multi-Generational Rec Center	78178	$ 2,506,799.00	In Progress	3%	307 - Measure V Grant Funding Developer Contribution
Public Safety Facilities - Multigenerational Center (PD Substation)	TBD	$ 1,753,220.00	In Progress	5%	307 - Measure V 366 - TIMP Public Facilities
Total		$ 4,260,019.00			

Table 18 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 18: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Multi-Generational Rec Center	78178	In Progress	NA	NA
Public Safety Facilities - Multigenerational Center (PD Substation)	TBD	2023/2024	In Progress	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 335 – Ellis Program Area, Water

Requirement 1: Brief description of the type of fee

The purpose of the Water Fee is to fund the water conveyance, water supply, and water treatment facilities that are necessary to provide water to the future new development in the Ellis Program Area. In order to accommodate this increased demand, new facilities must be built and/or existing facilities expanded as shown in the Ellis Finance and Implementation Plan.

Requirement 2: Amount of fee

Table 19 identifies the Ellis Program Area, Water Fee for FY23-24.

Table 19: Ellis Program Area, Water Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 7,058.00
Medium Density	$ 6,070.00
High Density	$ 4,094.00
Non-Residential (per acre)	
Commercial/Retail	$ 39,736.00
Storage	$ 39,736.00

Requirement 3: Beginning and ending balance in the fund

Table 20 summarizes the beginning and ending fund balances for the Ellis Program Area, Water Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 20 summarizes the fees collected and the interest earned for the Ellis Program Area, Water Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets. The fees collected are shown as negative due to a developer reimbursement for fees previously paid and for which they were later eligible to receive credits. The fund balance includes interest collected from prior funds before reimbursements were made. These funds will be reallocated to the other Ellis funds.

Table 20: Ellis Program Area, Water Fund Summary

Ellis Area Water	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 24,355.26
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 926.00
Other Revenues	$ -
Total Revenues	$ 926.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 25,281.26

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The developer is building and dedicating improvements in exchange for fee credits, thus, this fund is not anticipated to fund any projects in the near future. Developer will work with the City to determine timing of improvements based upon construction progress and project need. There were no projects listed in last year's report to provide an update on.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 336 – Ellis Program Area, Recycled Water

Requirement 1: Brief description of the type of fee

The purpose of the Recycled Water Fee is to fund the recycled water facilities that are necessary to provide recycled water to the future new development in the Ellis Program Area. To accommodate this increased demand, new facilities must be built and/or existing facilities expanded.

Requirement 2: Amount of fee

Table 21 identifies the Ellis Program Area, Recycled Water Fee for FY23-24.

Table 21: Ellis Program Area, Recycled Water Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 2,654.00
Medium Density	$ 2,282.00
High Density	$ 1,539.00
Non-Residential (per acre)	
Commercial/Retail	$ 14,942.00
Storage	$ 14,942.00

Requirement 3: Beginning and ending balance in the fund

Table 22 summarizes the beginning and ending fund balances for the Ellis Program Area, Recycled Water fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 22 summarizes the fees collected and the interest earned for the Ellis Program Area, Recycled Water fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets. Ellis receives credits for building their recycled water improvements.

Table 22: Ellis Program Area, Recycled Water Fund Summary

Ellis Area Recycled Water	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 35,966.34
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 1,367.00
Other Revenues	$ -
Total Revenues	$ 1,367.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 37,333.34

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Ellis funds a fair share of the improvements identified in the Recycled Water Master Plan. Ellis has built infrastructure and received fee credits and reimbursements. **Table 23** identifies the current prioritization of funds. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 23: Ellis Program Area, Recycled Water CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Citywide Recycled Water Contribution	74168	$ 5,617,291.00	2025/2026	19%	368 - TIMP Recycled Water 525 - Grants
Total		$ 5,617,291.00			

Table 24 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 24: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Citywide Recycled Water Contribution	74168	2025/2026	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 337 – Ellis Program Area, Wastewater

Requirement 1: Brief description of the type of fee

The purpose of the Wastewater System Fee is to fund the wastewater facilities and improvements that are needed to serve new development within the Ellis Program Area. In order to accommodate the increase wastewater generated by new development, new facilities will be built and/or existing facilities will be expanded as outlined in the Ellis Finance and Implementation Plan.

Requirement 2: Amount of fee

Table 25 identifies the Ellis Program Area, Wastewater Fee for FY23-24.

Table 25: Ellis Program Area, Wastewater Fee

Land Use	Fee
Residential (per unit)	
Low Density	$ 8,337.00
Medium Density	$ 6,753.00
High Density	$ 5,586.00
Non-Residential (per acre)	
Commercial/Retail	$ 43,352.00
Storage	$ 3,168.00

Requirement 3: Beginning and ending balance in the fund

Table 26 summarizes the beginning and ending fund balances for the Ellis Program Area, Wastewater Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 26 summarizes the fees collected and the interest earned for the Ellis Program Area, Wastewater Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 26: Ellis Program Area, Wastewater Fund Summary

Ellis Area Wastewater	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 3,458,887.84
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 131,548.00
Other Revenues	$ -
Total Revenues	$ 131,548.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 3,590,435.84

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Table 27 identifies the Ellis Program Area, Wastewater CIP projects identified in the Ellis FIP and FY24-25 CIP budget updated with remaining project costs. Fees will continue to be collected for contribution to the WWTP expansion future phases. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 27: Ellis Program Area, Wastewater CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Sewer Capacity Upgrade - Corral Hollow between Schulte & 11th	74165	$ 1,207,636.00	In Progress	11%	364 - TIMP Wastewater
Tracy WWTP Expansion Future Phase 2C	74169	$ 9,043,404.00	In Progress	34%	523 - Wastewater Capital 364 - TIMP Wastewater 376 - Core Wastewater
Total		$ 10,251,040.00			

Table 28 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 28: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Sewer Capacity Upgrade - Corral Hollow between Schulte & 11th	74165	In Progress	NA	NA
Tracy WWTP Expansion Future Phase 2C	74169	In Progress	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 350 - Northeast Industrial Area, Storm Drain

Requirement 1: Brief description of the type of fee

This fee is collected from Northeast Industrial Area and Eastside Industrial Area, to contribute to the construction of Storm Drain facilities as identified in Storm Drainage Impact Fee Study for the expanded Northeast Industrial Area and Eastside Industrial Area adopted on October 2, 2018 by Resolution 2018-204.

Requirement 2: Amount of fee

Table 29 identifies the Northeast Industrial Area, Storm Drain Fee for FY23-24.

Table 29: Northeast Industrial Area, Storm Drain Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 3,807.00
Low Density	$ 2,631.00
Medium Density	$ 1,625.00
High Density	$ 1,496.00
Non-Residential (per acre)	
Commercial/Retail	$ 44,581.00
Office	$ 44,581.00
Industrial	$ 44,581.00

Requirement 3: Beginning and ending balance in the fund

Table 30 summarizes the beginning and ending fund balances for the Northeast Industrial Area, Storm Drain Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 30 summarizes the fees collected and the interest earned for the Northeast Industrial Area, Storm Drain Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 30: Northeast Industrial Area, Storm Drain Fund Summary

NEI Storm Drain	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 2,601,718.93
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 98,938.00
Other Revenues	$ -
Total Revenues	$ 98,938.00
Expenses	
Project Expenses	$ (32,288.99)
Other Expenses	$ -
Total Expenses	$ (32,288.99)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 2,668,367.94

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 31 identifies the Northeast Industrial Area, Storm Drain expenditures for FY23-24.

Table 31: Northeast Industrial Area, Storm Drain Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Eastside Channel Lining from Grant Line Road to MacArthur	76087	$ (32,288.99)	100%
Total		$ (32,288.99)	

Requirement 6: Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the

previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The improvements in **Table 32** are identified in the updated expanded Northeast Industrial Area and Eastside Industrial Area Storm Drainage Fees adopted on October 2, 2018 through Resolution No. 2018-204. The City has purchased land for DET NEI and developers are constructing the improvements, including the pump station and force main, and will receive fee credits/reimbursement for their costs. DET 16 is the next anticipated project that will be developer built and funded through this fee program. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 32: Northeast Industrial Area, Storm Drain CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund
Eastside Channel Lining from Grant Line Road to MacArthur	76087	$ 2,467,711.01	In Progress	100%
DET NEI (128 AF, plus 22 AF add'l excavation) - Reimbursement Remaining	Developer Build	$ 377,825.96	Completed, Awaiting Reimbursement	100%
Total		$ 2,845,536.97		

Table 33 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 33: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Eastside Channel Lining from Grant Line Road to MacArthur	76087	2024	In Progress	NA
DET NEI (128 AF, plus 22 AF add'l excavation) - Reimbursement Remaining	Developer Build	Completed, Awaiting Reimbursement	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 356 – Tracy Gateway Phase 1 Area

Requirement 1: Brief description of the type of fee

This fee is collected from the Tracy Gateway Phase 1 Area to contribute to the construction of Arterials, Storm Drain, Public Buildings, Water, Wastewater facilities as identified in the Finance and Implementation Plan adopted on July 17, 2007 by Resolution No. 2007-175. The Public Building Fees were further updated on September 16, 2014, by Resolution 2014-158.

Requirement 2: Amount of fee

Table 34 identifies the Tracy Gateway Phase 1 Area Fees for FY23-24.

Table 34: Tracy Gateway Area Fee

Fee	Retail[1,2]	Office (without Deferral)[2]	Office (with Deferral)[2]	Hotel (200 room)
Non-Residential (per unit)				
Public Buildings	$ 7,385.02	$ 17,806.41	$ 17,806.41	$ 15,306.59
Streets & Highways	$ 36,952.18	$ 25,610.00	$ 1,626.10	$ 34,605.86
Wastewater	$ 28,176.43	$ 40,705.90	$ 1,106.02	$ 123,567.20
Non-Potable Water	$ 35,076.84	$ 50,674.77	$ 6,739.46	$ 153,828.79
Water[3]	$ 45,382.07	$ 65,562.52	$ 65,562.52	$ 199,022.19
Storm	$ 9,549.40	$ 9,549.40	$ 4,350.19	$ 5,199.20

1 Cost for the Second Floor Office and Hotel (150 room) are included in the Retail land use category.

2 Cost for The Golf Course Club House, Golf Course, and Golf Maintenance Facilities have been spread to other Phase 1 land uses. Spread is based on Percent of fees paid.

3 Costs for Water reflect costs for Over-sizing of facilities that Gateway will need to construct upfront. Over-sizing costs may be reimbursable to the develop

Requirement 3: Beginning and ending balance in the fund

Table 35 summarizes the beginning and ending fund balances for the Tracy Gateway Area for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 35 summarizes the fees collected and the interest earned for the Tracy Gateway Area Fees for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 35: Tracy Gateway Area Fund Summary

Gateway	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 1,989,153.78
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 75,696.00
Other Revenues	$ -
Total Revenues	$ 75,696.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 2,064,849.78

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of improvements in **Table 36** is identified in the Tracy Gateway Phase 1 Finance and Implementation Plan and have had a portion of the project funding collected through fees from Sutter Hospital. Additional fees are needed to complete funding for the listed projects. The timing is dependent on development moving forward. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 36: Tracy Gateway Area CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Wastewater Conveyance to Tracy Hills Wastewater Reclamation Facility (WRF), Tracy Hills WRF Fair Share	74PP-064	$ 2,147,479.00	Pending additional project funding	23%	364 - TIMP Wastewater
Pressure Regulating Valve (PRV) in Lammers, In tract Program Water Transmission Lines, Off-site Water Transmission Pipelines Zone 1 and Zone 2	75085	$ 5,337,928.00	Pending additional project funding	100%	
Water Pump Station	75PP-082	$ 1,620,000.00	Pending additional project funding	100%	
Emergency Well	75PP-083	$ 2,430,000.00	Pending additional project funding	100%	
Total		$ 11,535,407.00			

Table 37 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 37: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Wastewater Conveyance to Tracy Hills Wastewater Reclamation Facility (WRF), Tracy Hills WRF Fair Share	74PP-064	Pending additional project funding	N/A	NA
Pressure Regulating Valve (PRV) in Lammers, In tract Program Water Transmission Lines, Off-site Water Transmission Pipelines Zone 1 and Zone 2	75085	Pending additional project funding	N/A	NA
Water Pump Station	75PP-082	Pending additional project funding	N/A	NA
Emergency Well	75PP-083	Pending additional project funding	N/A	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 358 – Ellis Program Area, Program Management

Requirement 1: Brief description of the type of fee

The monies associated with the Ellis Project Management fund are collected under other fee programs as part of the five percent mark-ups and transferred to this account after they have been collected to fund costs related to the oversight and management of the fee program.

Requirement 2: Amount of fee

The fees are collected as part of the individual fees, calculated as a mark-up of five percent on the project costs. The five percent is then Transferred to the program management fund. **Table 38** identifies the Ellis Program Management fee is calculated.

Table 38: Ellis Program Area, Program Management Fee

Land Use	Fee
Residential (per unit)	
Low Density	Fee * 0.05
Medium Density	Fee * 0.05
High Density	Fee * 0.05
Non-Residential (per acre)	
Commercial/Retail	Fee * 0.05
Storage	Fee * 0.05

Requirement 3: Beginning and ending balance in the fund

Table 39 summarizes the beginning and ending fund balances for the Ellis Program Management fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 39 summarizes the fees collected and the interest earned for the Ellis Program Management fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 39: Ellis Program Area, Program Management Fund Summary

Ellis Area Prgrm Mgmt	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ (88,063.78)
Revenues	
Fees Collected	$ -
Interest/Investment Earnings[2]	$ 25,950.00
Other Revenues	$ -
Total Revenues	$ 25,950.00
Expenses	
Project Expenses	$ (34,247.50)
Other Expenses	$ -
Total Expenses	$ (34,247.50)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ (96,361.28)

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 40 identifies the Ellis Program Area, Program Management Expenditures for FY23-24.

Table 40: Ellis Program Area, Program Management Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Ellis Area Program Management	79211	$ (34,247.50)	100%
Total		$ (34,247.50)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

This fund is used to for program administrative costs, no public capital improvements are identified.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund in FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 360 – Citywide Master Plan Fees, Public Safety - Communication Facilities

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Fee – Communication Facilities is to fund additional communication facilities that are needed to serve new development in Master Plan Fee program area. Each new resident and worker generates the need for the City to expand their facilities in order to provide adequate response times and improve the City's emergency communication facilities. To accommodate these needs, new facilities will be built or existing facilities will be expanded as identified in the Public Safety Impact Fee Update adopted on October 1, 2019, by Resolution 2019-196.

Requirement 2: Amount of fee

Table 41 identifies the Citywide Master Plan Fees, Public Safety - Communication Facilities Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 41: Citywide Master Plan Fees, Public Safety - Comm Facilities Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 325.00
Low Density	$ 325.00
Medium Density	$ 268.00
High Density	$ 217.00
Non-Residential (per 1,000 sf)	
Commercial/Retail	$ 98.83
Office	$ 164.71
Industrial	$ 32.94

Requirement 3: Beginning and ending balance in the fund

Table 42 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Public Safety - Communication Facilities for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 42 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Public Safety - Communication Facilities Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 42: Citywide Master Plan Fees, Public Safety - Comm Facilities Fund Summary

TIMP, Pub Safety Comm	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 965,064.28
Revenues	
Fees Collected	$ 52,033.02
Interest/Investment Earnings[2]	$ 36,711.00
Other Revenues	$ -
Total Revenues	$ 88,744.02
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 1,053,808.30

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Public Safety – Communication Facilities Impact Fees adopted on October 1, 2019, outlines the facilities necessary to mitigate new development's impact on the City's Communication Facilities. **Table 43** identifies the Radio Communications Tower project that will utilize funds collected by this fee. The project still requires additional funding to commence. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 43: Citywide Master Plan Fees, Public Safety - Comm Facilities CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Radio Communications Tower	TBD	$ 2,419,064.00	TBD	58%	TBD
Total		$ 2,419,064.00			

Table 44 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay. The previously identified project still does not have adequate funding to commence.

Table 44: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Radio Communications Tower	TBD	TBD	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 361 – Citywide Master Plan Fees, Parks

Requirement 1: Brief description of the type of fee

The City standard for parks is 1 acre per 1,000 residents for Community Parks and 3 acres per 1,000 residents for Neighborhood parks. The Park fee is collected from new development within the master plan area based on the Park Development Impact Fees adopted on January 7, 2014, by Resolution 2014-10.

Requirement 2: Amount of fee

Table 45 identifies the Citywide Master Plan Fees, Parks Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 45: Citywide Master Plan Fees, Parks Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 10,654.00
Low Density	$ 10,654.00
Medium Density	$ 8,717.00
High Density	$ 7,103.00

Requirement 3: Beginning and ending balance in the fund

Table 46 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Parks Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 46 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Parks Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 46: Citywide Master Plan Fees, Parks Fund Summary

TIMP, Parks	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 10,792,321.50
Revenues	
Fees Collected	$ 1,529,989.73
Interest/Investment Earnings[2]	$ 410,493.00
Other Revenues	$ -
Total Revenues	$ 1,940,482.73
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 12,732,804.23

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Parks Master Plan outlines the park needs and costs to serve new development. The Master Plan Area infrastructure project needs have recently been updated through Master Plan updates. **Table 47** lists the projects currently in progress and anticipated to begin within the next 5 years. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 47: Citywide Master Plan Fees, Parks CIP Project

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Gretchen Tally Park Phase III	78170	$ 984,656.00	In Progress	27%	271 - LMD 301 - General Projects 391 - Prgm Mngmt
Future 15-Acre Community Park (Tracy Hills)	78PP-XXX	$ 17,226,000.00	2025/2026	100%	
Total		$ 18,210,656.00			

Table 48 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 48: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Gretchen Tally Park Phase III	78170	In Progress	NA	NA
Future 15-Acre Community Park (Tracy Hills)	78PP-XXX	2025/2026	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 362 – Citywide Master Plan Fees, Storm Drainage

Requirement 1: Brief description of the type of fee

The purpose of the Storm Drain Fee is to fund storm drain facilities included in the Citywide Storm Drainage Master Plan, and subsequent amendments, that are needed to serve future development in the Master Plan Fee program area. The Storm Drainage fees were adopted on January 7, 2014 by resolution 2014-10 and updated on October 2, 2018 by resolution 2018-204 and on July 1, 2020 by Resolution 2019-217.

Requirement 2: Amount of fee

Table 49 identifies the Citywide Master Plan, Storm Drainage Fees for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 49: Citywide Master Plan Fees, Storm Drainage Fee

Land Use	Keenan	Westside Residential	NW WSO	Larch Clover	South MacArthur and Rocha	Mountain House[1]	Lammers Watershed[2]	Kagehiro and West Larch Clover[3]
Residential (per unit)								
Very Low Density	NA	NA	NA	NA	$ 6,860.00	NA	$ 2,071.00	$ 866.00
Low Density	$ 3,019.00	$ 6,443.00	NA	NA	$ 6,300.00	NA	$ 1,902.00	$ 751.00
Medium Density	$ 2,039.00	$ 4,317.00	NA	NA	$ 4,189.00	NA	$ 1,265.00	$ 528.00
High Density	$ 1,822.00	$ 3,850.00	NA	NA	$ 3,749.00	NA	$ 1,133.00	$ 470.00
Non-Residential (per acre)								
Commercial/Retail	NA	NA	$ 23,096.00	$ 14,175.00	$ 114,892.00	$ 22,792.00	$ 34,731.00	NA
Office	NA	NA	$ 23,096.00	NA	NA	$ 22,792.00	$ 34,731.00	NA
Industrial	NA	NA	$ 23,096.00	NA	NA	$ 22,792.00	$ 34,731.00	NA

Please see the storm drainage shed fee studies for the split between outfall versus program infrastructure.

1 Updated Lammers and Mountain House Watershed Storm Drainage Fees were adopted on November 5, 2019 through Resolution No. 2019-217. Fees have been adjusted by ENR in 2020, 2021, 2022, and 2023.

2 Kagehiro and West Larch Clover only pay the Westside Outfall fee. No additional program infrastructure is required by Kagehiro and the West Larch Clover area is discharged directly to the existing detention basin.

3 Kagehiro and West Larch Clover only pay the Westside Outfall fee. No additional program infrastructure is required by Kagehiro and the West Larch Clover area is discharged directly to the existing detention basin.

Requirement 3: Beginning and ending balance in the fund

Table 50 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Storm Drainage Fund for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 50 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Storm Drainage Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 50: Citywide Master Plan Fees, Storm Drain Fund Summary

TIMP, Strm Drn	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 13,258,221.78
Revenues	
Fees Collected	$ 282,384.32
Interest/Investment Earnings[2]	$ 503,993.00
Other Revenues	$ -
Total Revenues	$ 786,377.32
Expenses	
Project Expenses	$ (18,633.36)
Other Expenses	$ -
Total Expenses	$ (18,633.36)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 14,025,965.74

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 51 identifies the Citywide Master Plan Fees, Storm Drain Fund expenditures for FY23-24.

Table 51: Citywide Master Plan Fees, Storm Drain Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Storm Drain Master Plan	76086	$ (18,633.36)	54%
Total		$ (18,633.36)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Storm Drainage Master Plan and subsequent amendments, outline the facilities necessary to mitigate new development's impact on the storm drainage system. The Master Plan Area infrastructure project needs are currently being updated. **Table 52** identifies the priority projects that will utilize funds collected by this fee within the next five years. The timing of project commencement and funding contributions will be prioritized and evaluated through the City's CIP process pending the Master Plan updates. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 52: Citywide Master Plan Fees, Storm Drain CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Storm Drain Master Plan	76086	$ 18,633.00	In Progress	54%	391 - Program Mgmnt
Concrete Channel Lining	TBD	$ 11,529,000.00	2026/2027	100%	
DET 10/11 (240 AF needed for storage)	TBD	$ 1,746,150.00	2026/2027	15%	TBD
DET 10/11 Pump Station (30.0 cfs capacity)	TBD	$ 543,450.00	2026/2027	15%	TBD
DET 10/11 Landscaping – Low Visibility	TBD	$ 158,700.00	2026/2027	15%	TBD
DET 10/11 Spillway & Outfall improvements	TBD	$ 70,950.00	2026/2027	15%	TBD
Total		$ 14,048,250.00			

Table 53 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 53: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Storm Drain Master Plan	76086	2023/2024	In Progress	NA
Concrete Channel Lining	TBD	2023/2024	In Progress	NA
DET 10/11 (240 AF needed for storage)	TBD	2024/2025	2026/2027	These projects were pushed out due to delays in the master plan. Tthe City has not started construction of these projects but they are expected to begin in 2026/2027
DET 10/11 Pump Station (30.0 cfs capacity)	TBD	2024/2025	2026/2027	
DET 10/11 Landscaping – Low Visibility	TBD	2024/2025	2026/2027	
DET 10/11 Spillway & Outfall improvements	TBD	2024/2025	2026/2027	

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 363 – Citywide Master Plan Fees, Transportation

Requirement 1: Brief description of the type of fee

The purpose of the Traffic Fee is to fund transportation facilities included in the Transportation Master Plan to serve future development in the Master Plan Fee program area. The facilities are identified in the Transportation Impact Fees adopted on January 7, 2014, by Resolution 2014-10.

Requirement 2: Amount of fee

Table 54 identifies the Citywide Master Plan Fees, Transportation Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 54: Citywide Master Plan Fees, Transportation Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 7,312.00
Low Density	$ 7,312.00
Medium Density	$ 4,461.00
High Density	$ 4,461.00
Non-Residential (per acre)	
Commercial/Retail	$ 223,273.00
Office	$ 178,091.00
Industrial	$ 101,839.00

Requirement 3: Beginning and ending balance in the fund

Table 55 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Transportation for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 55 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Transportation for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 55: Citywide Master Plan Fees, Transportation Fund Summary

TIMP, Traffic	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 23,286,385.78
Revenues	
Fees Collected	$ 1,337,252.15
Interest/Investment Earnings[2]	$ 898,212.00
Other Revenues	$ -
Total Revenues	$ 2,235,464.15
Expenses	
Project Expenses	$ (370,826.37)
Other Expenses	$ -
Total Expenses	$ (370,826.37)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 25,151,023.56

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 56 summarizes the Citywide Master Plan Fees, Transportation expenditures for FY23-24.

Table 56: Citywide Master Plan Fees, Transportation Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Intersect Imp- Corral Hollow & Linne	72104	$ (69,286.46)	29%
IS Imp Grant Line & MacArthur	72121	$ (25,240.23)	100%
IC: I205 & Paradise	73109	$ (103,811.43)	74%
AW: Cor Hol Rd, Linne to Old Schult	73144	$ (84,995.66)	44%
I-205/Mtn House Overcrossing	73146	$ 5,748.75	40%
I-580/Mtn House Overcrossing	73147	$ (77,376.14)	30%
Intrnl Pkwy Bridge Replace/Exp DMC	73148	$ (13,540.78)	100%
Widening - Corral Hollow I580/Linne	73161	$ (2,324.42)	16%
Total		$ (370,826.37)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Transportation Master Plan and Fee Study outline the facilities that are needed to serve new development in the City. The Master Plan Area infrastructure project needs are currently being updated. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 57 summarizes the projects currently programmed in the City's FY24-25 budget and the anticipated priority projects that will utilize funds collected through this fee program.

Table 57: Citywide Master Plan Fees, Transportation CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Intersection Improvements - Corral Hollow & Linne	72104	$ -	In Progress	29%	242 - Transp Sales Tax 331 - Ellis Area Traffic
Median & Crosswalk Improvements at Grant Line & MacArthur	72121	$ -	Completed	100%	
Interchange: I205 & Paradise	73109	$ 756,820.00	In Progress	74%	245 - Gas Tax
Avenue Widening: Cor Hol Rd, Linne to Old Schult	73144	$ 1,024,682.00	In Progress	44%	242 - Transp Sales Tax 245 - Gas Tax 392 - Reg Transport Impact
Overcrossing Upgrade - I205 & Mt House Pkwy	73146	$ 591,696.00	In Progress	40%	392 - Reg Transport Impact
Overcrossing Upgrade - I580 & International Pkwy	73147	$ 11,948,572.00	In Progress	30%	242 - Trans Sales Tax 261 - ISTEA 392 - Reg Transport Impact
International Parkway Bridge Replacement & Expansion Project at DMC	73148	$ 17,560,802.00	In Progress	100%	
Bridge Widening: DMC & OLD Schulte Rd	73149	$ 90,858.00	In Progress	100%	
Bridge Widening: DM Canal & Old Schulte	73150	$ 95,761.00	In Progress	100%	
Widening - Corral Hollow I580/Linne	73161	$ 487,509.00	In Progress	16%	301 - General Projects 331 - Ellis Area Traffic
Transportation Master Plan	73173	$ 90,295.00	In Progress	69%	391 - Program Managemer
TS: CHR & Valpico	72095	$ 2,615,202.00	2024/2025	68%	331 - Ellis Area Traffic 354 - Core DIF 375 - Core Traffic
Total		$ 35,262,197.00			

Table 58 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 58: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Intersection Improvements - Corral Hollow & Linne	72104	In Progress	NA	NA
Median & Crosswalk Improvements at Grant Line & MacArthur	72121	In Progress	Completed	NA
Interchange: I205 & Paradise	73109	In Progress	NA	NA
Avenue Widening: Cor Hol Rd, Linne to Old Schult	73144	In Progress	NA	NA
Overcrossing Upgrade - I205 & Mt House Pkwy	73146	In Progress	NA	NA
Overcrossing Upgrade - I580 & International Pkwy	73147	In Progress	NA	NA
International Parkway Bridge Replacement & Expansion Project at DMC	73148	In Progress	NA	NA
Bridge Widening: DMC & OLD Schulte Rd	73149	In Progress	NA	NA
Bridge Widening: DM Canal & Old Schulte	73150	In Progress	NA	NA
Widening - Corral Hollow I580/Linne	73161	In Progress	NA	NA
Transportation Master Plan	73173	In Progress	NA	NA
TS: CHR & Valpico	72095	NA	In Progress	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 364 – Citywide Master Plan Fees, Wastewater

Requirement 1: Brief description of the type of fee

The purpose of the Wastewater Conveyance and Wastewater Treatment Fees (Wastewater Fees) is to fund the facilities in each category that are necessary to provide wastewater services to future development in the Master Plan Fee program area. The facilities are identified in the Tracy Wastewater Conveyance and Treatment Development Impact Fee Study adopted on January 7, 2014, by Resolution 2014-10.

Requirement 2: Amount of fee

Table 59 identifies the Citywide Master Plan Fees, Wastewater Fees for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 59: Citywide Master Plan Fees, Wastewater Fee

Land Use	Treatment Plant	East Conveyance	West Conveyance
Residential (per unit)			
Very Low Density	$ 9,483.00	$ 3,390.00	$ 2,269.00
Low Density	$ 9,483.00	$ 3,390.00	$ 2,269.00
Medium Density	$ 7,759.00	$ 2,775.00	$ 1,857.00
High Density	$ 6,323.00	$ 2,260.00	$ 1,513.00
Non-Residential (per acre)			
Commercial/Retail	$ 40,950.00	$ 14,641.00	$ 9,801.00
Office	$ 40,950.00	$ 14,641.00	$ 9,801.00
Industrial	$ 37,932.00	$ 13,562.00	$ 9,079.00

Requirement 3: Beginning and ending balance in the fund

Table 60 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Wastewater Fund for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 60 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Wastewater Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 60: Citywide Master Plan Fees, Wastewater Fund Summary

TIMP, Wastewater	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 24,790,818.54
Revenues	
Fees Collected	$ 9,594,450.05
Interest/Investment Earnings[2]	$ 944,200.00
Other Revenues[3]	$ 2,455,834.00
Total Revenues	$ 12,994,484.05
Expenses	
Project Expenses	$ (316,074.46)
Other Expenses	$ -
Total Expenses	$ (316,074.46)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 37,469,228.13

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

3 Revenue from FD523 (Wastewater Capital) for CIP 74083 as part of project close out.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 61 summarizes the Citywide Master Plan Fees, Wastewater expenditures for FY23-24.

Table 61: Citywide Master Plan Fees, Wastewater Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Wastewater Master Plan	74159	$ (37,685.56)	100%
Sewer Capacity Upgrade-CH/Schulte/11	74165	$ (278,388.90)	34%
Total		$ (316,074.46)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Wastewater Master Plan and Fee Study outline the facilities that are needed to serve new development in the City. The Master Plan Area infrastructure project needs are currently being updated through Master Plan updates. Updated infrastructure project costs will be determined and the timing of project commencement will be prioritized through the City's CIP process. **Table 62** highlights the projects currently programmed in the City's FY24-25 budget and in the early design stages with City staff that will utilize this fund balance. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 62: Citywide Master Plan Fees, Wastewater CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Wastewater Master Plan	74159	$ 211,309.44	In Progress	100%	
Sewer Capacity Upgrade - Corral Hollow between Schulte & 11th	74165	$ 3,325,904.00	In Progress	34%	337 - Ellis Area Wastewater 376 - Core Wastewater Developer Contribution
Tracy WWTP Expansion Future Phase 2c	74169	$ 25,956,596.00	In Progress	74%	337 - Ellis Area Wastewater 376 - Core Wastewater
Total		$ 29,493,809.44			

Table 63 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 63: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Wastewater Master Plan	74159	In Progress	NA	NA
Sewer Capacity Upgrade - Corral Hollow between Schulte & 11th	74165	In Progress	NA	NA
Tracy WWTP Expansion Future Phase 2c	74169	In Progress	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 365 – Citywide Master Plan Fees, Water

Requirement 1: Brief description of the type of fee

The purpose of the Water Supply, Water Distribution and Water Treatment Fees (Water Fee) is to fund the facilities in each category that are necessary to provide water to future development in the Master Plan Fee program area. The facilities are identified in the Citywide Water System Master Plan – Tier 1 Development Impact Fee Analysis for the Backbone Buildout Potable and Recycled Water Systems memo adopted on January 7, 2014, by Resolution 2014-10.

Requirement 2: Amount of fee

Table 64 identifies the Citywide Master Plan Fees, Water Fees for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 64: Citywide Master Plan Fees, Water Fee

Land Use	Distribution	Supply	Treatment
Residential (per unit)			
Very Low Density	$ 5,972.00	$ 2,555.00	$ 4,646.00
Low Density	$ 5,972.00	$ 2,555.00	$ 4,646.00
Medium Density	$ 4,299.00	$ 1,840.00	$ 3,344.00
High Density	$ 3,044.00	$ 1,304.00	$ 2,368.00
Non-Residential (per acre)			
Commercial/Retail	$ 24,841.00	$ 10,633.00	$ 19,322.00
Office	$ 18,630.00	$ 7,973.00	$ 14,492.00
Industrial	$ 18,630.00	$ 7,973.00	$ 14,492.00

Requirement 3: Beginning and ending balance in the fund

Table 65 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Water Supply, Treatment, Storage and Distribution for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 65 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Water Supply, Treatment, Storage and Distribution for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 65: Citywide Master Plan Fees, Water Fund Summary

TIMP, Water	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 20,342,932.97
Revenues	
Fees Collected	$ 2,182,318.45
Interest/Investment Earnings[2]	$ 849,747.00
Other Revenues	$ -
Total Revenues	$ 3,032,065.45
Expenses	
Project Expenses	$ (380,718.44)
Other Expenses[3]	$ (34,175.55)
Total Expenses	$ (414,893.99)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 22,960,104.43

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

3 Other expenses include project management.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 66 summarizes the Citywide Master Plan Fees, Water fund expenditures for FY23-24. Other expenses consisted of program management expenses.

Table 66: Citywide Master Plan Fees, Water Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Water Master Plan	75159	$ (10,615.50)	100%
Water Lines Lammers Rd	75160	$ (36,351.94)	95%
Los Vaqueros Reservoir	75174	$ (200,000.00)	67%
BF Sisk Dam Raise	75175	$ (133,751.00)	67%
Total		$ (380,718.44)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Water Master Plan and Fee Study outline the facilities that are needed to serve new development in the City. The Master Plan Area infrastructure project needs are currently being re-evaluated and updated through Master Plan updates. Infrastructure projects to be constructed by this fund will be determined through the updates and the timing of project commencement will be prioritized through the City's CIP process. **Table 67** highlights the projects currently programmed in the City's FY24-25 budget and priority projects the City anticipates starting within the next five years. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 67: Citywide Master Plan Fees, Water CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Water Lines Lammers Rd	75160	$ 7,570,898.00	In Progress	95%	368 - TIMP Recycled Water
BF Sisk Dam Buy In	75175	$ 1,000,000.00	In Progress	67%	513 - Water Capital
Los Vaqueros Reservoir Buy In	75174	$ 1,000,000.00	In Progress	67%	513 - Water Capital
ASR Expansion Study	TBD	$ 350,000.00	2024/2025	100%	
Tracy Blvd Pipeline Improvements (Replace 12-in diameter pipelines)	TBD	$ 1,136,708.10	2024/2025	100%	
Tracy Blvd Jack and Bore Improvements (18-in diameter, 24-in casing)	TBD	$ 198,246.15	2024/2025	100%	
Groundwater Wells Improvements (ammonia addition)	TBD	$ 2,717,000.00	2024/2025	100%	
JJWTP Storage Reservoir (1.0 MG Clearwell No. 3)	TBD	$ 5,448,766.05	2024/2025	100%	
ASR Groundwater Well	TBD	$ 7,063,969.50	2024/2025	100%	
Total		$ 26,485,587.80			

Table 68 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 68: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Water Lines Lammers Rd	75160	In Progress	NA	NA
BF Sisk Dam Buy In	75175	In Progress	NA	NA
Los Vaqueros Reservoir Buy In	75174	In Progress	NA	NA
ASR Expansion Study	TBD	2024/2025	NA	NA
Tracy Blvd Pipeline Improvements (Replace 12-in diameter pipelines)	TBD	2024/2025	NA	NA
Tracy Blvd Jack and Bore Improvements (18-in diameter, 24-in casing)	TBD	2024/2025	NA	NA
Groundwater Wells Improvements (ammonia addition)	TBD	2024/2025	NA	NA
JJWTP Storage Reservoir (1.0 MG Clearwell No. 3)	TBD	2024/2025	NA	NA
ASR Groundwater Well	TBD	2024/2025	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 366 – Citywide Master Plan Fees, Public Facilities

Requirement 1: Brief description of the type of fee

The purpose of the Public Facilities Fee is to fund public facilities needed to serve new development in the Master Plan program area. In order to accommodate these needs, new facilities will be built or existing facilities will be expanded. Each new resident and worker creates a demand for additional public facilities: such as additional space at City Hall or expansion of the Corporation Yard. In additional, new residents create the additional need for recreational facilities such as an aquatic center, library, and recreation center. These facilities are further defined in the City's Public Facilities Master Plan and Impact Fee Technical Memo adopted on January 7, 2014, by Resolution 2014-10.

Requirement 2: Amount of fee

Table 69 identifies the Citywide Master Plan Fees, Public Facilities Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 69: Citywide Master Plan Fees, Public Facilities Fee

Land Use	Fee	
Residential (per unit)		
Very Low Density	$	4,163.00
Low Density	$	4,163.00
Medium Density	$	3,405.00
High Density	$	2,776.00
Non-Residential (per 1,000 sf)		
Commercial/Retail	$	108.11
Office	$	180.20
Industrial	$	36.05

Requirement 3: Beginning and ending balance in the fund

Table 70 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Public Facilities for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 70 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Public Facilities Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 70: Citywide Master Plan Fees, Public Facilities Fund Summary

TIMP, Public Fac	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 6,129,896.05
Revenues	
Fees Collected	$ 1,132,757.21
Interest/Investment Earnings[2]	$ 233,241.00
Other Revenues	$ -
Total Revenues	$ 1,365,998.21
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 7,495,894.26

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Public Facilities Master Plan and Fee Study identified the facilities necessary to serve new development. The City is currently planning for the construction of a multi-generational facility as identified in **Table 71** which will utilize funds collected to date from this fee program. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 71: Citywide Master Plan Fees, Public Facilities CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Multi-Generational Recreation Center	78178	$ 14,303,949.46	In Progress	15%	241 - Trans Dev Act 301 - General Projects 307 - Measure V 334 - Ellis Public Bldgs Grants Developer Contribution 371 - Core Public Bldgs 373 - Core Pub Safety
Total		$ 14,303,949.46			

Table 71 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 72: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Multi-Generational Recreation Center	78178	In Progress	In Progress	N/A

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 367 – Citywide Master Plan Fees, Public Safety - Police

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Fee - Police is to fund additional police facilities that are needed to serve new development in Master Plan Fee program area. Each new resident and worker generates the need for the City to expand their facilities in order to provide adequate response times and hire and house new officers as outlined in the City of Tracy Public Safety Impact Fee Update adopted on October 1, 2019 by Resolution 2019-196.

Requirement 2: Amount of fee

Table 73 identifies the Citywide Master Plan Fees, Public Safety - Police Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 73: Citywide Master Plan Fees, Public Safety – Police Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 965.00
Low Density	$ 965.00
Medium Density	$ 788.00
High Density	$ 642.00
Non-Residential (per 1,000 sf)	
Commercial/Retail	$ 292.31
Office	$ 487.16
Industrial	$ 97.45

Requirement 3: Beginning and ending balance in the fund

Table 74 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Public Safety - Police for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 74 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Public Safety - Police for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 74: Citywide Master Plan Fees, Public Safety - Police Fund Summary

TIMP, Public Safety PD	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 1,388,532.36
Revenues	
Fees Collected	$ 101,414.89
Interest/Investment Earnings[2]	$ 50,727.00
Other Revenues	$ -
Total Revenues	$ 152,141.89
Expenses	
Project Expenses	$ (45,127.75)
Other Expenses	$ -
Total Expenses	$ (45,127.75)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 1,495,546.50

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 75 identifies the Citywide Master Plan Fee, Public Safety Police expenditures for FY23-24.

Table 75: Citywide Master Plan Fees, Public Safety – Police Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Multipurpose Reality Based Training	71110	$ (45,127.75)	5%
Total		$ (45,127.75)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Police Facilities needed to serve new development are identified in the Public Safety Master Plan and Public Safety Impact Fee Update. **Table 76** shows the currently programmed project from the FY24-25 CIP budget utilizing fees collected for this fund and the anticipated Police Remodel that will require additional funds. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 76: Citywide Master Plan Fees, Public Safety - Police CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Multipurpose Reality Based Training Facility	71110	$ 52,746.00	In Progress	5%	231 - Asset Forfeiture 301 - General Projects 605 - Equip Replacement
Police Department Remodel & Addition	TBD	$ 31,920,538.00	Pending additional project funding	56%	TBD
Total		$ 31,973,284.00			

Table 77 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 77: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Multipurpose Reality Based Training Facility	71110	In Progress	NA	NA
Police Department Remodel & Addition	TBD	TBD	Pending additional project funding	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 368 – Citywide Master Plan Fees, Recycled Water

Requirement 1: Brief description of the type of fee

The purpose of the Recycled Water Fee is to fund the recycled water facilities that are necessary to offset potable water needs with non-potable water in order to secure adequate potable water for future development in the Master Plan Fee program area, as shown in the Citywide Water System Master Plan – Tier 1 Development Impact Fee Analysis for the Backbone Buildout Potable and Recycled Water Systems Technical Memo adopted on January 7, 2014 by Resolution 2014-10.

Requirement 2: Amount of fee

Table 78 identifies the Citywide Master Plan Fees, Recycled Water Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 78: Citywide Master Plan Fees, Recycled Water Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 3,742.00
Low Density	$ 3,742.00
Medium Density	$ 3,217.00
High Density	$ 2,171.00
Non-Residential (per acre)	
Commercial/Retail	$ 21,063.00
Office	$ 17,173.00
Industrial	$ 17,173.00

Requirement 3: Beginning and ending balance in the fund

Table 79 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Recycled Water Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 79 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Recycled Water Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 79: Citywide Master Plan Fees, Recycled Water Fund Summary

TIMP, Recycled Water	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 4,345,993.09
Revenues	
Fees Collected	$ 654,628.15
Interest/Investment Earnings[2]	$ 165,153.00
Other Revenues	$ -
Total Revenues	$ 819,781.15
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ (1,612,997.87)
Ending Fund Balance (June 30, 2024)	$ 3,552,776.37

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The Water Master Plan and Impact Fee memo, outline the water infrastructure needs to serve the Master Plan Areas. **Table 80** identifies the anticipated priority projects once adequate fee revenues are collected. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 80: Citywide Master Plan Fees, Recycled Water CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Recycled Water System Expansion	74168	$ 3,011,530.00	In Progress	15%	336 - Ellis Recycled Water Grant Funding
Water Lines Lammers Rd	75160	$ 379,128.00	In Progress	5%	365 - TIMP Water
New DMC Pipeline (30-in diameter)	TBD	$ 18,618,709.00	TBD	77%	336 - Ellis Recycled Water
Total		$ 22,009,367.00			

Table 81 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 81: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change
Recycled Water System Expansion	74168	In Progress	NA	NA
Water Lines Lammers Rd	75160	NA	In Progress	NA
New DMC Pipeline (30-in diameter)	TBD	2025	TBD	Pending additional funding

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

Table 82 shows the transfer for the Citywide Master Plan Fees, Recycled Water Fund to cover expenses for the recycled water system expansion (CIP 74168).

Table 82: Citywide Master Plan Fees, Recycled Water Fund Transfer

Description of Transfer	Transfer To	Transfer From	Amount
Recycled Water System Expansion	Fund 525	Fund 368	$ (1,612,997.87)
Total			$ (1,612,997.87)

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 369 – Citywide Master Plan Fees, Public Safety - Fire

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Fee – Fire is to fund additional fire facilities that are needed to serve new development in Master Plan Fee program area. Each new resident and worker generate the need for the City to expand their facilities in order to provide adequate firefighting services response times as identified in the Public Safety Impact Fee Update adopted on October 1, 2019 by Resolution 2019-196.

Requirement 2: Amount of fee

Table 83 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Public Safety - Fire for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 83: Citywide Master Plan Fees, Public Safety – Fire Fee

Land Use	Fee
Residential (per unit)	
Very Low Density	$ 797.00
Low Density	$ 797.00
Medium Density	$ 650.00
High Density	$ 531.00
Non-Residential (per 1,000 sf)	
Commercial/Retail	$ 241.22
Office	$ 402.04
Industrial	$ 80.41

Requirement 3: Beginning and ending balance in the fund

Table 84 summarizes the beginning and ending fund balances for the Citywide Master Plan Fees, Public Safety - Fire for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 84 summarizes the fees collected and the interest earned for the Citywide Master Plan Fees, Public Safety Fire for FY23-24. Tracy Hills is receiving fee credits for the construction of Fire Station 95. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 84: Citywide Master Plan Fees, Public Safety - Fire Fund Summary

TIMP, Public Safety Fire	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 137,242.67
Revenues	
Fees Collected	$ 83,757.27
Interest/Investment Earnings[2]	$ 5,239.00
Other Revenues	$ -
Total Revenues	$ 88,996.27
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 226,238.94

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Table 85 identifies the project budgeted in the City's FY24-25 CIP Budget for this fund. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 85: Citywide Master Plan Fees, Public Safety - Fire CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources
Fire Training Tower at NEI Reservoir	71109	$ 478,311.00	In Progress	52%	605 - Equip Replacement Tracy Rural Fire
Total		$ 478,311.00			

Table 85 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 86: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Fire Training Tower at NEI Reservoir	71109	In Progress	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 371 – Core Public Facilities Fees

Requirement 1: Brief description of the type of fee

The purpose of the Core Public Facilities Fee is to fund the general government and recreational facilities generated by new development and growth in the Core program fee area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 87 identifies the Core Public Facilities Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan-Program Management.

Table 87: Core Public Facilities Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 3,328.00
MFR (attached 2-4)	$ 2,723.00
HDR (attached 4+)	$ 2,221.00
Non-Residential (per 1,000 sf)	
Office	$ 132.93
Commercial/Retail	$ 79.65
Industrial	$ 26.36

Requirement 3: Beginning and ending balance in the fund

Table 88 summarizes the beginning and ending fund balances for the Core Public Facilities for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 88 summarizes the fees collected and the interest earned for the Core Public Facilities Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 88: Core Public Facilities Fund Summary

CORE Public Buildings	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 4,842,628.95
Revenues	
Fees Collected	$ 46,634.14
Interest/Investment Earnings[2]	$ 184,423.00
Other Revenues	$ -
Total Revenues	$ 231,057.14
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 5,073,686.09

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of Core, Public Facilities projects that are currently in progress are identified in **Table 89**. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 89: Core Public Facilities CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Aquatic Center (Fair Share)	78054	$ 1,975,082.00	In Progress	3%	307 - Measure V 378 - Core Parks Developer Contribution
Multi-Generational Rec Center (Fair share of the library facilities expansion)	78178	$ 3,801,463.00	In Progress	4%	241 - Transportation Dev Act 301 - General Projects 307 - Measure V 334 - Ellis Pub Bldg 366 - TIMP Public Fac Grant Funding Developer Contribution
Total		$ 5,776,545.00			

Table 90 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 90: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Fair share of the Aquatic Center	78054	In Progress	In Progress	NA
Multi-Generational Rec Center (Fair share of the library facilities expansion)	78178	TBD	In Progress	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 372 – Core Public Safety Fire

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Fire Fee is to fund the fire facilities generated by new development and the growth in the Core program fee area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 91 identifies the Core Public Safety Fire fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan-Program Management.

Table 91: Core Public Safety Fire Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 1,520.00
MFR (attached 2-4)	$ 1,244.00
HDR (attached 4+)	$ 1,014.00
Non-Residential (per 1,000 sf)	
Office	$ 767.54
Commercial/Retail	$ 460.52
Industrial	$ 153.51

Requirement 3: Beginning and ending balance in the fund

Table 92 summarizes the beginning and ending fund balances for the Core Public Safety Fire fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 92 summarizes the fees collected and the interest earned for the Core Public Safety Fire Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 92: Core Public Safety Fire Fund Summary

CORE Public Safety Fire	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 2,398,755.31
Revenues	
Fees Collected	$ 21,523.31
Interest/Investment Earnings[2]	$ 91,308.00
Other Revenues	$ -
Total Revenues	$ 112,831.31
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 2,511,586.62

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The improvement in **Table 93** is a priority project identified in the Core Fee Study and project construction will be prioritized through the City's CIP process as additional funds are collected. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 93: Core Public Safety Fire CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Fire Station #97 - Valpico & Tracy Blvd	71020	$ 4,869,673.00	TBD	42%	369 - TIMP, Fire
Total		$ 4,869,673.00			

Table 94 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 94: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Fire Station #97 - Valpico & Tracy Blvd	71020	TBD	TBD	Pending additional funding.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 373 – Core Public Safety Police

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Police Fee is to fund the police facilities generated by new development and the growth in the Core program fee area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 95 identifies the Core Public Safety Police Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan-Program Management.

Table 95: Core Public Safety Police Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 342.00
MFR (attached 2-4)	$ 281.00
HDR (attached 4+)	$ 228.00
Non-Residential (per 1,000 sf)	
Office	$ 173.09
Commercial/Retail	$ 103.85
Industrial	$ 34.61

Requirement 3: Beginning and ending balance in the fund

Table 96 summarizes the beginning and ending fund balances for the Core Public Safety Police for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 96 summarizes the fees collected and the interest earned for the Core Public Safety Police Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 96: Core Public Safety Police Fund Summary

CORE Public Safety Police	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 747,092.54
Revenues	
Fees Collected	$ 4,842.87
Interest/Investment Earnings[2]	$ 28,472.00
Other Revenues	$ -
Total Revenues	$ 33,314.87
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 780,407.41

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The remaining improvement in **Table 97** is identified in the Core Fee Study and project construction will be prioritized through the City's CIP Process as additional funds are collected. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 97: Core Public Safety Police CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund
Police Facility Expansion for Additional Officers	71PP-060	$ 1,636,826.00	TBD	100%
Total		$ 1,636,826.00		

Table 98 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 98: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Police Facility Expansion for Additional Officers	71PP-060	TBD	TBD	Pending additional funding.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 374 – Core Public Safety Communication Facilities

Requirement 1: Brief description of the type of fee

The purpose of the Public Safety Fee is to fund the fire, police, and communication facilities generated by new development and the growth in the Core program fee area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 99 identifies the Core Public Safety Communication Facilities Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 99: Core Public Safety Comm Facilities Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 33.00
MFR (attached 2-4)	$ 27.00
HDR (attached 4+)	$ 22.00
Non-Residential (per 1,000 sf)	
Office	$ 16.84
Commercial/Retail	$ 10.11
Industrial	$ 3.37

Requirement 3: Beginning and ending balance in the fund

Table 100 summarizes the beginning and ending fund balances for the Core Public Safety Communication Facilities for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 100 summarizes the fees collected and the interest earned for the Core Public Safety Communication Facilities Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 100: Core Public Safety Comm Facilities Fund Summary

CORE Public Safety Comm Facilities	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ (95,977.59)
Revenues	
Fees Collected	$ 467.34
Interest/Investment Earnings[2]	$ 101.00
Other Revenues	$ -
Total Revenues	$ 568.34
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ (95,409.25)

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenses from this fund during FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The improvement identified in the Core Fee Study for the Public Safety Communication Facilities Fund (reimbursement to the general fund for CIP 71050 and CIP 71114) was completed FY21-22. Collection of fees will continue to cover the fronted cost of the improvements until the fund balance is made whole. Once the fund balance is made whole, this fee program will be complete and closed unless other eligible projects are identified and adopted by Council.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 375 – Core Traffic

Requirement 1: Brief description of the type of fee

The purpose of the Traffic Fee is to fund the transportation infrastructure and facilities that are necessary to mitigate the traffic impacts created by new development in the Core program fee area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 101 identifies the Core Traffic Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 101: Core Traffic Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 6,764.00
MFR (attached 2-4)	$ 3,247.00
HDR (attached 4+)	$ 3,247.00
Non-Residential (per acre)	
Office	$ 88,272.00
Commercial/Retail	$ 127,368.00
Industrial	$ 70,280.00

Note: Pursuant to the California Code Section 66005.1, new housing developments within a half mile of the transit center, will receive a 20% Traffic Fee reduction.

Requirement 3: Beginning and ending balance in the fund

Table 102 summarizes the beginning and ending fund balances for Core Traffic for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 102 summarizes the fees collected and the interest earned for Core Traffic Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 102: Core Traffic Fund Summary

CORE Traffic	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 29,050,423.45
Revenues	
Fees Collected	$ 85,902.80
Interest/Investment Earnings[2]	$ 1,106,690.00
Other Revenues	$ -
Total Revenues	$ 1,192,592.80
Expenses	
Project Expenses	$ (50,922.73)
Other Expenses	$ -
Total Expenses	$ (50,922.73)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 30,192,093.52

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 103 summarizes the Core Traffic Fund expenditures for FY23-24.

Table 103: Core Traffic Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
IS Imp: Tracy & Valpico	72074	$ (4,967.82)	100%
TS: CHR & Valpico	72095	$ (45,954.91)	100%
Total		$ (50,922.73)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Table 104 lists the priority projects and share of funding expected to come from the Core Fees. Exact timing and prioritization will be determined as part of the City's CIP process. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 104: Core Traffic CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources (if applicable)
Corral Hollow Road / Valpico Road	72095	$ 612,094.00	In Progress	27%	331 - Ellis Traffic 354 - Core Traffic 363 - TIMP Traffic
Traffic Signal at Tracy Blvd./Valpico Road	72074	$ 525,669.86	In Progress	24%	364 - TIMP Traffic
Corral Hollow Road: 11th Street to Schulte Road	73103	$ 2,686,174.58	In Progress	31%	364 - TIMP Traffic
Valpico Road: Tracy Boulevard to MacArthur Dr	73190	$ 6,053,140.00	2024/2025	69%	363 - TIMP Traffic 331 - Ellis Traffic
Grant Line Road: I-205 to Lammers	73035	$ 3,789,178.04	2025/2026	76%	363 - TIMP Traffic
Grant Line Road / Lammers Road	72PP-081	$ 59,002.35	In Progress	5%	363 - TIMP Traffic
Acquire ROW for Chrisman Road: I-205 to Grant Line Road	73090	$ 2,791,330.00	Completed, Pending Reimbursement	90%	363- TIMP Traffic Other TBD
Corral Hollow Road: Old Schulte to I-580	73PP-046	$ 2,097,945.95	2026/2027	10%	363- TIMP Traffic Other TBD
Grant Line Road: Byron Road to Street "A" (Power Road)	73PP-043	$ 276,464.76	2025/2026	5%	363- TIMP Traffic Other TBD
Tracy Boulevard / Gandy Dancer	72094	$ 418,175.00	2024/2025	25%	363- TIMP Traffic Other TBD
Grant Line Road / Power Road (Street "A")	72PP-028	$ 1,003,030.81	2025/2026	100%	363- TIMP Traffic Other TBD
Corral Hollow Road / I-580 EB and WB	72PP-030	$ 892,630.33	2027/2028	10%	Other TBD
Chrisman Road / Valpico Road	72PP-056	$ 357,198.51	In Progress	25%	363- TIMP Traffic Other TBD
Grant Line Road / Naglee Road / I-205 WB ramps	72PP-082	$ 77,895.30	2024/2025	10%	363- TIMP Traffic Other TBD
I-205 EB Ramps / Grant Line Road	72PP-084	$ 875,859.95	2024/2025	10%	363- TIMP Traffic Other TBD
Widen 11th Street: MacArthur Drive to Chrisman Road	73143	$ 744,317.22	2024/2025	10%	363- TIMP Traffic Other TBD
MacArthur Drive: Approximately 650 LF from I-205 WB Ramps towards Arbor Ave, incl. frontage	73PP-071	$ 2,218,864.00	2025/2026	30%	363- TIMP Traffic Other TBD
Grant Line Road / Lincoln Boulevard	72PP-064	$ 59,002.35	2026/2027	TBD	363- TIMP Traffic Other TBD
Eleventh Street / Lincoln Boulevard	72PP-094	$ 1,130,646.00	2026/2027	TBD	363- TIMP Traffic Other TBD
Aqueduct Crossing for Corral Hollow Road	73158	$ 841,181.97	2026/2027	TBD	363- TIMP Traffic Other TBD
Valpico Road: Lammers Road to Corral Hollow	73PP-051	$ 1,035,481.19	2026/2027	TBD	363- TIMP Traffic Other TBD
Total		$ 28,545,282.17			

Table 105 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 105: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Corral Hollow Road / Valpico Road	72095	In Progress	NA	NA
Traffic Signal at Tracy Blvd./Valpico Road	72074	NA	In Progress	NA
Corral Hollow Road: 11th Street to Schulte Road	73103	In Progress	NA	NA
Valpico Road: Tracy Boulevard to MacArthur Dr	73190	2024/2025	NA	NA
Grant Line Road: I-205 to Lammers	73035	2023/2024	2025/2026	Project priority downgraded.
Grant Line Road / Lammers Road	72PP-081	In Progress	NA	NA
Acquire ROW for Chrisman Road: I-205 to Grant Line Road	73090	Completed	NA	NA
Corral Hollow Road: Old Schulte to I-580	73PP-046	2023/2024	2026/2027	Project in design. Need FAA approval .
Grant Line Road: Byron Road to Street "A" (Power Road)	73PP-043	2023/2024	2025/2026	Project priority downgraded.
Valpico Road / Sycamore Parkway	72082	2023/2024	Completed	NA
Tracy Boulevard / Gandy Dancer	72094	2023/2024	2024/2025	Reviewing project need.
Grant Line Road / Power Road (Street "A")	72PP-028	2023/2024	2025/2026	Project priority downgraded.
Corral Hollow Road / I-580 EB and WB	72PP-030	2023/2024	2027/2028	In PS&E. Doing CEQA. Design changed.
Chrisman Road / Valpico Road	72PP-056	2023/2024	In Progress	NA
Grant Line Road / Naglee Road / I-205 WB ramps	72PP-082	2024/2025	NA	NA
I-205 EB Ramps / Grant Line Road	72PP-084	2024/2025	NA	NA
Widen 11th Street: MacArthur Drive to Chrisman Road	73143	2024/2025	NA	NA
MacArthur Drive: Approximately 650 LF from I-205 WB Ramps towards Arbor Ave, including frontage.	73PP-071	2024/2025	2025/2026	Project priority downgraded.
Grant Line Road / Lincoln Boulevard	72PP-064	2026	NA	NA
Eleventh Street / Lincoln Boulevard	72PP-094	2026	NA	NA
Aqueduct Crossing for Corral Hollow Road	73158	2026	NA	NA
Valpico Road: Lammers Road to Corral Hollow	73PP-051	2026	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 376 – Core Wastewater

Requirement 1: Brief description of the type of fee

The purpose of the Wastewater Fee is to fund the wastewater conveyance and treatment facilities that are necessary to provide wastewater services to future development in the Core Fee program area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 106 identifies the Core Wastewater Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 106: Core Wastewater Fee

Land Use	Wastewater Treatment Plant[1]	Wastewater Conveyance Fee[2,3]
Residential (per unit)		
SFR	$ 4,477.00	$ 4,442.00
MFR (attached 2-4)	$ 3,671.00	$ 3,644.00
HDR (attached 4+)	$ 2,999.00	$ 2,976.00
Non-Residential (per acre)		
Office	$ 22,742.00	$ 22,572.00
Commercial/Retail	$ 22,742.00	$ 22,572.00
Industrial	$ 21,085.00	$ 20,928.00

1 ISP South will pay the AD 84-1 WWTP upgrade fees in lieu of the Core Fees WWTP Fee since their original capacity was funded through AD 84-1. The Upgrade fees fund the WWTP upgrade to a tertiary treatment system to meet the NPDES conditions.

2 NEI I bond funded 24% of wastewater conveyance projects and will only be obligated to pay 76% of the Core Fees Wastewater Conveyance Fee.

3 ISP South was part of AD 84-1 which funded wastewater capacity (both conveyance and treatment) for ISP South parcels. HDR will pay 85% and non-residential land use will pay 15% of the Core Fees Wastewater Conveyance Fee to account for increased flows of 15% and the change in land uses to HDR which triggered the need for additional improvements not funded in AD 84-1.

Requirement 3: Beginning and ending balance in the fund

Table 107 summarizes the beginning and ending fund balances for Core Wastewater in FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 107 summarizes the fees collected and the interest earned for the Core Wastewater Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 107: Core Wastewater Fund Summary

CORE Wastewater	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 3,668,622.04
Revenues	
Fees Collected	$ 124,866.00
Interest/Investment Earnings[2]	$ 140,159.00
Other Revenues	$ -
Total Revenues	$ 265,025.00
Expenses	
Project Expenses	$ (4,950.00)
Other Expenses	$ -
Total Expenses	$ (4,950.00)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 3,928,697.04

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 108 summarizes the Core Wastewater Fund expenditures for FY23-24.

Table 108: Core Wastewater Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
WWRP Expansion 2A	74083	$ (4,950.00)	13%
Total		$ (4,950.00)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of improvements in **Table 109** are identified as the priority projects for this fund and are from the Core Fee Study and the City's FY24-25 CIP Budget. The fund balance in this fee program will be used to fund these projects until additional funding is collected to move on to next projects. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 109: Core Wastewater CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources
New Outfall Pipeline WW Treatment Plant - Larch Rd & Holly Dr	74083	$ 213,234.00	In Progress	13%	523 - Wastewater Capital
East Side Sewer Upgrades	74084	$ 721,013.00	In Progress	100%	
WWTP Expansion Phase 2B	74107	$ 3,100,000.00	In Progress	10%	364 - TIMP Wastewater 337 - Ellis Wastewater 523 - Wastewater Capital
Total		$ 4,034,247.00			

Table 110 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 110: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
New Outfall Pipeline WW Treatment Plant - Larch Rd & Holly Dr	74083	In Progress	NA	NA
East Side Sewer Upgrades	74084	In Progress	NA	NA
WWTP Expansion Phase 2B	74107	In Progress	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 377 – Core Water

Requirement 1: Brief description of the type of fee

The purpose of the Water Fee is to fund the water conveyance, water supply, and water treatment facilities that are necessary to provide water to future development in the Core Fee program area. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 111 identifies the Core Water Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 111: Core Water Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 6,904.00
MFR (attached 2-4)	$ 4,972.00
HDR (attached 4+)	$ 3,521.00
Non-Residential (per acre)	
Office	$ 21,541.00
Commercial/Retail	$ 28,722.00
Industrial	$ 21,541.00

Note:

- NEI I bond funded 85% of water projects and will only be obligated to pay 15% of the Core Fees Water Fee.
- NEI II bond funded 55% of water projects and will only be obligated to pay 45% of the Core Fees Water Fee.
- Plan C, except for Edgewood, bonded for water facilities and will not pay the Water Fee. Only Edgewood will pay the Core Fees Water Fee.
- ISP South residential will pay the full Core Fees Water Fee and non-residential will pay 46% of the Core Fees Water Fee. The water treatment and supply for the original ISP South development was funded through AD 87-3, but due to change in land use from non-residential to high density residential, the residential land uses are responsible for purchasing additional water supply and treatment.

Requirement 3: Beginning and ending balance in the fund

Table 112 summarizes the beginning and ending fund balances for the Core Water for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 112 summarizes the fees collected and the interest earned for the Core Water Fee for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 112: Core Water Fund Summary

CORE Water	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ (5,050,116.49)
Revenues	
Fees Collected	$ 6,904.00
Interest/Investment Earnings[2]	$ -
Other Revenues	$ -
Total Revenues	$ 6,904.00
Expenses	
Project Expenses	$ -
Other Expenses	$ -
Total Expenses	$ -
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ (5,043,212.49)

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

No expenditures were made from this account for FY23-24.

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

Sufficient funds have not been collected from this fee program to commence capital water improvements identified in the Core Fee Study. The fund is in a negative balance and fee collection will continue to cover the prefunding of Core Fee Water projects. There are currently no capital improvement projects scheduled.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 378 – Core Parks

Requirement 1: Brief description of the type of fee

The purpose of the Parks Fee is to fund the park and recreation needs generated by new development and growth in the Core Program area. Each new resident creates a demand for additional park and recreation facilities such as neighborhood parks and community parks. The City's adopted standard is to provide three acres of Neighborhood Park and one acre of Community Park for each 1,000 new residents. In order to accommodate these needs, new parks will be built and/or existing parks will be expanded. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 113 identifies the Core Parks Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan- Program Management.

Table 113: Core Parks Fee

Land Use	Neighborhood Park	Community Park
Residential (per unit)		
SFR	$ 6,965.00	$ 1,323.00
MFR (attached 2-4)	$ 5,699.00	$ 1,084.00
HDR (attached 4+)	$ 4,643.00	$ 883.00
Non-Residential (per acre)		
Office	$ -	$ -
Commercial/Retail	$ -	$ -
Industrial	$ -	$ -

Requirement 3: Beginning and ending balance in the fund

Table 114 summarizes the beginning and ending fund balances for the Core Parks Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 114 summarizes the fees collected and the interest earned for the Core Parks Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 114: Core Parks Fund Summary

CORE Parks	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 4,015,067.69
Revenues	
Fees Collected	$ 116,032.00
Interest/Investment Earnings[2]	$ 153,041.00
Other Revenues	$ -
Total Revenues	$ 269,073.00
Expenses	
Project Expenses	$ (217,056.89)
Other Expenses	$ -
Total Expenses	$ (217,056.89)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 4,067,083.80

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 115 summarizes the Core Parks Fund expenditures for FY23-24.

Table 115: Core Parks Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Gretchen Tally Park PH III	78170	$ (217,056.89)	71%
Total		$ (217,056.89)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of improvements in **Table 116** is compiled from the Core Fee Study and the City's FY24-25 CIP Budget as projects utilizing funding from this fee program. Project construction will be prioritized through the City's CIP process as sufficient funds continue to be collected. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 116: Core Parks CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund	Other Funding Sources
Gretchen Tally Park Phase III	78170	$ 3,642,465.00	In Progress	71%	361 - TIMP Parks
Future Community Park	78PP-XXX	$ 3,278,597.00	TBD	TBD	TBD
Total		$ 6,921,062.00			

Table 117 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 117: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
Gretchen Tally Park Phase III	78170	In Progress	NA	NA
Aquatics Center	78054	In Progress	NA	Project funding moved to Core Public Buildings (Fund 371)

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this account this FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 379 – Core Storm Drainage

Requirement 1: Brief description of the type of fee

The purpose of the Storm Drainage Fee is to fund the storm drainage facilities and improvements needed to serve new development within the Core Fees drainage area. As each new development is built, the amount of impervious area is increased, thus generating more storm water runoff that must be mitigated. The facilities funded by this fee are described in the Core Fees Development Impact Fee Study adopted on January 18, 2022 by Resolution 2022-008.

Requirement 2: Amount of fee

Table 118 identifies the Core Storm Drainage Fee for FY23-24. It should be noted that the fee includes a 5% program management fee that is deposited in Fund 391 - Urban Management Plan-Program Management.

Table 118: Core Storm Drainage Fee

Land Use	Fee
Residential (per unit)	
SFR	$ 2,584.00
MFR (attached 2-4)	$ 1,716.00
HDR (attached 4+)	$ 1,537.00
Non-Residential (per acre)	
Office	$ 40,033.00
Commercial/Retail	$ 40,033.00
Industrial	$ 40,033.00

Note: NEI I and NEI II will not pay the Core Fees Storm Drainage Fee. Through the study "Storm Drainage Impact Fee Study NEI and Eastside Industrial" by Harris & Associates, adopted by City Council on 10/02/2018 through Resolution No. 2018-204, NEI I and NEI II will pay the current Master Plan Fees for the Northeast Industrial Drainage Shed. The total Northeast Industrial drainage shed fee including program management FY 23/24 is shown.

SMPA will help fund the South MacArthur Sub-basin and as such will pay the current Master Plan fees for South MacArthur and Rocha Storm Drainage shed. The total South MacArthur and Rocha Storm Drainage Shed Fee including program management FY 23/24 is shown.

Requirement 3: Beginning and ending balance in the fund

Table 119 summarizes the beginning and ending fund balances for the Core Storm Drainage Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 119 summarizes the fees collected and the interest earned for the Core Storm Drainage Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 119: Core Storm Drain Fund Summary

CORE Drainage	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 7,811,095.57
Revenues	
Fees Collected	$ 11,845.00
Interest/Investment Earnings[2]	$ 298,139.00
Other Revenues	$ -
Total Revenues	$ 309,984.00
Expenses	
Project Expenses	$ (50.00)
Other Expenses	$ -
Total Expenses	$ (50.00)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 8,121,029.57

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 120 summarizes the Core Storm Drain Fund expenditures for FY23-24.

Table 120: Core Storm Drain Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
S MacArthr Ph2 NoBo Elssgry to East	76059	$ (50.00)	
Total		$ (50.00)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

The list of Storm Drain improvements in **Table 121** is compiled from the Core Fee Study and the City's FY24-25 CIP budget that are currently in progress and/or are anticipated to begin soon. Project construction will be prioritized through the City's CIP process. Future project expenditures are based on information available from the City's current CIP and may be updated as the CIP moves through the project life cycle. The percent of project funded may also fluctuate as the final project cost is identified to reflect available grants, tax revenue, and impact fee funds.

Table 121: Core Storm Drain CIP Projects

Project	CIP #	Estimated Future Expenditure	Estimated Start	Percent of Project Funded by Fund
South MacArthur, Ph 2	76059	$ 500,580.00	In Progress	100%
Detention Basin 2B (Zone 1)	76066 / 76081	$ 5,855,822.00	Completed, Reimbursement Pending.	100%
Detention Basin 2A (Zone 2)	76045	$ 628,727.00	Completed, Reimbursement Pending.	100%
Detention Basin V	76PP-XXX	$ 120,328.00	2024/2025	100%
DET V Pump Station	76PP-XXX	$ 180,832.00	2024/2025	100%
Reimbursement to Westside Outfall	76PP-XXX	$ 835,403.00	2024/2025	100%
Total		$ 8,121,692.00		

Table 122 summarizes the capital improvement projects listed in the previous report, whether construction began as scheduled, and if delayed, a revised approximate new start date and the reason for the delay.

Table 122: Capital Improvements Identified in the Previous Report

Project	CIP #	Estimated Start Date (Prior Report)	Revised Start Date	Reason for Date Change (if applicable)
South MacArthur, Ph 2	76059	In Progress	NA	NA
Detention Basin 2B (Zone 1)	76066 / 76081	2023/2024	Completed, Reimbursement Pending.	NA
Detention Basin 2A (Zone 2)	76045	2023/2024	Completed, Reimbursement Pending.	NA
Detention Basin V	76PP-XXX	2024/2025	NA	NA
DET V Pump Station	76PP-XXX	2024/2025	NA	NA
Reimbursement to Westside Outfall	76PP-XXX	2024/2025	NA	NA

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

Fund 391 – Urban Management Plan- Program Management

Requirement 1: Brief description of the type of fee

The Program Management Fee is a five percent fee collected as a soft cost mark-up used to fund the cost related to the oversight and management of the fee program.

Requirement 2: Amount of fee

The fees are collected as part of the individual fees, calculated as a mark-up of 5% on the project costs. The 5% is then deposited in the program management fund. **Table 123** shows how the Program Management Fee is calculated.

Table 123: Program Management Fee

Land Use	Fee
Residential (per unit)	
SFR	Fees * 0.05
MFR (attached 2-4)	Fees * 0.05
HDR (attached 4+)	Fees * 0.05
Non-Residential (per acre)	
Office	Fees * 0.05
Commercial/Retail	Fees * 0.05
Industrial	Fees * 0.05

Requirement 3: Beginning and ending balance in the fund

Table 124 summarizes the beginning and ending fund balances for the Program Management Fee for FY23-24.

Requirement 4: Amount of fees collected and the interest earned during the previous year

Table 124 summarizes the fees collected and the interest earned for the Program Management Fund for FY23-24. It should be noted that the Interest/Investment Earnings includes cash fair market value offsets.

Table 124: Program Management Fund Summary

Urban Mgt Plan-PM	Total *
Beginning Fund Balance (July 1, 2023)[1]	$ 5,115,417.10
Revenues	
Fees Collected	$ 780,493.60
Interest/Investment Earnings[2]	$ 416,600.00
Other Revenues	$ -
Total Revenues	$ 1,197,093.60
Expenses	
Project Expenses	$ (694,662.87)
Other Expenses[3]	$ (319,972.42)
Total Expenses	$ (1,014,635.29)
Transfers	$ -
Ending Fund Balance (June 30, 2024)	$ 5,297,875.41

* Totals are rounded and may not directly add to the displayed figures. Amounts provided by the City on December 3, 2024.

1 Beginning FY 23-24 fund balance may differ from ending fund balances reported in FY22-23 report. This is due to corrections to the fair market offset in the final audited numbers, which were not available at the time the report was prepared.

2 Investment Earnings total includes cash-fair market value offsets.

3 Other Expenses include Payroll expenses not related to CIPs.

Requirement 5: Identification of each public improvement for which fees were expended and the amount of expenditures, including the total percentage of the cost of the public improvement that was funded with fees.

Table 125 summarizes the Program Management Fund expenditures for FY23-24. The Other Expenses from this fund were for reimbursement of staff and administrative time related to program management.

Table 125: Program Management Project Expenditures

Project	CIP #	Amount Expended	Percent of Project Funded by Fund
Public Facilities Master Plan	71107	$ (19,610.00)	100%
Public Safety Master Plan Update	71108	$ (15,343.50)	100%
Storm Drain Master Plan	76086	$ (137,457.87)	58%
TIMP Program Management	79212	$ (522,251.50)	100%
Total		$ (694,662.87)	

Requirement 6: i) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete. ii) Identification of each public improvement identified in the previous report and whether construction began on the approximate date noted. iii) For previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable.

This fund is used for program management costs associated with administering the various DIF funds versus a physical public improvement. This includes City staff and consultant time.

Requirement 7: Description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and when each will be repaid and the rate of interest the account will receive on the loan.

No interfund transfers or loans were made from this fund during FY23-24.

Requirement 8: Identification of any refunds made once determined that sufficient monies have been collected to fund fee-related projects. For any refunds made, the number of persons or entities identified to receive those refunds.

No refunds were made from this fund in FY23-24.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

APPROVING THE CITY'S DEVELOPMENT IMPACT FEE ANNUAL REPORT FOR FISCAL YEAR 2023-2024 ON DEVELOPMENT IMPACT FEE REVENUES AND EXPENDITURES, IN ACCORDANCE WITH THE MITIGATION FEE ACT.

WHEREAS, the Mitigation Fee Act, commonly referred to as AB1600 and codified as Government Code sections 66000-66006, imposes requirements for the collection and expenditure of development impact fees; and

WHEREAS, Section 66006(b)(1) requires the City to prepare and make available to the public information for each separate account or fund, including: 1) a brief description of the fee, 2) the amount of the fee, 3) the beginning and ending balance, 4) the amount of the fees collected and interest earned, 5) an identification of each public improvement on which fees were expended and the amount of expenditures on each improvement including the total percentage of the cost that was funded with fees, 6) an identification of an approximate date by which the construction of the public improvement will begin if the City determines sufficient funds have been collected, 7) a description of each interfund transfer or loan, including the public improvements on which the transferred or loaned fees will be expended, and in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest, and 8) the amount of refunds made, if any; and

WHEREAS, on October 11, 2023, California Governor Gavin Newsom signed into law AB516 which amended certain portions of the Mitigation Fee Act related to the annual and five-year reporting requirements. Under AB516, Requirements 6 and 8 have been expanded to include the following: 6a) identification of each public improvement identified in the previous report and whether construction began on the approximate date noted, 6b) for previously identified projects that did not start construction on the approximate date in the previous report, the reason for the delay and a revised approximate date that the local agency will commence construction, if applicable, and 8a) for any refunds made, the number of persons or entities identified to receive those refunds; and

WHEREAS, the report satisfies all eight requirements with respect to FY23-24; and

WHEREAS, for the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the City must make the following findings with respect to any remaining funds in the fee account, regardless of whether those funds are committed or uncommitted: 1) an identification of the purpose to which the fee is to be put, 2) a demonstration of a reasonable relationship between the fee and the purpose for which it is charged, 3) an identification of all sources and amounts of funding anticipated to complete financing of incomplete improvements in the fee program; and 4) a designation of the approximate dates on which the funding is expected to be deposited into the appropriate account or fund; and

WHEREAS, the Five-Year Report was completed along with the Annual Report in FY21-22 and is not required this year; and

WHEREAS, the report is intended to satisfy the annual reporting requirements for FY23-24; and

WHEREAS, the City maintains 31 different Development Impact Fee funds, with combined collected fee totaling $20,201,734 in FY23-24; and

WHEREAS, development impact fee expenditures for FY23-24 totaled $4,164,874; and

WHEREAS, the main fee areas are the Core Fees, Master Plan Fees, and the Ellis Fees. Gateway Phase 1 will be consolidated with the City Master Plan Area in the future; and

WHEREAS, staff, working with Harris and Associates, has prepared the AB1600: Development Impact Fee Annual Report for FY23-24 (Report); and

WHEREAS, a copy of said Report is available to the public at least 15 days in advance of this meeting and provided notice of this meeting to all interested persons who filed a request with the City Clerk at least 15 days in advance of this meeting; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City; and be it

FURTHER RESOLVED: That the City Council hereby adopts the AB1600: Development Impact Fee Annual Report for FY23-24 regarding development impact fee revenues and expenditures.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.I

RECOMMENDATION

Staff recommends that the City Council adopt a resolution 1) accepting public improvements for Tract 3804 Larkspur Estates Unit 4 as complete, and assume responsibility for future maintenance and repairs, 2) authorizing the City Engineer to release the Subdivider furnished bonds in accordance with the Subdivision Improvement Agreement, 3) authorizing the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office and 4) authorizing an update to storm development impact fee credits from $592,002.80 to $675,453.06.

EXECUTIVE SUMMARY

Bright Homes, Inc., a California corporation (Subdivider) has completed public improvements for Tract 3804 Larkspur Estates Unit 4 (Project) in accordance with the Subdivision Improvement Agreement, project plans, and specifications. Staff recommends the City Council accept the improvements as complete, authorize City Clerk to file a Notice of Completion, and authorize the City Engineer to release the Subdivider's bonds.

Staff also recommend that the City Council update the fee credits available to Subdivider for storm drainage development impact fee credits (Fee Credits) from $592,002.80 to $675,453.06 to reflect the fee credits based on Fiscal Year 2022-2023 when the Subdivision Improvement Agreement (SIA) was approved by the Council.

BACKGROUND AND LEGISLATIVE HISTORY

On October 11, 1995, the City approved a Vesting Tentative Subdivision Map for a residential development known as Larkspur Estates, located on the west side of MacArthur Drive about a quarter mile north of Valpico Road. Larkspur Estates was planned to be a one hundred eighty (180) single-family residential project. The original Larkspur Vesting Tentative Subdivision Map has since expired and there were 13 lots remaining to be developed.

Subdivider purchased the land and submitted for a new Vesting Tentative Subdivision Map (VTSM) to build the remaining 13 lots. The VTSM was approved on September 1, 2020, by City Council pursuant to Resolution No. 2020-162.

On January 17, 2023, pursuant to Resolution No. 2023-005, the City Council approved the Final Map and a Subdivision Improvement Agreement (SIA) for the Project. The SIA contained certain improvements to be completed per the Conditions of Approval for the Project which include: a portion of work on Detention Basin 2B, the underground storm drainpipe underneath the Union Pacific railroad spur from Detention Basin 2B to Cairo Court, filling in a temporary retention basin, and installing necessary frontage improvements on De Bord Drive and Cairo Court. The improvements contained in the SIA are defined in the plan set "Larkspur Estates Unit No. 4 Offsite Improvement Plans Tract 3804", consisting of 10 sheets, prepared by Benchmark Engineering, Inc.

ANALYSIS

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

Cost Breakdown:

Roadway Improvements	$	4,290
Storm Drainage	$	702,842
Total	$	707,132

Bonds were provided by Subdivider as required in the SIA in amounts as follows:

Bond Type	Amount
Faithful Performance	$891,048.70
Labor and Material	$891,048.70
Warranty	$89,104.87
Monumentation	$3,000.00

Faithful Performance bonds may be released upon acceptance of improvements by the City. Labor and Material bonds may be released six months after the recordation of the Notice of Completion as the statute of limitations period expires in accordance with Tracy Municipal Code and Civil Code §9356. Warranty bond may be released one year after City acceptance of improvements and warranty work is completed. Monumentation bond may be released upon receipt of a letter from the land surveyor of record that all monumentation has been installed and fees have been paid in full. City is now in receipt of the letter from the land surveyor of record.

Under the approved SIA, the Subdivider was authorized to receive fee credits under the Core Fee Program. The SIA included a fee credit estimate from Fiscal Year 2021-2022 in the amount of $592,002.80. Since the SIA was approved by City Council in Fiscal Year 2022-2023 it should have included fee credits according to the corresponding Fiscal Year. The wrong amount was included in the SIA due to an administrative error. Staff recommends that the City Council update the fee credits to correspond with Fiscal Year 2022-2023. This will increase the fee credits from $592,002.80 to $675,453.06. This increase of the Fee Credits is in conformance with the City's typical practice of calculating fee credits.

FISCAL IMPACT

All improvements were completed by the Subdivider in accordance with the SIA and there is no fiscal impact associated with this action. Ongoing maintenance of the improvements will be completed by the City and is financed by the Citywide Community Facility District.

The Fee Credits are given through the City's Development Impact Fee Program and there is no fiscal impact associated with this action. The Subdivider shall be eligible to receive updated fee credits against the Subdivider's obligation to pay the City's Core Fee Storm Drainage fees in the amount not to exceed $675,453.06. Subdivider can request a reimbursement for any remaining fee credits per the City of Tracy Municipal Code Section 13.08.

PUBLIC OUTREACH / INTEREST

Not applicable

COORDINATION

Project construction activities were coordinated with City of Tracy Public Works and Utilities Department.

CEQA DETERMINATION

The overall project, including these public improvements, is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332 because the project is characterized as in -fill development and (1) is consistent with the General Plan designation of Residential Low and all applicable General Plan policies, as well as consistent with the Low Density Residential (LDR) Zone and with all applicable zoning regulations, (2) occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses, (3) has no value as habitat for endangered, rare or threatened species, (4) would not result in any significant effects relating to traffic, noise, air quality, or water quality, and (5) can be adequately served by all required utilities and public services. Therefore, no further environmental review is necessary.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

That City Council, by resolution, 1) accept public improvements for Tract 3804 Larkspur Estates Unit 4 as complete, and assume responsibility for future maintenance and repairs, 2) authorize the City Engineer to release the Subdivider furnished bonds in accordance with the Subdivision Improvement Agreement, 3) authorize the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office and 4) authorize an update in storm development impact fee credits from $592,002.80 to $675,453.06.

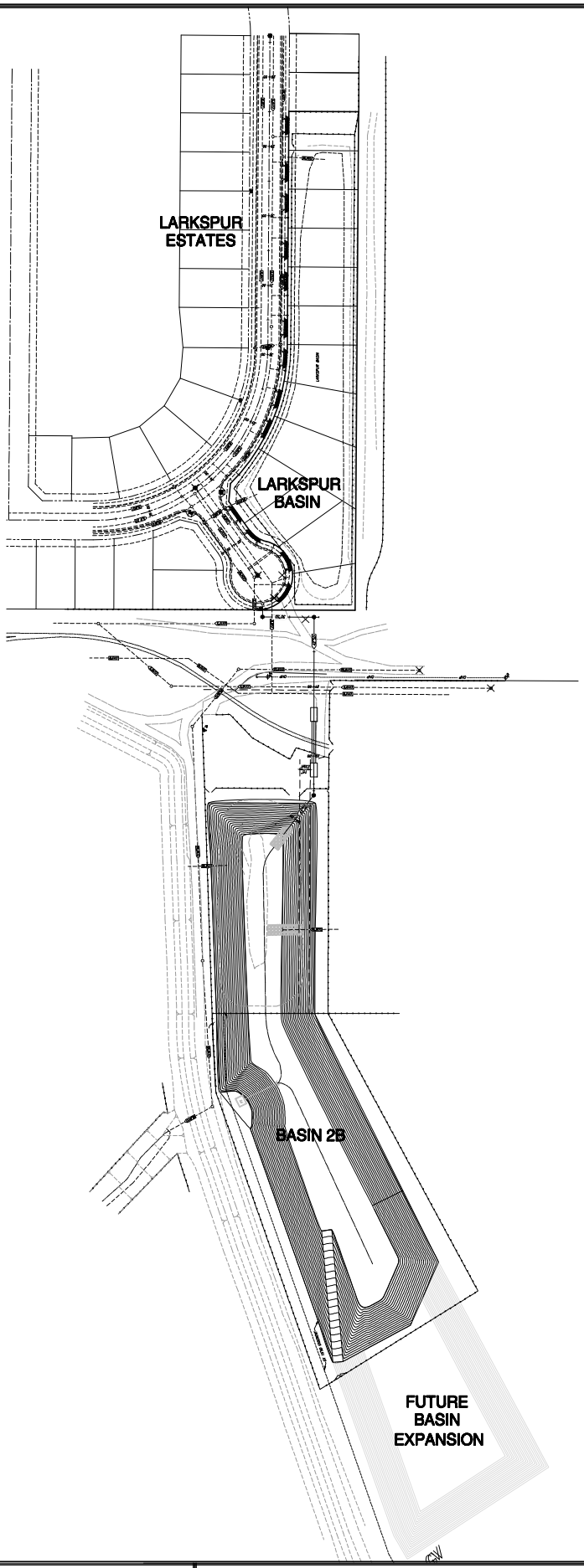
Prepared by: Miguel Hernandez, Construction Project Manager
Al Gali, Associate Engineer

Reviewed by: Koosun Kim, PE, City Engineer / Assistant Director
Sara Cowell, Finance Director
Matthew Summers, Interim Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments:
Attachment A – Project Location

Attachment A



SCALE: N.T.S.

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
915 17th STREET • MODESTO, CALIFORNIA • 95354
(209) 548-9300 FAX:(209) 548-9305

EXHIBIT A

TRACY, CALIFORNIA

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

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(1) ACCEPTING PUBLIC IMPROVEMENTS FOR TRACT 3804 LARKSPUR ESTATES UNIT 4 AS COMPLETE, AND ASSUME RESPONSIBILITY FOR FUTURE MAINTENANCE AND REPAIRS, 2) AUTHORIZING THE CITY ENGINEER TO RELEASE THE SUBDIVIDER FURNISHED BONDS IN ACCORDANCE WITH THE SUBDIVISION IMPROVEMENT AGREEMENT, 3) AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE AND 4) AUTHORIZING AN UPDATE TO STORM DEVELOPMENT IMPACT FEE CREDITS FROM $592,002.80 TO $675,453.06

WHEREAS, on October 11, 1995, the City approved a Vesting Tentative Subdivision Map for a residential development known as Larkspur Estates, located on the west side of MacArthur Drive about a quarter mile north of Valpico Road; and

WHEREAS, Larkspur Estates was planned to be a one hundred eighty (180) single-family residential project and the original Larkspur Vesting Tentative Subdivision Map has since expired and there were 13 lots remaining to be developed; and

WHEREAS, Bright Homes, Inc., a California corporation (Subdivider) purchased the land and submitted for a new Vesting Tentative Subdivision Map (VTSM) to build the remaining 13 lots (the Project), the VTSM was approved on September 1, 2020, by City Council pursuant to Resolution No. 2020-162; and

WHEREAS, on January 17, 2023, pursuant to Resolution No. 2023-005, the City Council approved the Final Map and a Subdivision Improvement Agreement (SIA) for the Project; and

WHEREAS, the SIA contained certain improvements to be completed per the Conditions of Approval for the Project which include: a portion of work on Detention Basin 2B, the underground storm drainpipe underneath the Union Pacific railroad spur from Detention Basin 2B to Cairo Court, filling in a temporary retention basin, and installing necessary frontage improvements on De Bord Drive and Cairo Court; and

WHEREAS, the improvements contained in the SIA are defined in the plan set "Larkspur Estates Unit No. 4 Offsite Improvement Plans Tract 3804", consisting of 10 sheets, prepared by Benchmark Engineering, Inc; and

WHEREAS, Subdivider has satisfactorily completed all improvements required under the SIA, including improvements to Detention Basin 2B and frontage improvements within the Larkspur Estates Unit 4 subdivision; and

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

WHEREAS, the Subdivider furnished performance, payment, and warranty bonds assuring completion of the work. The estimated cost of the improvements is as follows:

Roadway Improvements	$	4,290
Storm Drainage	$	702,842
Total	$	707,132

WHEREAS, Faithful Performance bonds may be released upon acceptance of improvements by the City, Labor and Material bonds may be released six months after the recordation of the Notice of Completion as the statute of limitations period expires in accordance with Tracy Municipal Code and Civil Code §9356 and Warranty bond may be released one year after City acceptance of improvements and warranty work is completed; and

WHEREAS, Monumentation bond may be released upon receipt of a letter from the land surveyor of record that all monumentation has been installed and fees have been paid in full and City is now in receipt of the letter from the land surveyor of record; and

WHEREAS, under the approved SIA, the Subdivider was authorized to receive credits under the Core Fee Program; and

WHEREAS, the SIA included a fee credit estimate from Fiscal Year 2021-2022 in the amount of $592,002.80; and

WHEREAS, the SIA was approved by City Council in Fiscal Year 2022-2023 it should have included fee credits according to the corresponding Fiscal Year; and

WHEREAS, the incorrect amount was included in the SIA due to an administrative error and staff is now requesting the City Council to update the fee credits to correspond with Fiscal Year 2022-2023 which would increase the fee credits from $592,002.80 to $675,453.06; and

WHEREAS, the construction of the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The Project, including these public improvements, is categorically exempt from California Environmental Quality Act review under CEQA Guidelines Section 15332, as it is an infill project smaller than five acres surrounded by urban uses that are consistent with the Zoning and General Plan designations without any significant environmental effects. Significant fish or wildlife or their habitat have not otherwise been identified on the site and no further environmental documentation is required; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts public improvements for Tract 3804 Larkspur Estates Unit 4 as complete, and assumes responsibility for the future maintenance and repairs; and be it

FURTHER RESOLVED: That the City Council authorizes the City Engineer to release the Subdivider furnished bonds in accordance with the Subdivision Improvement Agreement; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office for these public improvements for Tract 3804 Larkspur Estates Unit 4; and be it

FURTHER RESOLVED: That the City Council authorizes an update to storm development impact fee credits from $592,002.80 to $675,453.06; and be it

FURTHER RESOLVED: That the City Council finds that the acceptance and operation of these public improvements are categorically exempt from California Environmental Quality Act review under CEQA Guidelines Section 15332.

* * * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on January 21, 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.J

RECOMMENDATION

Staff recommends that City Council adopt a resolution (1) accepting the public improvements for the NEI Pescadero Basin and Pump Station, constructed by Prologis, L.P., a Delaware Limited Partnership, as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release bonds in accordance with the Tracy Municipal Code section 12.36.080, (3) authorizing the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office, and (4) Authorize an annual appropriation from the General Fund of approximately $80,000 for the purposes of Operations and Maintenance costs associated with the NEI Basin and Pump Station.

EXECUTIVE SUMMARY

Prologis, L.P., a Delaware Limited Partnership (Developer), has completed public improvements for NEI Pescadero Pump Station, Basin and Force Main (Project) in accordance with the approved Project plans and specifications. Staff recommends the City Council accept the improvements as complete, authorize the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office, and authorize the City Engineer to release the Developer's bonds.

BACKGROUND AND LEGISLATIVE HISTORY

On November 10, 2020, the City Council approved the Developer's Development Review Application No. D20-0017 for development of Project Big Bird (Big Bird) on certain property owned by the Developer in the NEI Specific Plan area. Big Bird consists of a 99-foot tall, 1,355,618 square foot building and associated parking, trucking, and landscaping areas.

To facilitate the development of Big Bird, the Developer's abandonment of two existing temporary retention basins on the site and enable the Developer to proceed with mass grading of the site, the Developer proposed that they would construct the NEI Detention Basin and an associated stormwater pump station and force main in accordance with the City's Storm Drainage Master Plan requirements. On February 2, 2021, the City and the Developer executed an agreement entitled "Indemnification Obligation for Interim Storm Drainage Solution", which allowed the Developer to proceed with mass grading for Big Bird while assuming risk of any potential flooding damage that may have resulted prior to completion of the Project.

On June 2, 2021, the City Engineer approved and signed construction plans for the Project. The offsite improvements are generally located on Pescadero Avenue between Paradise Road and the City's Eastside Channel. A separate Offsite Improvement Agreement (OIA) between the Developer and the City for construction of these improvements was never completed.

ANALYSIS

Kier & Wright, Inc. prepared the improvement plans entitled "NEI Pescadero Pump Station and Basin Storm Water Pump Station & Force Main Plans," on behalf of the Developer. The improvement plans were approved by the City Engineer and bonds were provided by the

Developer to ensure the completion of the public improvements. The estimated cost of the public improvements are as follows:

Cost Breakdown	
Storm Water Pump Station	$ 1,102,203
Storm Drainage	$ 4,015,303
Landscaping	$ 1,150,000
Total	$ 6,267,506

The Developer has completed all work required to be done in accordance with the approved plans and specifications and has requested acceptance of the public improvements. The City Engineer has inspected the completed work and confirmed that the improvements conform to the City specifications and approved set of plans. Notice of Completion should be filed by the City Clerk, to be recorded at San Joaquin County Recorder's Office.

Bonds were provided by the Developer in amounts as follows:

Bond Type	**Amount**
Faithful Performance	$ 6,267,506
Labor and Material	$ 6,267,506
Warranty	$ 626,750

Faithful Performance Bonds may be released upon acceptance of improvements by the City. Labor and Material Bonds may be released six months after the recordation of the Notice of Completion as the statute of limitations period expires in accordance with Civil Code §9356. Warranty Bond may be released one year after the City's acceptance of improvements and warranty work is completed.

All lands on which this Project was constructed are owned by the City in fee title. Land was acquired by Grant Deed dated August 6, 2019, recorded as Document No. 2019-083578 in the San Joaquin County Recorder's Office. No additional land dedications were required.

FISCAL IMPACT

The property owner has paid for the cost of processing the agreement, construction, and inspection. The Developer will receive $5,725,651 in Storm Drainage Master Plan fee credits in exchange for constructing the improvements detailed in the approved plans. The total fee credit amount has already been reduced by $50,000. The City will use the $50,000 to pay for Tesco SCADA Testing of the pump station. The fee credits will be eligible for the Developer to use for a future project developed on a property owned by the Developer that is within the service area of the NEI Detention Basin, as determined by the City Engineer and in accordance with the provisions and requirements of Title 13 of the Tracy Municipal Code. The cost of ongoing maintenance of the NEI Basin and Pump station will require an annual appropriation from the General Fund at an estimated amount of $80,000, as determined by the Public Works – Utilities Division.

PUBLIC OUTREACH / INTEREST

Not applicable

COORDINATION

Project construction activities were coordinated with City of Tracy's Public Works Department.

CEQA DETERMINATION

An analysis of the Project shows that there will be no significant on or off-site impacts as a result of this particular Project which were not already discussed in the Northeast Industrial and General Plan Environmental Impact Reports (EIRs). There is also no evidence of any significant impacts to occur off-site as a result of the Project, as traffic, air quality, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects has been identified as a result of this 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

Staff Recommends that the City Council, by resolution, (1) accept the public improvements for the NEI Pescadero Basin and Pump Station, constructed by Prologis, L.P., a Delaware Limited Partnership, as complete and assuming all future operations and maintenance, (2) authorize the City Engineer to release bonds in accordance with the Tracy Municipal Code section 12.36.080, (3) authorize the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office, and (4) Authorize an annual appropriation from the General Fund of approximately $80,000 for the purposes of Operations and Maintenance costs associated with the NEI Basin and Pump Station.

Prepared by: Miguel Hernandez, Construction Project Manager

Reviewed by: Koosun Kim, PE, City Engineer
Sara Castro, Finance Director
Karin Schnaider, Assistant City Manager
Kamalpreet Gill, Deputy City Attorney

Approved by: Midori Lichtwardt, City Manager

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

---

(1) ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE NEI PESCADERO BASIN AND PUMP STATION, CONSTRUCTED BY PROLOGIS, L.P., A DELAWARE LIMITED PARTNERSHIP, AS COMPLETE AND ASSUMING ALL FUTURE OPERATIONS AND MAINTENANCE, (2) AUTHORIZING THE CITY ENGINEER TO RELEASE BONDS IN ACCORDANCE WITH THE TRACY MUNICIPAL CODE SECTION 12.36.080, (3) AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (4) AUTHORIZE AN ANNUAL APPROPRIATION FROM THE GENERAL FUND OF APPROXIMATELY $80,000 FOR THE PURPOSES OF OPERATIONS AND MAINTENANCE COSTS ASSOCIATED WITH THE NEI BASIN AND PUMP STATION.

WHEREAS, on November 10, 2020, the City Council approved a Development Review Application No. D20-0017 from Prologis, L.P., a Delaware Limited Partnership (Developer) for development of Project Big Bird (Big Bird) on certain property owned by the Developer in the NEI Specific Plan area; and

WHEREAS, Big Bird consists of a 99-foot tall, 1,355,618 square foot building and associated parking, trucking, and landscaping areas; and

WHEREAS, to facilitate the development of Big Bird, and the Developer's abandonment of two existing temporary retention basins on the site and enable the Developer to proceed with mass grading of the site, the Developer proposed that they would construct public improvements consisting of the NEI Detention Basin and an associated stormwater pump station and force main (collectively, Project) in accordance with the City's Storm Drainage Master Plan requirements; and

WHEREAS, on February 2, 2021, the City and the Developer executed an agreement entitled "Indemnification Obligation for Interim Storm Drainage Solution", which allowed the Developer to proceed with mass grading for Big Bird while assuming risk of any potential flooding damage that may have resulted prior to completion of the Project; and

WHEREAS, on June 2, 2021, the City Engineer approved and signed construction plans for the Project; and

WHEREAS, the City Engineer has inspected the completed work and recommends acceptance of the improvements; and

WHEREAS, in exchange for constructing the improvements the Developer will receive Storm Drainage Master Plan fee credits in the amount of $5,775,651; and

WHEREAS, the Developer furnished Performance, Labor and Materials, and Warranty Bonds assuring completion of the work; and

WHEREAS, the estimated cost of the improvements is as follows:

Cost Breakdown

Storm Water Pump Station	$ 1,102,203
Storm Drainage	$ 4,015,303
Landscaping	$ 1,150,000
Total	$ 6,267,506

; and

WHEREAS, Faithful Performance Bonds may be released upon acceptance of improvements by the City. Labor and Material Bonds may be released six months after the recordation of the Notice of Completion as the statute of limitations period expires in accordance with Civil Code §9356. Warranty Bond may be released one year after the City's acceptance of improvements and warranty work is completed; and

WHEREAS, all lands on which this Project was constructed are owned by the City in fee title. Land was acquired by Grant Deed dated August 6, 2019, recorded as Document No. 2019-083578 in the San Joaquin County Recorder's Office. No additional land dedications were required; and

WHEREAS, an analysis of the Project shows that there will be no significant on-site or off-site impacts as a result of this particular Project which were not already discussed in the Northeast Industrial and General Plan EIRs. There is also no evidence of any significant impacts to occur off-site as a result of the Project, as traffic, air quality, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects has been identified as a result of this Project; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the improvements as complete for NEI Pescadero Pump Station, Basin and Force Main in accordance with the approved plans and specifications; and be it

FURTHER RESOLVED: That the City Engineer may release the Developer bonds in accordance with Tracy Municipal Code section 12.36.080; and be it

FURTHER RESOLVED: That the City Council determines that this action does not raise any new unforeseen physical impacts not previously analyzed in the Northeast Industrial and General Plan EIRs and no further environmental review is required for the Project under CEQA; and be it

FURTHER RESOLVED: That the Developer will receive $5,725,651 in Storm Drainage Master Plan fee credits in exchange for constructing the improvements detailed in the approved plans. The fee credits will be eligible for the Developer to use for a future project developed on a property owned by the Developer that is within the service area of the NEI Detention Basin, as determined by the City Engineer and in accordance with the provisions and requirements of Title 13 of the City's Municipal Code; and be it

FURTHER RESOLVED: That City Council authorizes the City Clerk to file a Notice of Completion with the San Joaquin County Recorder's Office for the for NEI Pescadero Pump Station, Basin and Force Main improvements.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.K

RECOMMENDATION

Staff recommends that the City Council fill one vacancy from the eligibility list that was established on December 3, 2024, and appoint Raj Dhillon to the City of Tracy Transportation Advisory Commission.

EXECUTIVE SUMMARY

On March 19, 2024, the City Council amended the *Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies* (see Attachment A) through Resolution 2024-042 (Appointment Policy). One vacancy existed, as of September 17, 2024, and on December 3, 2024, City Council interviewed three applicants and at that time an eligibility list was established.

BACKGROUND AND LEGISLATIVE HISTORY

The City Council's current selection process for appointment to Council boards, commissions, or committees is set forth in the Appointment Policy approved through Resolution 2024-042. The selection process is initiated through the preparation of the appointment list by the City Clerk on or before December 31 of each year. The list contains the list of appointees and terms for each board, commission, and committee whose members serve at the pleasure of the City Council. When a vacancy occurs, a special notice is posted within twenty (20) days of the vacancy. Specific terms apply to vacancies with less than six months remaining and when filled by an emergency appointment. The Appointment Policy also restricts appointment of an individual already serving on a City of Tracy board, committee, or commission from serving on an additional City of Tracy board, committee, or commission concurrently. In addition, individuals selected to a City of Tracy board, committee, or commission must meet residency requirements contained in the policy.

ANALYSIS

On November 18, 2024, one vacancy existed on the Transportation Advisory Commission. The vacancy occurred due to the removal of a Commissioner from the Transportation Advisory Commission for lack of attendance. Per the bylaws that were adopted by City Council Resolution 2010-022:

> ***Attendance.*** *If a member of the Transportation Advisory Commission fails to attend four (4) regular meetings in any calendar year, his or her position on the Transportation Advisory Commission shall become vacant and the staff liaison shall so inform the City Clerk and Transportation Advisory Commission Chairperson.*

If appointed, the applicant will fill the remainder of the vacated term that ends April 30, 2025, and the new term that will end on April 30, 2029. *Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies* (see Attachment A) through Resolution 2024- 042 (Appointment Policy, section 2-C1)

> ***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.*

FISCAL IMPACT

There is no fiscal impact as a result of this agenda item.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategy, and specifically implements the following goal:

Governance

Goal 1: Model Good Governance, Teamwork, and Transparency

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council fill one vacancy from the eligibility list that was established on December 3, 2024, and appoint Raj Dhillon to the City of Tracy Transportation Advisory Commission.

Prepared by: Necy Lopez, Deputy City Clerk

Reviewed by: Arturo Sanchez, Assistant City Manager
Matthew Summers, Interim Assistant City Attorney

Approved by: Midori Lichtwardt, City Manager

Attachments:

A – *Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies*

Attachment A

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-042

AMENDING THE COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES TO ALLOW THE FULL CITY COUNCIL TO INTERVIEW CANDIDATES AND MAKE INFORMAL RECOMMENDATIONS OF SPECIFIC CANDIDATES FOR THE MAYOR TO CONSIDER AS PROPOSED APPOINTEES, SUBJECT TO FINAL APPROVAL OF THE CITY COUNCIL

WHEREAS, the *Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies* (Appointment Policy) sets forth the process by which vacancies on City committees, subcommittees, and commissions are filled; and

WHEREAS, the most recent version of the Appointment Policy was adopted on December 21, 2021, by the City Council through Resolution 2021-200; and

WHEREAS, under Government Code Section 40605, the elected mayor of a general law city solely has the authority to appoint, subject to council approval, to council committees, sub-committees. and commissions, as well as any regional bodies to which the council sends a delegate; and

WHEREAS, the selection process contained in the Council's Appointment Policy does not fully comply with Government Code Section 40605 as it states that the City Council appoints to a sub-committee to interview candidates and appoints, based on the recommendations of the sub-committee, and no explicit authority of the Mayor to propose appointments is noted; and

WHEREAS, on March 5, 2024, the City Council discussed options to align the Appointment Policy with Government Code Section 40605; and

WHEREAS, after discussion, the City Council directed staff to return with a proposed amendment to the Appointment Policy that would allow the full City Council to interview candidates, in open session at a regular or special meeting; and

WHEREAS, the City Council had not reached consensus on what the next steps would be after the Council interviews had been completed and asked staff to return with two options for the City Council's further deliberation and final selection; and

WHEREAS, the City Council deliberated further at its meeting on March 19, 2024 and finalized the option set forth herein; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby amends the Appointment Policy as set forth in **Exhibit A**, as amended, such that the full City Council shall interview candidates, in open session at a regular or special meeting, and upon completing the interviews,

shall make ~~final~~ informal recommendations of specific candidates for the Mayor to consider as proposed appointees; and be it

FURTHER RESOLVED: That the amended Appointment Policy shall become effective immediately upon adoption of this Resolution; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to proceed with the process to fill vacancies as set forth in the newly amended Appointment Policy.

* *

The foregoing Resolution 2024-042 was adopted by the Tracy City Council on the 19th day of March 2024 by the following vote:

AYES:	COUNCIL MEMBERS:	ARRIOLA, BEDOLLA, EVANS, DAVIS
NOES:	COUNCIL MEMBERS:	YOUNG
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTENTION:	COUNCIL MEMBERS:	NONE

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

COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES

(Exhibit "A" to Resolution No. 2024-042)

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. This process acknowledges and is consistent with Government Code Section 40605, which requires that the elected mayor of a general law city solely has the authority to appoint, subject to council approval, to council committees, sub-committees. and commissions, as well as any regional bodies to which the council sends a delegate.

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 and Mayor shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

1. The full Council shall, in open session at a regular or special meeting, review applications, interview applicants and make ~~final~~ informal recommendations of specific candidates for the Mayor to consider as proposed appointees for appointment to the board, commission or committee.

2. Upon receiving the recommendations of the Council, the Mayor will propose an appointee to the board, commission or committee, which proposed appointee shall be approved or disapproved, by majority vote, of the Council. The Mayor ~~shall~~ may endeavor to propose appointees that are recommended by the Council, but the Mayor may propose alternate appointees pursuant to mayoral authority under Government Code 40605. ~~The alternates shall be chosen from the eligibility list, if it has been created pursuant to section 4 below.~~

3. If the Council disapproves an appointee proposed by the Mayor, the Mayor shall propose an alternate appointee, which shall be either approved or disapproved by the Council, by majority vote. This process shall continue until all vacancies on the board, commission or committee are filled; the Mayor may elect to reopen the application process~~.~~

4. If there are more qualified candidates than the number of current vacancies, the Council may establish an eligibility list that will be used to fill future vacancies that occur in the following twelve (12) months.

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.

January 21, 2025

Agenda Item 1.L

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for LIT Industrial Limited Partnership as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) rescinding Tracy City Council Resolution No. 2021-057.

EXECUTIVE SUMMARY

This agenda item seeks approval of a resolution accepting offsite improvements for LIT Industrial Limited Partnership constructed by LIT Industrial Limited Partnership (Developer) as complete and the City to assume all future operations and maintenance. This also seeks authorization for the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement and allow the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. Furthermore, to rescind City Council Resolution No. 2021-057, which approved a Deferred Improvement Agreement that was not executed by the parties and became unnecessary.

BACKGROUND AND LEGISLATIVE HISTORY

The Developer has completed public improvements for the LIT Industrial Limited Partnership (Project), a three (3) warehouse campus on the former Silva Dairy property between Pescadero Avenue and Grant Line Road, within the Northeast Industrial (NEI) Service Area (see Attachment A), in accordance with the Offsite Improvement Agreement, project plans, and specifications.

On December 19, 2019, the Development Services Director approved a Development Review Application (D18-0034) for the construction of three new industrial buildings totaling 1,035,500 square feet and their related parking and landscape improvements located at the northeast corner of East Grant Line Road and Chrisman Road (Assessor's Parcel Numbers 213-070-48, 213-070-49, 213-070-52, 213-070-53, 213-070-85 and 213-070-87), subject to specific Conditions of Approval.

On December 19, 2019, the City Engineer approved a Tentative Subdivision Map (TSM), (TSM 19-0004). The City Engineer approved and signed TSM No. 19-0004 on July 9, 2021. The TSM is recorded with the San Joaquin County Recorder's Office as Book 27 PM Page 016. The TSM delineates all fee dedications and public easements required by the Conditions of Approval.

On May 18, 2021, by Resolution No. 2021-057, the City Council approved a Deferred Improvement Agreement (DIA), which was to be signed by the Developer, for maintenance of temporary stormwater retention basins until such time as the new NEI pump station and detention basin were accepted by the City. The DIA was not executed by the Developer and the City due to an error in the required contract security amounts in the DIA. As the work covered under the DIA was performed by the Developer and the new NEI stormwater pump station and detention basin are now complete, the DIA is no longer necessary, and Resolution No. 2021-057 may be rescinded.

On June 8, 2021, pursuant to Emergency Ordinance 1273, the City Manager approved an Offsite Improvement Agreement (OIA) with the Developer for the Project allowing construction of public improvements pursuant to the Conditions of Approval. The OIA was signed by the Mayor on June 15, 2021.

On March 24, 2022, pursuant to Emergency Ordinance 1273, the City Manager approved Amendment No. 1 to the OIA, formalizing revised Roadway Fee Credits/Reimbursement and Infrastructure Fee Credits, pending submittal of actual construction costs by the Developer and any adjustments necessitated by updated Transportation and Storm Drainage Master Plans.

ANALYSIS

The OIA required the Developer to perform the scope of work defined in the following plan set: "Seefried Industrial Properties Street Improvement Plans for Chrisman Road" consisting of 88 sheets, prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, the Work. The Developer has completed all of the Work required to be done in accordance with the OIA and has requested acceptance of the public improvements. The City Engineer has inspected the completed Work and confirmed that the improvements conform to the OIA and City plans and specifications.

Bonds were provided by the Developer as required by the OIA in the amounts as follows:

Bond Type	Amount
Faithful Performance	$15,635,782
Labor and Material	$15,635,782
Warranty	$1,563,578

Faithful Performance Bonds may be released upon acceptance of improvements by the City Council. Labor and Material Bonds may be released six (6) months after recordation of Notice of Completion as statute of limitations period expires in accordance with Civil Code §9356. The original Warranty Bond will be retained by the City's Engineering Division and shall be released one year after City Council's acceptance of improvements and any warranty work is completed.

Fee dedications of public right-of-way and detention basin areas were made on Parcel Map No. 19-0004, including the following:

Roadway Dedications	**Area, Acres**
Grant Line Road	1.1505
Chrisman Road	8.6976
Pescadero Avenue	1.8989
Total Roadway Dedications	**11.747**

Detention Basin Dedications	**Area Acres**
Parcel 4	1.4145
Parcel 5	8.3604
Total Detention Basin Dedications	**9.7749**

The above fee dedications were accepted by the City Clerk subject to completion of improvements. The City's acceptance of public improvements by this City Council action will memorialize completion.

The TSM also dedicated ten-foot-wide public utility easements adjacent to Grant Line Road, Chrisman Road, and Pescadero Avenue.

FISCAL IMPACT

All improvements were completed by the Developer in accordance with the OIA. Once accepted by the City, maintenance will be funded through the City's Landscape Maintenance District. The estimated cost of the public improvements are as follows:

Cost Breakdown		
Roadway Improvements	$	5,532,409
Storm Drain	$	1,845,128
Sanitary Sewer	$	71,144
Water	$	668,500
Recycled Water	$	54,120
Traffic Signals	$	1,144,000
Street Lighting	$	2,877,886
Landscaping	$	1,490,108
Total	**$**	**13,683,295**
Dedicated Land Value	$	977,490

The Developer has received Transportation Impact Fee Credits in the amount of $4,646,795.08 and are eligible to receive reimbursement in the amount of $479,098.36 per the OIA. The Developer has received Storm Drainage Impact Fee Credits in the amount of $2,037,086.06 and are eligible to receive reimbursement in the amount of $377,825.96 per the OIA. The Developer will receive the reimbursements upon their written request in accordance with Tracy Municipal Code Section 13.08.

PUBLIC OUTREACH / INTEREST

Not applicable.

COORDINATION

Project construction activities were coordinated with City of Tracy Public Works Department.

CEQA DETERMINATION

Prior to commencement of construction, an analysis of the Project showed that there would be no significant on or off-site impacts as a result of this particular Project which were not already discussed in the Northeast Industrial and General Plan EIRs. There was also no evidence of any significant impacts to occur off-site as a result of the Project, as traffic, air quality, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects had been identified as a result of this 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

Staff recommends that City Council, by resolution, (1) accept offsite improvements for LIT Industrial Limited Partnership as complete and assuming all future operations and maintenance, (2) authorize the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorize the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) rescind Tracy City Council Resolution No. 2021-057.

Prepared by: Miguel Hernandez, Construction Project Manager

Reviewed by: Koosun Kim, PE, City Engineer
Sara Castro, Finance Director
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – OIA – Fully Executed

CITY OF TRACY
AMENDMENT NO. 1 TO
OFF-SITE IMPROVEMENT AGREEMENT FOR
LIT INDUSTRIAL LIMITED PARTNERSHIP

This Amendment No. 1 (**Amendment**) to the OFF-SITE IMPROVEMENT AGREEMENT is entered into between the City of Tracy, a municipal corporation (**City**), and LIT Limited Partnership, a Delaware limited partnership *(referred to as "Developer")*. City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

A. The City and Developer entered into an Off-Site Improvement Agreement (**Agreement**) for roadway and infrastructure improvements which was approved by the City Manager on June 15, 2021.

B. The Parties now seek to amend the Agreement to include the correct credit/reimbursement amounts and additional language regarding reimbursements.

C. This Amendment is being executed pursuant to Tracy Municipal Code section 2.20.090.

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 1.1 is hereby amended and replaced in its entirety to read as follows:

> ROADWAY FEE CREDITS/REIMBURSEMENT. In accordance with work on Chrisman Road, Developer is eligible to receive up to $5,125,893.44, as further detailed in this section, in credits and/or reimbursements based on actual costs provided to the City by Developer. Upon submission of the improvement security required under Section 4 below, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive roadway fee credits applicable to Chrisman Road in the amount of $4,646,795.08. The remaining $479,098.36 will be paid to the Developer as a reimbursement in accordance with section 13.08.070 of the Tracy Municipal Code. Developer will still be responsible for paying the program management fee associated with Transportation Impact Fees in accordance with section 13.08.020 of the Tracy Municipal Code. However, the City is in the process of updating the Citywide Transportation Master Plan ("Updated Master Plan"). The Updated Master Plan may result in increased reimbursements available to Developer for constructing the Work. Upon approval of the Updated Master Plan, the City shall perform a reconciliation and any increase in reimbursements available to Developer for constructing the Work shall be added to their overall reimbursement and paid in accordance with section 13.08.070 of the Tracy Municipal Code and shall be reflected in an amendment to this Section.

B. Section 1.2 is hereby amended and replaced in its entirety to read as follows:

> INFRASTRUCTURE FEE CREDITS. In accordance with the storm drainage work, Developer is eligible to receive up to $2,414,912.02, as further detailed in this section, in credits and/or reimbursements based on actual costs provided to the City by Developer. Upon submission of the improvement security required under Section 4 below, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive storm drainage basin fee credits in the amount of $2,037,086.06. The remaining $377,825.96 will be paid to the Developer as a reimbursement in accordance with sections 13.08.060 and 13.08.070 of the Tracy Municipal Code. Developer will still be responsible for paying the program management fee associated with Storm Drainage Impact Fees in accordance with section 13.08.020 of the Tracy Municipal Code. However, the City is in the process of updating the Citywide Storm Drainage Master Plan ("Updated Storm Master Plan"). The Updated Storm Master Plan may result in increased reimbursements available to Developer for constructing the Work. Upon approval of the Updated Storm Master Plan, the City shall perform a reconciliation and any increase in reimbursements available to Developer for constructing the Work shall be added to their overall reimbursement and paid in accordance with sections 13.08.060 and 13.08.070 of of the Tracy Municipal Code and shall be reflected in an amendment to this Section.

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

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

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

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

City of Tracy

By: _____
Nancy Young, Mayor

Date: 5-19-2022

LIT Industrial Limited Partnership, a Delaware Limited Partnership

By: _____
LIT Holdings GP, LLC, a Delaware Limited Liability Company, its General Partner

Date: _____

Attest:

By: _____
Adrianne Richardson, City Clerk

Approved as to form

By: _____
~~Gregory J. Rubens~~, ~~Interim~~ City Attorney
Bijal M. Patel

CITY MANAGER APPROVAL FORM
Pursuant to Urgency Ordinance No. 1285

DATE: 3.24.22	DEPARTMENT/PREPARER: DES/Veronica Child
PROJECT MANAGER: Veronica Child	PROJECT MANAGER's CONTACT INFO: x6487

APPROVAL NEEDED:

☐ Professional Services Agreement (PSA) or General Services Agreement (GSA) with a not-to-exceed amount of $100,000

☒ Off-Site Agreement (OIA) **(Amendment)**

☐ Inspection and Improvement Agreement (IIA)

☐ Grant Application

☐ Award of Public Works Project contract, with a not-to-exceed amount of $1,000,000

☐ Accept certain Public Improvements

VENDOR/PROJECT:

Amendment to Off-site Improvement Agreement for Chrisman Rd and Storm Drainage improvements with Seefried Industrial Properties. Their project is for a three (3) warehouse campus on the former Silva Dairy property between Pescadero and Grant Line Road. The application was approved by Council in December 2019.

IF REQUESTING APPROVAL OF A CONTRACT:

PROCUREMENT PROCESS (*list dates of RFP, bid advertised, and/or quotes received):*

In December 2018, the City received an application from Seefried Industrial Properties for a three (3) warehouse campus on the former Silva Dairy property between Pescadero Avenue and Grant Line Road. Approval of the project required a precise plan line for Chrisman Road, close study of the Northeast Industrial Specific Plan Masterplan Storm Drain Basin, and tentative parcel map. The application, and its entitlements were approved by Council on December 19, 2019. Due to the conditioned public improvements for Seefried's development, and a final parcel map, an Off-site Improvement Agreement is required by the subdivision map act.

CONTRACT AMOUNT AND TERM (*if applicable):*

The original OIA was executed in June 2021, the credit and reimbursement amounts listed in the agreement are incorrect. The correct reimbursement and credit amounts are as follows: $4,646,795.08 in roadway fee credits, $479,098.36 in roadway reimbursements; and $2,037,086.06 in storm drain fee credits, $377,825.96 in storm drain reimbursements. We are also adding language about the potential for receiving additional credits in the future if new master plans are approved.

FUNDING SOURCE(S) *(include fund name/no. and acct no.):*

The updated fee credit amounts are within our master plan programs.

IF REQUESTING ACCEPTANCE OF IMPROVEMENTS, *provide details regarding contract award and value of improvements.*

City Manager Signature:	*Date*

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/22/2021

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

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

PRODUCER Willis Towers Watson Midwest, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Hartford Casualty Insurance Company — 29424 INSURER B: Twin City Fire Insurance Company — 29459 INSURER C: Arch Insurance Company — 11150 INSURER D: Ohio Casualty Insurance Company — 24074 INSURER E: Berkley Assurance Company — 39462 INSURER F:

COVERAGES **CERTIFICATE NUMBER:** W22917859 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [X] LOC [ ] OTHER:	Y	Y	83 UEA QT2505	09/01/2021	09/01/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY	Y	Y	83 UEA QT2506	09/01/2021	09/01/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [ ]	$ 1,000,000 $ $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0	Y	Y	83 RHA AC2219	09/01/2021	09/01/2022	EACH OCCURRENCE AGGREGATE [ ]	$ 10,000,000 $ 10,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [No] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	83 WEA QT2504	09/01/2021	09/01/2022	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
C	Excess Liability	Y	Y	UXP3000031-00	09/01/2021	09/01/2022	$15,000,000 excess of	$10,000,000

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

RE: 08-2002-0100 Tracy Logistics Park

SEE ATTACHED

CERTIFICATE HOLDER

LIT Industrial Limited Partnership c/o Clarion Partners
1717 McKinney Avenue, Suite 1900
Dallas, TX 75202

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Willis Towers Watson Midwest, Inc.	Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826
POLICY NUMBER See Page 1	
CARRIER: See Page 1 / NAIC CODE: See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

LIT Industrial Limited Partnership c/o Clarion Partners, its subsidiary companies, affiliated companies, and parent companies of every tier and their respective directors, officers, employees, agents, servants, assignees permitted herein, lender, if any and the tenant for the Project if any are included as Additional Insureds as respects to General Liability, Auto Liability and Umbrella/Excess Liability as required by written contract.

LIT Industrial Limited Partnership c/o Clarion Partners, its subsidiary companies, affiliated companies, and parent companies of every tier and their respective directors, officers, employees, agents, servants, assignees permitted herein, lender, if any and the tenant for the Project if any are included as Additional Insureds as respects to Pollution Liability as required by written contract, agreement, or permit.

General Liability and Auto Liability policies shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insureds as required by written contract.

Pollution Liability shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insureds as required by written contract, agreement, or permit.

The Umbrella/Excess policy Follows Form.

Waiver of Subrogation applies in favor of Additional Insureds with respects to General Liability, Auto Liability, Workers Compensation and Pollution Liability as permitted by law, as required by written contract.

Waiver of Subrogation applies in favor of Additional Insureds with respects to Umbrella/Excess Liability as required by written contract executed prior to the loss.

INSURER AFFORDING COVERAGE: Ohio Casualty Insurance Company NAIC#: 24074
POLICY NUMBER: ECO(22)58188953 EFF DATE: 09/01/2021 EXP DATE: 09/01/2022

ADDITIONAL INSURED: Y
SUBROGATION WAIVED: Y

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Excess Liability	Each Occurrence	$5,000,000
	Aggregate	$5,000,000

INSURER AFFORDING COVERAGE: Berkley Assurance Company NAIC#: 39462
POLICY NUMBER: PCADB-5015300-0921 EFF DATE: 09/01/2021 EXP DATE: 09/01/2022

ADDITIONAL INSURED: Y
SUBROGATION WAIVED: Y

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Pollution Liability	Each Claim:	$5,000,000
	Aggregate:	$5,000,000
	SIR:	$100,000

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POLICY NUMBER: 83 UEA QT2505

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - OPTION II

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Designated Project(s) Or Location(s) Of Covered Operations:
ALL, EXCEPT ADDITIONAL INSUREDS THAT ARE INSURED UNDER A SEPARATE ADDITIONAL INSURED ENDORSEMENT ON THIS POLICY	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. With respect to those person(s) or organization(s) shown in the Schedule above when you have agreed in a written contract or written agreement to provide insurance such as is afforded under this policy to them, Subparagraph **f.**, **Any Other Party**, under the **Additional Insureds When Required By Written Contract, Written Agreement Or Permit** Paragraph of **Section II – Who Is An Insured** is replaced with the following:

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **e.**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused by:

(1) Your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;

(b) In connection with your premises owned by or rented to you and shown in the Schedule; or

(c) In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:

(i) The written contract or agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; or

(2) The acts or omissions of the additional insured in connection with their general supervision of your operations at the project(s) or location(s) designated in the Schedule.

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The insurance afforded to the additional insured shown in the Schedule applies:

(1) Only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

(a) During the policy period; and

(b) Subsequent to the execution of such written contract or written agreement; and

(c) Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.

(2) Only to the extent permitted by law; and

(3) Will not be broader than that which you are required by the written contract or agreement to provide for such additional insured.

With respect to the insurance afforded to the person(s) or organization(s) that are additional insureds under this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to the additional insured shown in the schedule are described in the Limits Of Insurance section.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in **Section IV – Commercial General Liability Conditions**, except as otherwise amended below.

B. With respect to insurance provided to the person(s) or organization(s) that are additional insureds under this endorsement, the **When You Add Others As An Additional Insured To This Insurance** subparagraph, under the **Other Insurance** Condition of **Section IV – Commercial General Liability Conditions** is replaced with the following:

When You Add Others As An Additional Insured To This Insurance

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Paragraph **(c)** below. This insurance does not apply to other insurance to which the additional insured in the Schedule has been added as an additional insured.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(i) The additional insured in the Schedule is a Named Insured under such other insurance; and

(ii) You have agreed in a written contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured in the Schedule.

(c) Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

All other terms and conditions in the policy remain unchanged.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:
BLANKET WHERE REQUIRED BY WRITTEN CONTRACT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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Policy Number: 83 UEA QT2506

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED AND RIGHTS OF RECOVERY AGAINST OTHERS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

A. Any person or organization whom you are required by contract to name as additional insured is an "insured" for LIABILITY COVERAGE but only to the extent that person or organization qualifies as an "insured" under the WHO IS AN INSURED provision of Section II - LIABILITY COVERAGE.

B. For any person or organization for whom you are required by contract to provide a waiver of subrogation, the Loss Condition - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is applicable.

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(1) During the policy period, and

(2) Subsequent to the execution of such written contract, and

(3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(3)** and **(4)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/21 Effective hour is the same as stated on the Information Page of the policy

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

ANY PERSON OR ORGANIZATION
FROM WHOM YOU ARE REQUIRED BY
WRITTEN CONTRACT OR AGREEMENT
TO OBTAIN THIS WAIVER OF
RIGHTS FROM US.

Countersigned by _____
Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/21 Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

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A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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Berkley Assurance Company

Blanket Notice of Cancellation to Others Endorsement

In consideration of the premium paid, it is understood and agreed that the following is added to Section XI.G. Cancellation and Termination:

5. If we cancel this Policy by written notice to you for any reason other than non-payment of premium, we will mail notification that such Policy has been cancelled to each person or organization shown in a Schedule provided to us by you or by any entity you have instructed to provide such Schedule. Such Schedule:

   a. Must be initially provided to us within fifteen (15) days after the later of:

      i. the effective date of the **Policy Period** shown in the Declarations; or
      ii. the date this Endorsement has been added to this Policy;

   b. Must contain the names and addresses of only the persons or organizations requiring notification that such Policy has been cancelled;

   c. Must be in an electronic format that is acceptable to us; and

   d. Must be accurate.

   Such Schedule may be updated and provided to us during the policy period. Such updated Schedule must comply with Paragraphs b., c., and d. above.

6. Our delivery of the notification as described in Paragraph 5. of this Endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to you. Delivery of the notification as described in Paragraph 5. of this endorsement will be completed at least ninety (90) days prior to the effective date of cancellation.

7. Proof of mailing the notification will be sufficient proof that we have complied with Paragraphs 5. and 6. of this Endorsement.

8. Our delivery of notification described in Paragraphs 5. and 6. of this Endorsement is intended as a courtesy only. Our failure to provide such delivery of notification will not:

   a. Extend the Policy cancellation date;
   b. Negate the cancellation; or
   c. Provide any additional insurance that would not have been provided in the absence of this Endorsement.

9. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs 5. and 6. of this Endorsement.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Alston Construction Company Inc.	Policy Number PCADB-5015300-0921
Effective Date of This Endorsement 09/01/2021	Authorized Representative

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/22/2021

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

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PRODUCER Willis Towers Watson Midwest, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Hartford Casualty Insurance Company — 29424 INSURER B: Twin City Fire Insurance Company — 29459 INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES **CERTIFICATE NUMBER:** W22919920 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT X LOC OTHER:	Y		83 UEA QT2505	09/01/2021	09/01/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			83 UEA QT2506	09/01/2021	09/01/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0	Y		83 RHA AC2219	09/01/2021	09/01/2022	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: No (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	83 WEA QT2504	09/01/2021	09/01/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

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

RE: 08-2002-0100 Tracy Logistics Park - TEMPORARY CONSTRUCTION EASEMENT

BCI IV Pescadero DC LP c/o Cushman & Wakefield US, Inc. (Grantor) and its respective directors, officers, employees and representatives are included as Additional Insureds as respects to General Liability and Umbrella/Excess Liability as required by written contract.

CERTIFICATE HOLDER

BCI IV Pescadero DC LP
c/o Cushman & Wakefield US, Inc.
1333 N. California Blvd., Suite 500
Walnut Creek, CA 94596

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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SR ID: 21867288 BATCH: 2318438

AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY Willis Towers Watson Midwest, Inc.	NAMED INSURED Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826
POLICY NUMBER See Page 1	
CARRIER See Page 1 / NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

General Liability policy shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insureds as required by written contract.

The Umbrella/Excess policy Follows Form.

Waiver of Subrogation applies in favor of Additional Insureds with respects to Workers Compensation as permitted by law, as required by written contract.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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(3) Any manager, if you or the additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;

(5) Any trustee, if you or the additional insured is a trust; or

(6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **j.** of Section I - Coverage **A** - Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

POLICY NUMBER: 83 UEA QT2505

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - OPTION II

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Designated Project(s) Or Location(s) Of Covered Operations:
ALL, EXCEPT ADDITIONAL INSUREDS THAT ARE INSURED UNDER A SEPARATE ADDITIONAL INSURED ENDORSEMENT ON THIS POLICY	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. With respect to those person(s) or organization(s) shown in the Schedule above when you have agreed in a written contract or written agreement to provide insurance such as is afforded under this policy to them, Subparagraph **f., Any Other Party**, under the **Additional Insureds When Required By Written Contract, Written Agreement Or Permit** Paragraph of **Section II – Who Is An Insured** is replaced with the following:

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **e.**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused by:

(1) Your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;

(b) In connection with your premises owned by or rented to you and shown in the Schedule; or

(c) In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:

(i) The written contract or agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; or

(2) The acts or omissions of the additional insured in connection with their general supervision of your operations at the project(s) or location(s) designated in the Schedule.

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The insurance afforded to the additional insured shown in the Schedule applies:

(1) Only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

(a) During the policy period; and

(b) Subsequent to the execution of such written contract or written agreement; and

(c) Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.

(2) Only to the extent permitted by law; and

(3) Will not be broader than that which you are required by the written contract or agreement to provide for such additional insured.

With respect to the insurance afforded to the person(s) or organization(s) that are additional insureds under this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to the additional insured shown in the schedule are described in the Limits Of Insurance section.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in **Section IV – Commercial General Liability Conditions**, except as otherwise amended below.

B. With respect to insurance provided to the person(s) or organization(s) that are additional insureds under this endorsement, the **When You Add Others As An Additional Insured To This Insurance** subparagraph, under the **Other Insurance** Condition of **Section IV – Commercial General Liability Conditions** is replaced with the following:

When You Add Others As An Additional Insured To This Insurance

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Paragraph **(c)** below. This insurance does not apply to other insurance to which the additional insured in the Schedule has been added as an additional insured.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(i) The additional insured in the Schedule is a Named Insured under such other insurance; and

(ii) You have agreed in a written contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured in the Schedule.

(c) Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

All other terms and conditions in the policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/21 Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/21 Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

ANY PERSON OR ORGANIZATION
FROM WHOM YOU ARE REQUIRED BY
WRITTEN CONTRACT OR AGREEMENT
TO OBTAIN THIS WAIVER OF
RIGHTS FROM US.

Countersigned by _____
Authorized Representative

City of Tracy Agreement Routing

Please fill out form completely & write N/A if not applicable.

CONTRACTOR/COMPANY INFORMATION			
Contractor/Company:	LIT Industrial Limited Partnership	**Email:**	prestonpruett@seefriedproperties.co
Contact Person:	Preston Pruett	**Phone:**	

REQUESTING CITY DEPARTMENT						
Department:	DS-Engineering			**Phone:**	x6437	
Project Manager:	Veronica Child			**Admin:**	Michelle Hart	
Contract Type:	PSA ☐	GSA ☐	Amendment ☐	Public Proj. ☐	SIA ☐ OIA ☐	Other ☑
To be signed by: Per signature authority:	Mayor ☑ *TMC §2.20.080*		City Manager ☐ *TMC §2.20.090*	City Attorney ☑ *TMC §2.20.095*	Department Head ☐ *TMC §2.20.100*	

CONTRACT DESCRIPTION/INFORMATION				
Project Name:	Amendment No. 1 to OIA for LIT Industrial Limited Partnership			
	Approved by/Reso No. & Date	**Amount**	**Term**	**Total Amount**
Original	CM 3/24/22			
Amendment No. 1 / Task Order				
Amendment No. 2				

☑ **Previously reviewed by City Attorney's Office.** **Document Review No.** 21-356

☐ **Exhibits A through _____ attached.**

☑ **Signed by other Party & confirmed corporate, LLC or LP status, if applicable.** *To confirm Corp., LLC or LP status, please visit* https://businesssearch.sos.ca.gov/

☐ **Check if two originals are attached. The Clerk's Office will keep one original.**

☐ **Check if document will need to be notarized.**

☐ **Check if document will be recorded & list who will record the agreement:** _____

INSURANCE REQUIREMENTS *All Insurance Certificates must include the corresponding Contract Name*		
☒ Insurance Certificate attached.	☐ This is an Amendment or Task Order. Insurance Certificate is on file & current. N/A	
☒ Is Endorsement included?	☐ Is Waiver of Subrogation attached? N/A	Risk Manager Initials: KDD
☐ Check if any modifications to insurance requirements & include email from Risk Manager approving modification.		

FINANCE & BUSINESS LICENSE INFORMATION *To locate the business license number and status, please visit* https://tracy.hdlgov.com/Search/Index/BusinessLicense			
City Account # *Funds are budgeted & available*	N/A	**Business License #**	N/A

NOTES/SPECIAL INSTRUCTIONS

N/A

CONTRACT CERTIFICATION & APPROVALS

1. Department Head:	William Dean	Date	4-5-22	4. City Attorney		Date	5/16/22
2. Risk	Kim Dunniway Digitally signed by Kim Dunniway Date: 2022.05.11 08:22:22 -07'00'	Date		5. City Clerk		Date	5/19/2022
3. Finance	Donald E. Higgins Digitally signed by Donald E. Higgins Date: 2022.05.11 13:09:43 -07'00'	Date					

Contract questions? Contact City Attorney's office (209) 831-6130. Insurance questions? Contact Risk Manager (209) 831-6169. Finance questions? Contact Finance Department (209) 831-6822. Business License Questions? Contact HDL (209) 826-1827 or request@hdlgov.com.

CITY OF TRACY
OFF-SITE IMPROVEMENT AGREEMENT FOR
LIT INDUSTRIAL LIMITED PARTNERSHIP

This **OFF-SITE IMPROVEMENT AGREEMENT** (hereinafter "**Agreement**") is made and entered into by and between the **CITY OF TRACY,** a municipal corporation (hereinafter "**City**"), and LIT Industrial Limited Partnership, a Delaware limited partnership (referred to as "**Developer**") on June 8, 2021 ("**Effective Date**").

RECITALS

A. Developer is currently the owner of the real property (hereinafter "**Property**"), more particularly described in Exhibit "A", attached and incorporated herein by this reference. The Property is geographically situated on the north side of Grant Line Road, approximately one thousand three hundred twenty (1,320) feet west of Paradise Road (Assessor's Parcel Numbers 213-070-48, 213-070-49, 213-070-52, 213-070-53, 213-070-85 and 213-070-87).

B. The Development Review Application and related Tentative Parcel Map Application (D18-0034 and TSM19-0004) for Developer's proposed Silva Dairy Site Industrial Project on the Property (hereinafter "**Project**") were approved by the Development Services Director and the City Engineer, respectively, on December 19, 2019, are on file with the City Engineer, and are incorporated herein by reference. Approval of the Project was subject to specified conditions of approval (hereinafter, collectively, "**Conditions of Approval**"), attached hereto as Exhibit "B," and incorporated herein by reference.

C. Developer has submitted or caused to be submitted the Project's improvement Plans and Specifications (as defined below) for the Project to construct streets and utility improvements, including but not be limited to, construction of concrete curb and gutter and sidewalk, accessible ramps, asphalt concrete pavement, traffic signals, signing and striping, storm drains, catch basins, fire hydrants, LED street lights, street trees with automatic irrigation system, barricade and guardrail, and other associated improvements as determined by the City Engineer that are necessary for a safe transition from a newly improved street to existing street sections on Grant Line Road, Pescadero Avenue and Chrisman Road (hereinafter, collectively, "**Work**"). The Work is described more fully in Exhibit "B".

D. Improvement Plans and Specifications (which incorporate applicable portions of the City's Standard Specifications) have been prepared on behalf of Developer, and approved by the City Engineer, which describe in more detail the Work which is required to be completed in accordance with the terms and conditions of this Agreement. The Plans and Specifications, as approved by the City Engineer, are on file with the City Engineer, and are incorporated herein by reference. The term "**Plans and Specifications**" shall, collectively, consist of eighty-eight (88) sheets of improvement plans (Civil, Irrigation & Landscape, Street Lights, Traffic, Signing and Striping) entitled "Seefried Industrial Properties Street Improvement Plans for Chrisman Road" prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California.

E. Included in the Work is the requirement to install a traffic signal at the intersection of Grant Line Road and Chrisman Road (the "Intersection"). City has been advised that

Developer has arranged with Prologis L.P. ("Prologis"), for Prologis to complete the installation of such traffic signal in accordance with the Plans and Specifications required by both the Prologis Off-Site Improvement Agreement (Prologis OIA) and this Agreement. Notwithstanding any such arrangement between Developer and Prologis, Developer hereby acknowledges and agrees that Developer's arrangement with Prologis does not relieve Developer of the obligation to ensure that the traffic signal installation is completed as required by Developer's Conditions of Approval for its Project and in conformance with the Plans and Specifications described in this Agreement and the Prologis OIA, and if the City determines that Prologis has not completed such traffic signal installation in accordance with the applicable Plans and Specifications, to the reasonable satisfaction of the City Engineer, then Developer shall be required to complete the traffic signal installation in accordance with the applicable Plans and Specifications and all other applicable terms and conditions of this Agreement.

F. Because the Work described herein and in the Plans and Specifications has not been completed as of the Effective Date of this Agreement, 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 reasonable 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 expense, in the manner described in the Plans and Specifications, subject to any fee credits and/or reimbursement due under applicable laws and regulations. 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 required under applicable laws and regulations, all of the Work shall be performed by Developer in accordance with the requirements of the State prevailing wage laws.

   1.1. ROADWAY FEE CREDITS/REIMBURSEMENT. In accordance with work on Chrisman Road, Developer is eligible to receive up to $5,070,647, as further detailed in this section, in credits and/or reimbursements based on actual costs provided to the City by Developer. Upon submission of the improvement security required under Section 4 below, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive roadway fee credits applicable to Chrisman Road in the amount of $4,646,795.08. The remaining $423,851.92 will be paid to the Developer as a reimbursement in accordance with section 13.08.070 of the Tracy Municipal Code. Developer will still be responsible for paying the program management fee associated with Transportation Impact Fees in accordance with section 13.08.020 of the Tracy Municipal Code.

   1.2. INFRASTRUCTURE FEE CREDITS. In accordance with the storm drainage work, Developer is eligible to receive up to $2,414,912, as further detailed in this section, in credits and/or reimbursements based on actual costs provided to the

City by Developer. Upon submission of the improvement security required under Section 4 below, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive storm drainage basin fee credits in the amount of $1,808,551.22. The remaining $606,360.78 will be paid to the Developer as a reimbursement in accordance with section 13.08.070 of the Tracy Municipal Code. Developer will still be responsible for paying the program management fee associated with Storm Drainage Impact Fees in accordance with section 13.08.020 of the Tracy Municipal Code.

2. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "**Authorized Representative**") on site 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.

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 and/or rights-of-way necessary for the performance of the Work, at Developer's sole cost and expense, subject to any fee credit and/or reimbursement due hereunder.

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 **$15,635,782** to secure faithful, performance of this Agreement (until the day following the date upon which the City Council accepts the Work as complete).

   4.2. **Labor and Material** security in the amount of **$15,635,782** to secure payment by Developer to laborers and materialmen for the Work (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).

   4.3. **Warranty** security in the amount of **$1,563,578** to guarantee the Work against any defective work or labor done or defective materials used in the performance of the 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).

5. **IRREVOCABLE OFFER OF DEDICATION.** Developer has shown on the Tentative Parcel Map (TSM19-0004) and shall show on the Parcel Map the irrevocable offer(s) of dedication required under the Project's Conditions of Approval. At Developer's expense, Developer shall also remove or insure over, as requested by City, any new encumbrances (as of the Effective Date of this Agreement) City deems, in its discretion, to conflict with City's intended ownership and use of the Work as set forth in Tracy Municipal Code section 12.32.040.

6. **INSURANCE.** Prior to 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 Developer or its general contractor responsible for the Work. The insurance coverage requirements below can also be covered by umbrella policies if approved by City.

   6.1. **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.

   6.2. **Commercial General Liability.** Developer shall maintain or cause to be maintained commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than Two Million Dollars ($2,000,000) 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. Such 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.

   6.3. **Automobile Liability.** Developer shall provide or cause to be provided 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.

   6.4. **Workers' Compensation.** Developer shall maintain or cause to be maintained 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.

   6.5. **Professional Liability.** Developer shall require or cause to be required 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 (3) years after completion of the services required by this Agreement.

6.6. **Notice of Cancellation.** Developer shall obtain or cause to be obtained 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.

6.7. **Authorized Insurers.** All insurance companies providing coverage required under this Section 6 shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

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

6.9. **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 or cause to be provided City with a substitute certificate of insurance.

6.10. **Developer's Obligation.** Maintenance of insurance by or on behalf of 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.

7. **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 to the extent required under applicable laws and regulations. Prior to the commencement of the Work, Developer shall obtain a City of Tracy Business License. Developer shall comply with all applicable local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.

8. **TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. 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 which purportedly caused the delay, and not later than the date on which performance is due.

8.1. **Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, 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.

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

8.3. **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 8.1 above and subject to extension(s) granted pursuant to this Section 8.

9. **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.

9.1. **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 City requires an independent inspection of the Work, Developer shall pay all such actual costs in connection therewith and provide a report to City.

10. **DEFAULT**

10.1. **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.

10.2. 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):

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

10.2.2. Developer abandons the Work site.

10.2.3. Developer fails to perform one or more requirements of this Agreement and fails to cure any such non-performance pursuant to Section 10.3, below.

10.2.4. Developer fails to replace or repair any damage to any property owned by City or other property owners caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work pursuant to Section 11 below.

10.2.5. Developer violates any legal requirement related to the Work and fails to cure such violation pursuant to Section 10.3 below.

10.3. **Cure of Default.** In the event that Developer fails, within thirty (30) calendar days after receipt of written notice from 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, City may, in its discretion, take any or all of the following actions:

10.3.1. Demand that Developer complete performance of the Work.

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

10.3.3. Any other judicial remedies available to City.

11. **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.

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 obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges (if any) for the Work 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 (1) 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 reasonably 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 undue delay and without any cost to City repair, replace or reconstruct any defective improvements.

14. **INDEPENDENT CONTRACTOR STATUS.** Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Developer.

15. **OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement are the property of City and shall be given to City at the completion of Developer's Work, or upon demand from City. Prior to acceptance of the Work, Developer shall submit the as-built drawings in AutoCAD format Release-14 or higher.

16. **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 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, active negligence, or willful misconduct of City. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

17. **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 City's written consent, which shall not be unreasonably withheld, delayed or conditioned. 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.

18. **NOTICES.**

18.1. 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
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
notice@cityoftracy.org

To Developer:

LIT Industrial Limited Partnership
1717 McKinney Ave.
Dallas, TX 75202
Attn: John Clinton
john.clinton@clarionpartners.com

With a copy to:
City Attorney
333 Civic Center Plaza
Tracy, CA 95376
attorney@cityoftracy.org

With a copy to:
Seefried Industrial Properties, Inc.
2201 E. Camelback Road, Suite 225b
Phoenix, AZ 85016
Attn: Jason Quintel
jasonquintel@seefriedproperties.com

With a copy to:
Miller Starr Regalia
Attn: Nadia Costa
1331 N. California Blvd., Fifth Floor
Walnut Creek, CA 94596
nadia.costa@msrlegal.com

18.2. 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.

19. **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.

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

21. **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.

22. **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.

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. 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.** This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

25. **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]

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 Young

Title: MAYOR

Date: 6/15/2021

Attest:

By: Adrianne Richardson
Title: CITY CLERK

Date: 6/16/2021

Approved As To Form:

By: Leticia Ramirez
Title: CITY ATTORNEY

Date: 6/15/2021

DEVELOPER:

LIT Industrial Limited Partnership, a Delaware limited partnership

By: LIT Holdings GP, LLC, a Delaware limited liability company, its general partner

Title: Senior Vice President

EXHIBITS

A – Legal Description of Property
B – Conditions of Approval
C – Authorized Representative

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

LOTS 55 AND 57 AS SHOWN ON "MAP OF UNIT NO. 1, PESCADERO COLONY", FILED FOR RECORD NOVEMBER 10, 1921 IN VOLUME 10 OF MAPS AND PLATS, AT PAGE 44, SAN JOAQUIN COUNTY RECORDS.

PARCEL TWO:

LOT 69 AS SHOWN ON "MAP OF UNIT NO. 1, PESCADERO COLONY", FILED FOR RECORD NOVEMBER 10, 1921 IN VOLUME 10 OF MAPS AND PLATS, AT PAGE 44, SAN JOAQUIN COUNTY RECORDS.

THE ABOVE LEGAL DESCRIPTION IS ALSO REFERRED TO AS PARCEL "C" AS SHOWN ON PARCEL MAP FILED FOR RECORD JULY 7, 1980 IN BOOK 9 OF PARCEL MAPS, AT PAGE 95, SAN JOAQUIN COUNTY RECORDS.

EXCEPTING THEREFROM A PORTION OF LOT 69, AS SAID LOT IS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF UNIT NO. 1, PESCADERO COLONY", FILED FOR RECORD NOVEMBER 10, 1921 IN VOLUME 10 OF MAPS AND PLATS, AT PAGE 44, SAN JOAQUIN COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE EAST BOUNDARY LINE OF LOT 69 WITH THE SOUTHERN RIGHT-OF-WAY LINE OF PESCADERO AVENUE (30.00 FEET FROM CENTERLINE), FORMERLY NAMED VINE AVENUE, AS SAID LOT AND AVENUE ARE SHOWN UPON THAT ABOVE REFERRED TO MAP AND RUNNING THENCE ALONG SAID EAST BOUNDARY LINE OF LOT 69, SOUTH 00°18'15" WEST, 1290.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 69; THENCE ALONG THE SOUTHERN BOUNDARY LINE OF SAID LOT 69, NORTH 89°41'45" WEST 32.50 FEET; THENCE LEAVING SAID SOUTHERN BOUNDARY LINE AND RUNNING PARALLEL WITH AND 32.50 FEET DISTANT FROM SAID EAST BOUNDARY LINE OF LOT 69, NORTH 00°18'15" EAST 1290.00 FEET TO SAID SOUTHERN RIGHT-OF-WAY LINE, AS SHOWN UPON THAT ABOVE REFERRED TO MAP AS VINE AVENUE; THENCE ALONG SAID SOUTHERN RIGHT-OF-WAY LINE, SOUTH 89°41'45" EAST, 32.50 FEET, TO THE POINT OF BEGINNING.

THE ABOVE LEGAL DESCRIPTION IS ALSO REFERRED TO AS PARCEL "C" AS SHOWN ON PARCEL MAP FILED FOR RECORD JULY 7, 1980 IN BOOK 9 OF PARCEL MAPS, AT PAGE 95, SAN JOAQUIN COUNTY RECORDS.

PARCEL THREE:

LOT 71 AS SHOWN ON "MAP OF UNIT NO. 1, PESCADERO COLONY", FILED FOR RECORD NOVEMBER 10, 1921 IN VOLUME 10 OF MAPS AND PLATS, AT PAGE 44, SAN JOAQUIN COUNTY RECORDS.

EXCEPTING THEREFROM PARCEL "A" AND PARCEL "B" AS SHOWN ON PARCEL MAP FILED FOR RECORD JULY 7, 1980 IN BOOK 9 OF PARCEL MAPS, AT PAGE 95, SAN JOAQUIN COUNTY RECORDS.

THE ABOVE LEGAL DESCRIPTION IS ALSO REFERRED TO AS PARCEL "C" AS SHOWN ON PARCEL MAP FILED FOR RECORD JULY 7, 1980 IN BOOK 9 OF PARCEL MAPS, AT PAGE 95, SAN JOAQUIN COUNTY RECORDS.

ALSO EXCEPTING THEREFROM A PORTION OF LOT 69, AS SAID LOT IS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF UNIT NO. 1, PESCADERO COLONY", FILED FOR RECORD NOVEMBER 10, 1921 IN VOLUME 10 OF MAPS AND PLATS, AT PAGE 44, SAN JOAQUIN COUNTY RECORDS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT ON THE EAST BOUNDARY LINE OF LOT 71, AT THE NORTHEAST CORNER OF PARCEL "A", AS SHOWN PARCEL MAP FILED FOR RECORD JULY 7, 1980 IN BOOK 9 OF PARCEL MAPS, AT PAGE 95, SAN JOAQUIN COUNTY RECORDS AND RUNNING THENCE FROM POINT OF BEGINNING ALONG SAID EAST BOUNDARY LINE OF LOT 71, NORTH 00°27'09" EAST, 1121.68 FEET TO THE NORTHEAST CORNER OF SAID LOT 71; THENCE ALONG THE NORTHERN BOUNDARY LINE OF SAID LOT 71, NORTH 89°44'45" WEST, 32.50 FEET; THENCE LEAVING SAID NORTHERN BOUNDARY LINE AND RUNNING PARALLEL WITH AND 32.50 FEET DISTANT FROM SAID EAST BOUNDARY LINE OF LOT 71, SOUTH 00°27'09" WEST, 1121.68 FEET TO THE NORTHERN BOUNDARY LINE OF SAID PARCEL "A"; THENCE ALONG SAID NORTHERN BOUNDARY LINE OF SAID PARCEL "A", SOUTH 89°44'40" EAST, 32.50 FEET TO THE POINT OF BEGINNING.

PARCEL A:

PARCEL "A" AS SHOWN UPON THAT CERTAIN PARCEL MAP FILED FOR RECORD JULY 7, 1980, IN BOOK OF PARCEL MAPS, VOLUME 9, PAGE 95, SAN JOAQUIN COUNTY RECORDS BEING A PORTION OF LOT 71, UNIT NO. 1 OF PESCADERO COLONY, RANCHO EL PESCADERO FILED FOR RECORD NOVEMBER 10, 1921 IN BOOK OF MAPS AND PLATS, VOLUME 10, PAGE 44, SAN JOAQUIN COUNTY RECORDS.

EXCEPTING THAT PORTION DEEDED TO THE CITY OF TRACY BY DOCUMENT RECORDED OCTOBER 17, 2007 AS INSTRUMENT NO. 2007-179340 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL A, ON THE NORTHERN RIGHT OF WAY LINE OF GRANT LINE ROAD (30.00 FEET FROM CENTERLINE) AS SAID PARCEL AND ROAD ARE SHOWN UPON THE ABOVE REFERRED TO MAP AND RUNNING THENCE ALONG SAID NORTHERN RIGHT OF WAY LINE, NORTH 89° 32' 52" WEST 259.89 FEET TO THE WEST BOUNDARY LINE OF SAID PARCEL A; THENCE ALONG SAID WEST BOUNDARY LINE OF SAID PARCEL, NORTH 00° 27' 08" EAST 7.00 FEET; THENCE LEAVING SAID WEST BOUNDARY LINE AND RUNNING PARALLEL TO AND 7.00 FEET DISTANT FROM SAID NORTHERN RIGHT OF WAY LINE OF GRANT LINE ROAD, SOUTH 89° 32' 52" EAST, 259.89 FEET TO THE EAST BOUNDARY LINE OF SAID PARCEL A; THENCE ALONG SAID EAST BOUNDARY LINE, SOUTH 00° 27' 08" WEST, 7.00 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL "B" AS SHOWN UPON THAT CERTAIN PARCEL MAP FILED FOR RECORD JULY 7, 1980, IN BOOK OF PARCEL MAPS, VOLUME 9, PAGE 95, SAN JOAQUIN COUNTY RECORDS BEING A PORTION OF LOT 71, UNIT NO. I OF PESCADERO COLONY, RANCHO EL PESCADERO FILED FOR RECORD NOVEMBER 10, 1921 IN BOOK OF MAPS AND PLATS, VOLUME 10, PAGE 44, SAN JOAQUIN COUNTY RECORDS.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL B, ON THE NORTHERN RIGHT OF WAY LINE OF GRANT LINE ROAD (30.00 FEET FROM CENTERLINE) AS SAID PARCEL AND ROAD ARE SHOWN UPON

THE ABOVE REFERRED TO MAP AND RUNNING THENCE ALONG SAID NORTHERN RIGHT OF WAY LINE, SOUTH 89°32'52" EAST 262.10 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL B; THENCE ALONG SAID EAST BOUNDARY LINE OF SAID PARCEL, NORTH 00°27'08" EAST 7.00 FEET; THENCE LEAVING SAID EAST BOUNDARY LINE RUNNING PARALLEL TO AND 7.00 FEET DISTANT FROM SAID NORTHERN RIGHT OF WAY OF GRANT LINE ROAD, NORTH 89°32'52" WEST 262.10 FEET TO THE WEST BOUNDARY OF SAID PARCEL B; THENCE ALONG SAID WEST BOUNDARY LINE, SOUTH 00°27'08" WEST, 7.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

Exhibit 1 - Development and Engineering Services Department Conditions of Approval

Conditions of Approval for Seefried Industrial
Northeast corner of Grant Line and Chrisman Roads
Application Numbers D18-0034 and TSM19-0004
December 19, 2019

A. General Provisions and Definitions

1. These Conditions of Approval shall apply to the real property described as the northeast corner of Grant Line and Chrisman Roads, Assessor's Parcel Numbers 213-070-48, 49, 52, 53, 85 and 87, Application Numbers D18-0034 and TSM19-0004, three new industrial buildings totaling 1,035,500 square feet with related parking and landscaping (hereinafter "Project").

2. 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" 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, Northeast Industrial Concept Development Plan, 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 three industrial buildings totaling 1,035,500 square feet and related improvements. Application Numbers D18-0034 and TSM19-0004, located at the northeast corner of Grant Line and Chrisman Roads, Assessor's Parcel Numbers 213-070-48, 49, 52, 53, 85 and 87. The Conditions of Approval shall specifically include all Development Services Department, including Planning Division, Engineering, and Building Division and Fire Department conditions set forth herein.

   f. "Project" means the real property located at the northeast corner of Grant Line and Chrisman Roads, Assessor's Parcel Numbers 213-070-48, 49, 52, 53, 85 and 87.

g. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

3. 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 Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").

4. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City Regulations.

5. 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. Planning Division Conditions of Approval

B1. Except as otherwise modified herein, the project shall be developed in accordance with the plans received by the Development Services Department on September 26, 2019. Prior to the issuance of any building permits, any deviations from the approved site plan or elevations shall be evaluated for substantial compliance with the approved plans, to the satisfaction of the Development Services Director. Should any deviations be determined not to be in substantial compliance with the approved plans, they shall be reviewed in a new Development Review application process.

B2. Prior to the issuance of a building permit, the site plan shall be revised to show a landscape setback of at least 15 feet adjacent to all public rights-of-way.

B3. Prior to issuance of a building permit, a detailed landscape and irrigation plan showing the landscaping shall be submitted for approval by the Development Services Director. All landscape and irrigation improvements shall be designed and installed per the requirements of the City of Tracy Off-Street Parking Requirements, the Water Efficient Landscape Guidelines, and all other applicable City standards.

B4. Prior to the issuance of a building permit, an Agreement for Maintenance of Landscape and Irrigation Improvements shall be executed and financial security submitted to the Development Services Department. The Agreement shall ensure maintenance of the on-site landscape and irrigation improvements for a period of two years. Said security shall be equal to the actual material and labor costs for installation of the on-site landscape and irrigation improvements, or $2.50 per square foot of on-site landscape area.

B5. All PG&E transformers, phone company boxes, trash enclosures or compactors, 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.

B6. All vents, gutters, downspouts, flashing, electrical conduit, etc. shall be internal to the buildings when feasible, and otherwise shall be painted to match the color of the adjacent surface or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.

B7. Prior to the issuance of a certificate of occupancy, bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510 to the satisfaction of the Development Services Director.

B8. All exterior lighting shall be directed downward, onto the parking and maneuvering surface and away from the public rights-of-way.

B9. All improvements shall be consistent with the Tracy Municipal Code, Northeast Industrial Specific Plan, Standard Plans, and other applicable City Regulations.

B10. Where landscape planters are parallel and adjacent to the side of vehicular parking spaces, a 12" wide concrete curb shall be placed adjacent to the parking space to allow for pedestrian access to vehicles without damage to the landscape areas.

B11. Prior to final inspection of certificate of occupancy, on-site circulation signs shall be installed to the satisfaction of the Development Services Director.

B12. 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 Grant Line Road, Chrisman Road, Pescadero Road, I-205 or any other public right-of-way. The parapet walls shall be designed at the appropriate height to screen such equipment.

B13. Prior to the issuance of a building permit, a detailed plan of the trash enclosures shall be submitted, showing solid metal doors, interior concrete curbs, walls of at least eight feet in height, a roof structure, and exterior materials compatible with the adjacent building exteriors.

B14. Prior to the issuance of a certificate of occupancy, a reciprocal access and parking agreements or easement shall be recorded on the parcels to allow for shared parking and circulation in order to meet the parking demand for all buildings on the site, and copies of the recorded documents shall be delivered to the Development and Engineering Services Department. The recorded documents shall contain a statement that the agreement and/or easement cannot be rescinded without prior written approval by the City of Tracy.

B15. Prior to the issuance of a building permit, the parking lot lighting plan shall be revised to show compliance with the minimum standard of one foot candle power within the auto parking area.

B16. Prior to the issuance of a building permit, a detailed plans for the amenities in the employees break areas shall be submitted for review and approval by Planning staff.

Engineering Division Conditions of Approval

C.1. General Conditions

Developer shall comply with the applicable recommendations of the technical analyses and reports prepared for the Project listed as follows:

a. *Seefried Industrial Project Traffic Impact Study in the City of Tracy,* prepared by Kimley-Horn Associates, dated April 10, 2019, and Seefried Properties – Traffic and Engineering Review prepared by Kimley-Horn Associates, dated December 2, 2019 *("Traffic Analysis")* any subsequent amendments or updates.

b. *Water Distribution System Hydraulic Network* Analysis prepared by Blackwater Consulting Engineers, Inc dated October 17, 2019 ("Water Analysis") and any subsequent amendments or updates.

c. *Silva Dairy Property (Seefried Project) – Chrisman Road and Pescadero Avenue* by Stormwater Consulting Inc. dated October 3, 2019 ("Storm Drainage Analysis") and any subsequent amendments or updates.

d. *Sewer Collection System Hydraulic Capacity Analysis* prepared by Blackwater Consulting Engineers, Inc. dated December 6, 2019 ("Sewer Analysis") and any subsequent amendments or updates.

C.1.1. Developer shall comply with the requirements of the Northeast Industrial Specific Plan Finance and Implementation Plan (NEI Phase 1 FIP), approved by City Council December 1999 (Resolution Numbers 99-462 and 99-485), April 1, 2003 (Resolution Number 2003-100), January 4, 2005 (Resolution Number 2005-023), February 21, 2006 (Resolution Number 2006-069), April 15, 2008 (Resolution Number 2008-065), and NEI Phase 2 FIP approved by City Council January 2006 (Resolution Number 2006-038), and January 15, 2008 (Resolution Number 2008-010).

C.1.2. The Property is within the Community Facilities District 2006-01 (CFD 2006-01) formed on February 21, 2006 and amended boundary map of the CFD recorded on August 11, 2006 in Book 5 of Maps of Assessment and Community Facilities Districts, at Page 136 of the San Joaquin County Records. The Amended and Restated Notice of Special Tax Lien was recorded on July 24, 2006 as Document #2006-158461 of the San Joaquin County Records.

C.2. Grading Permit

The City will not accept a grading permit application for the Project as complete until the Developer has provided all relevant documents related to said grading permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.2.1. Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.

C.2.2. Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

C.2.3. Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) for the Project with a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any relevant documentation or written approvals from the SWQCB, including the Wastewater Discharge Identification Number (WDID#).

a. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB. The Developer shall provide the City with a copy of the completed Notice of Termination.

b. The cost of preparing the SWPPP, NOI and NOT, including the filing fee of the NOI and NOT, shall be paid by the Developer.

c. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the applicable provisions of the City's Storm Water Management Program.

C.2.4. Two (2) sets of the Project's Geotechnical Report signed and stamped by a licensed Geo-technical Engineer licensed to practice in the State of California. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, pavement design recommendations, percolation rate, and elevation of the highest observed groundwater level (measured in two locations within the proposed temporary storm drainage retention basin sites).

C.2.5. Two (2) sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system and for determining the size of the project's storm drainage connection.

C.2.6. A copy of the Approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD).

C.2.7. Documentation of any necessary authorizations from Regional Water Quality Control Board (RWQCB) such as NOI and WDID and documents such as SWPPP.

C.3. Encroachment Permit

No applications for encroachment permit will be accepted by the City as complete until the Developer provides all relevant documents related to said encroachment permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.3.1. Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar) that incorporate all the requirements described in these Conditions of Approval. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.3.2. Two (2) sets of structural calculations, as applicable, signed and stamped by a Structural Engineer licensed in the State of California.

C.3.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.3.4. Signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA. The Developer's obligations in the OIA shall be deemed to be satisfied upon City Council's acceptance of the public improvements and release of the Improvement Security.

C.3.5. If required, signed and notarized Deferred Improvement Agreement (DIA) and Improvement Security, to allow deferment of completion of improvements as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with the DIA and Section 12.36.080 of the TMC, or pursuant to the terms of the Development Agreement, as appropriate. The Developer's obligations in the DIA shall be deemed to be satisfied upon the release of the Improvement Security.

C.3.6. Check payment for the applicable engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection,

and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the fee rate adopted by the City Council on May 16, 2017, per Resolution 2017-098

C.3.7. Traffic Control Plan signed and stamped by a Registered Civil Engineer or Traffic Engineer licensed in the State of California.

C.4. Improvement Plans - Improvement Plans shall contain the design, construction details and specifications of public improvements that are necessary to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. The Improvement Plans shall be completed to comply with City Regulations, these Conditions of Approval, and the following requirements:

C.4.1. Grading and Storm Drainage Plans

a. Include all proposed erosion control methods and construction details to be employed and specify materials to be used. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Geotechnical Engineer. A copy of the Project's Geotechnical Report must be submitted with the Grading and Storm Drainage Plans.

b. When the grade differential between the Project Site and adjacent property(s) exceeds 12 inches, a reinforced or masonry block, or engineered retaining wall is required for retaining soil. The Grading Plan shall show construction detail(s) and structural calculations of the retaining wall or masonry wall for City's review and approval. The entire retaining wall and footing shall be constructed within the Project Site. A structural calculation shall be submitted with the Grading and Storm Drainage Plans.

c. An engineered fill may be accepted as a substitute of a retaining wall, subject to approval by the City Engineer. The Grading and Storm Drainage Plans must show the extent of the slope easement(s). The Developer shall be responsible for obtaining permission from owner(s) of the adjacent and affected property(s). The slope easement must be recorded, prior to the issuance of the final building certificate of occupancy.

d. Grading for the site shall be designed such that the Project's storm water can overland release to a public street that has a functional storm drainage system with adequate capacity to drain storm water from the Project Site, in the event that the on-site storm drainage system fails or it is clogged. The storm drainage release point is recommended to be at least 0.70 foot lower than the building finish floor elevation and shall be improved to the satisfaction of the City Engineer.

C.4.2. Storm Drainage

C.4.2.1. Permanent Drainage System:

a. The Project will ultimately drain to future DET NEI located on the south side of Pescadero Avenue and adjacent to and east of the Project. In order to achieve the required storage volume for DET NEI, additional storage will need to be provided within the north portion of the subject property as an expansion of DET NEI.

b. Developer shall design and extend the existing 54" SD installed along the south side of Pescadero Avenue with the adjacent Ridgeline project eastward from the stub provided to the northeast corner of the Project, where it will eventually be extended further eastward to connect with the wet well for the future pump station that will serve DET NEI.

c. The Developer shall design and install these facilities in accordance with the Storm Drainage Master Plan and the City of Tracy's Engineering Design & Construction Standards. The improvement plans for the SDMP Storm Drain Line shall include backup calculations, if required, to demonstrate compliance with the ultimate configuration (build-out condition) of the SDMP Facilities per the Storm Drainage Master Plan.

d. This project will be required to pay current adopted storm drainage impact fees (Watershed Fees) and Eastside Channel Fees applicable to the City's Northeast Area.

e. The developer shall be eligible to receive fee credits and/or reimbursements for costs associated with constructing the SDMP facilities as identified in the SDMP.

C.4.2.2. Temporary Drainage System – Onsite Retention Basin(s)

a. If Detention Basin NEI and other downstream storm drain facilities per the Storm Drainage Master Plan are not in service when the project is constructed, then the Developer may construct interim onsite Temporary Retention Basin(s). The Temporary Retention Basin(s) shall be designed in accordance with City Regulations and Standards. The Temporary Retention Basin(s) shall be designed to retain storm water run-off from the Project resulting from 200% of the 10-year, 48-hour storm event in compliance with Sections 5.06 and 5.07 of City of Tracy Design Standards.

b. The temporary retention facilities may occupy the area(s) being set aside for future expansion of DET NEI.

c. A hydrologic and hydraulic analysis will need to be provided for the proposed onsite storm drainage facilities.

d. The Developer shall provide a geotechnical investigation with respect to the Temporary Retention Basin(s) that validates that percolation rates for the subsurface soils that exist at and below the bottom of the basin are acceptable.

e. Developer shall be responsible for maintenance of onsite Temporary Retention Basin(s) until the downstream drainage facilities are installed and accepted by the City. The Developer shall sign an improvement agreement (Deferred Improvement Agreement), to assure completion of the Developer's obligation to repair and maintain said basin(s) while the storm drainage retention basin is in service and then to modify/remove Temporary Retention Basin(s) and connect on-site storm drainage system to the master plan facilities when constructed (by others) and operational. The scope of improvements and security required with the Deferred Improvement Agreement will be determined during the improvement plan review.

f. Excavated materials shall be kept within the basin site. If the excavated materials are removed from the basin site, the Subdivider shall post cash security equivalent to the cost of import backfill materials, hauling to the basin site, spreading, compacting and re-grading the basin site. If excavated materials are retained on-site, the stockpile of excavated materials shall not be higher than 8 feet and slope should not be steeper than 1:1. A metal fence and access gate shall be installed by the Subdivider to enclose the basin site. The bottom of the temporary on-site storm drainage retention basin(s) shall be 5 feet above the observed highest groundwater elevation at the basin site, or as approved by the City Engineer. The Geotechnical Report shall also indicate the observed highest groundwater elevation at the basin site.

g. The Developer shall record a temporary storm drainage easement to grant rights to the City to access the temporary storm drainage retention basin(s) for any necessary emergency repair or maintenance work the City may have to perform within the basin site. Said temporary access easement shall include a sunset clause that such easement will automatically be terminated at such time as the above-referenced permanent storm drainage improvements are completed.

h. The Temporary Retention Basins(s) shall be designed to accommodate street runoff from Pescadero Avenue and Chrisman Road right-of-way.

C.4.3. Stormwater Treatment:

a. The Project shall comply with the applicable requirements of the *Multi-Agency Post-Construction Stormwater Standards Manual* and storm

water regulations that were adopted by the City Council in July 2015 and any subsequent amendments.

b. Calculations related to the design and sizing of on-site storm water treatment facilities must be submitted with the Grading and Storm Drainage Plans, and approved by City's Stormwater Coordinator prior to issuance of the Grading Permit for the Project.

c. Prior to the final inspection of the building the Developer shall submit a signed and notarized Stormwater Treatment Facilities Maintenance Agreement (STFMA) as a guarantee for the performance of Developer's responsibility towards the repair and maintenance of on-site storm water treatment facilities.

C.4.4. Site Sub-surface Investigation for Irrigation and Drainage Tiles

a. The Developer shall arrange for a site sub-surface investigation for determining the presence of irrigation and drainage tile drains within and around the Project Site, if any, and submit a report prepared and signed by a Geotechnical Engineer. In the event that tile drains exist within and around the Project Site, the Developer has the option to either relocate or abandon the on-site tile drains as required for the proposed development. All existing tile drains and proposed improvements for the relocation or removal of tile drains must be shown on the Grading and Storm Drainage Plans. Any tile drains under the proposed buildings shall be abandoned or relocated as may be required, to the satisfaction of the City. The Developer or the property owner(s) will be responsible for maintenance of tile drains to remain or the relocated tile drains and associated improvements. Additionally, the Developer will be responsible for monitoring the groundwater levels, and for the mitigations, if any, that may be required, by any applicable laws and regulations.

C.4.5. Sanitary Sewer Improvement Plans

a. All new sewer lines and associated appurtenances shall meet the City of Tracy Design Standards including minimum flow velocity requirement.

b. The Developer shall design and construct sewer lines in Chrisman Road and Pescadero Avenue as required to serve the project.

C.4.6. Water Distribution System

C.4.6.1. Project Water Line Improvements

a. All costs associated with the installation of the Project's permanent water connection(s) as identified in the Water Analysis shall be paid by the Developer.

b. Domestic and Irrigation Water Services – The Developer shall design and install domestic and irrigation water service connection, including a remote-read 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 final inspection of the building. Sub-metering will be allowed within private property. The City will not perform water consumption reading on sub-meters. The City shall maintain water lines from the water meter to the point of connection with the water distribution main (inclusive) only. Repair and maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.

c. Interruption to the water supply to the existing businesses and other users shall be kept to a minimum to facilitate construction of off-site improvements related to the Project. 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 offsite water mains and connections. The 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 72 hours before start of work.

d. Fire Service Line - The Developer shall design and install fire hydrants at the locations approved by the Fire Marshall and Chief Building Official. Prior to the approval of the Improvement Plans, the Developer shall obtain written approval from the Fire Marshall, 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 to serve the Project.

e. During the construction phase 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 required by the Fire Marshall.

C.4.7. Street Improvements

a. The roadway improvements to be constructed with this Project on Grant Line Road, Pescadero Avenue and Chrisman Road shall include, but are not limited to, concrete curb, gutter and sidewalk, accessible ramps, asphalt concrete pavement, traffic signals, signing and striping, storm

drains, catch basins, fire hydrants, LED street lights, street trees with automatic irrigation system, barricade and guardrail, and other improvements as determined by the City Engineer that are necessary for a safe transition from a newly improved street to existing street sections.

b. The roadway improvements must be designed and constructed by the Developer to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (HDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), Precise Plane Line for Chrisman Road, the applicable City Regulations, and these Conditions of Approval. Design and construction details of the Offsite Roadway Improvements must be shown on the Improvement Plans.

c. The Developer shall submit geotechnical recommendations and pavement design calculations to the City to demonstrate adequacy and integrity of the existing structural street section on Pescadero Avenue and Grant Line Road, and construct improvements as required to support STAA truck traffic. At a minimum, in addition to the widening, the Developer shall complete grinding and overlay of existing pavement with a 2" asphalt concrete overlay for the entire street width for the project frontages on Pescadero Avenue and Grant Line Road.

d. The City will assume responsibility to maintain the public improvements and accept the offer of dedication for right-of-way on Grant Line Road, Pescadero Avenue and Chrisman Road after the City Council accepts the public improvements.

e. Encroachment Permits – The Developer shall submit improvement plans for Grant Line Road and Pescadero Avenue with the locations of all utilities including water, recycled water, sanitary sewer, storm drainage lines that will be installed within the right-of-way.

f. All underground facilities within the southerly half street section proposed to be built with the Project shall be completed prior to issuance final certificate of occupancy.

g. Developer shall implement the STAA truck signage and improvements as listed in the Traffic Analysis. Improvement Plans shall include STAA truck route improvements and details.

h. Prior to issuance of the final certificate of occupancy, the Developer shall complete construction of improvements identified in the Traffic Analysis, and satisfy all applicable requirements specified in these Conditions of Approval and City Regulations.

i. Eligibility for fee credits and reimbursements for improvements on Grant Line Road and Chrisman Road will be determined by the City Engineer pursuant to Tracy Municipal Code requirements and applicable fee program regulations.

C.4.7.1. Pescadero Avenue

a. The Developer shall dedicate right-of-way along the frontage of the Property on Pescadero Avenue as required to widen the existing street section and construction of new realigned section of Pescadero Avenue to future Chrisman Road intersection. The Developer shall execute a Grant Deed to convey the land in fee title and submit legal description and plat map that describes the area to be dedicated, prior to City Council's acceptance of the public improvements. The cost of right-of-way dedication including the cost of preparing the legal description and plat map will be paid by the Developer.

b. Developer shall design and construct improvements on Pescadero Avenue per the Precise Plan Line for Chrisman Road to extend Pescadero Avenue to future Chrisman Road intersection. Traffic signal at the intersection of Chrisman Road and Pescadero Avenue shall be completed prior to issuance final certificate of occupancy for any building within the Project.

c. Pescadero Avenue improvements are not currently included in the program funded projects in the Roadway Master Plan. The Developer may request formation of Benefit District for costs of right-of-way dedication, design and construction of improvements on Pescadero Avenue that are beyond the fair share obligation of the Project for reimbursement from future developments within the City that benefit from these improvements.

C.4.7.2. Grant Line Road

a. The Developer shall dedicate right-of-way along the frontage of the Property on Grant Line Road as required to construct frontage improvements and widen the existing street section to ultimate configuration per Roadway Master Plan. The Developer shall execute a Grant Deed to convey the land in fee title and submit legal description and plat map that describes the area to be dedicated, prior to City Council's acceptance of the public improvements. The cost of right-of-way dedication including the cost of preparing the legal description and plat map will be paid by the Developer.

b. The Developer shall design and install improvements to widen Grant Line Road for the full frontage of the Project and install traffic signal at the easterly driveway on Grant Line Road.

C.4.7.3. Chrisman Road

a. The Developer shall dedicate right-of-way for full width of Chrisman Road from Grant Line Road to the easterly property boundary of the Project per the Precise Plan Line for Chrisman Road. The Developer shall execute a Grant Deed to convey the

land in fee title and submit legal description and plat map that describes the area to be dedicated, prior to City Council's acceptance of the public improvements. The cost of right-of-way dedication including the cost of preparing the legal description and plat map will be paid by the Developer.

b. Developer shall design and construct Chrisman Road improvements in compliance with the adopted Precise Plan Line for Chrisman Road, Tracy Roadway Master Plan and City Standards. Developer shall complete installation of new traffic signals at driveways as identified in the Traffic Report and complete modification of the existing traffic signal at Grant Line Road and Chrisman Road intersection.

c. Developer shall install interim improvements on Chrisman Road and Paradise Road as required to provide safe transitions and functional roadway to serve the Project as required by the City Engineer. Interim improvements are not eligible for fee credits or reimbursements.

C.4.7.4. Project Driveways

a. The Developer shall construct driveways on Grant Line Road, Pescadero Avenue and Chrisman Road in accordance with the recommendations of the *Traffic Analysis* and City Regulations. Where applicable, project driveways shall be designed for STAA truck access and provide adequate deceleration lanes and safe sight distances. Improvement Plans shall incorporate and address issues identified in the Traffic Analysis.

b. Traffic signals at the driveways as identified in the *Traffic Analysis* shall be designed and installed per City standards.

C.4.8. Joint Utility Trench Plans – All future utilities along the frontages of the Project shall be placed in an underground facility. If required, the Developer shall relocate existing utility poles after obtaining approval of affected utility companies and the City. No fee credits or reimbursements shall be applicable for utility pole relocations.

a. Developer shall prepare joint trench plans in compliance with utility companies' requirements and City regulations, and obtain approval of the plans. All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities.

b. The Developer shall submit Joint Utility Trench Plans for the installation of electric, gas, telephone and TV cable main and service lines that are necessary to be installed to serve the Project. These utilities shall be

installed within the 10-feet wide Public Utility Easement (PUE) that will be offered for dedication to the City. The Developer shall coordinate, as feasible, with the respective owner(s) of the utilities for the design of these underground utilities to ensure they can be installed within the 10-feet wide PUE to the extent feasible (and except in the event that additional space beyond the 10-feet PUE is required, as determined by the utility owner(s)).

C.4.2. Pavement cuts or utility trench(s) on existing street(s) for the installation of water distribution main, storm drain, sewer line, electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement, whichever applies). This pavement repair requirement is applicable when cuts or trenches are perpendicular to the street direction; when the new joint trench is placed in the street parallel to the street direction; the width of overlay is to be the width of the affected lane.

C.5. Building Permit – No building permit 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.5.1. Check payment of the applicable development impact fees including City Wide Roadway and Traffic, Water, Recycled Water, Wastewater, Storm Drainage, Public Safety, Public Facilities, and Park Development Impact Fees per the Finance Plan.

C.5.2. Check payment of any applicable Regional Transportation Impact Fees (RTIF)

C.5.3. Check payment of any applicable Agricultural Conversion or Mitigation Fee as required in Chapter 13.28 of the Tracy Municipal Code

C.6. Acceptance of Public Improvements – Public improvements will not be accepted by the City Council until after the Developer completes construction of the relevant public improvements, and also demonstrates to the City Engineer satisfactory completion of the following:

C.6.1. Correction of all items listed in the deficiency report prepared by the assigned Engineering Inspector relating to public improvements subject to City Council's acceptance.

C.6.2. Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City shall temporarily release the originals 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.6.3. Signed and notarized Grant Deeds and /or Grant of Easement(s) including legal description and plat map(s), relating to the offer of dedication for the storm drainage detention basin, Arbor Avenue right-of-way, and utility easements, as required in these Conditions of Approval.

C.6.4. Reasonable written permission from irrigation district or affected owner(s), if applicable. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

C.7. Temporary or Final Building Certificate of Occupancy – No Final Building Certificate of Occupancy will be issued by the City until after the Developer provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

C.7.1. The Developer has satisfied all the requirements set forth in Conditions C.5 and C.6 above.

C.7.2. The Developer has completed construction of all required public facilities for the building for which a certificate of occupancy is requested and all the improvements required in these Conditions of Approval. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the 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.8 Improvement Security – The Developer shall provide improvement security for all public facilities, as required by the OIA, DIA, and these Conditions of Approval. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with section 12.36.080 of the TMC and the Development Agreement. The amount of improvement security shall be as follows:

C.8.1. Faithful Performance (100% of the estimated cost of constructing the public facilities),

C.8.2. Labor & Materials (100% of the estimated cost of constructing the public facilities), and

C.8.3. Warranty (10% of the estimated cost of constructing the public facilities)

C.9. Release of Improvement Security – Improvement Security(s) described herein shall be released to the Developer after City Council's acceptance of public improvements, and after the Developer demonstrates, to the satisfaction of the City Engineer, compliance of these Conditions of Approval, and completion of the following:

C.9.1. Improvement Security for Faithful Performance, Labor & Materials, and Warranty shall be released to the Developer in accordance with Section 12.36.080 of the TMC.

C.9.2. Written request from Developer and a copy of recorded Notice of Completion.

C.10 Special Conditions

C.10.1. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design documents including the City's Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, or as otherwise specifically approved by the City.

C.10.2. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection. The 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.10.3. The 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.10.4. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers. Any damaged, displaced, obliterated or lost monuments or survey markers shall be re-established or replaced by a licensed Land Surveyor at the Developer's (or Contractor's) sole expense. A corner record must be filed in accordance with the State law for any reset monuments (California Business and Professions Code Section 8871).

C.10.5. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the Grading Permit, Encroachment Permit, Building Permit, Improvement Plans, OIA, and DIA, 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.

Building Division Conditions of Approval

D1. Prior to the issuance of a building permit, the applicant shall provide plans that show an accessible route of travel to the public right-of-way and all other amenities per 2016 California Building Code (CBC) 11B-206.2

D2. Prior to issuance of a building permit, the applicant shall clearly depict an accessible route of travel from the concrete ramp with guardrail located at the north and south sides of buildings 2 and 3 located in the truck docks to an accessible route per CBC 11B-206.2.

D3. Prior to issuance of a building permit, the applicant shall show a clear path of travel per CBC 11B-206 on the east wall, where exit doors appear to dead end at a landing and are not shown to be connected to an accessible route.

D4. Prior to issuance of a building permit, the applicant shall provide additional accessible exits to meet the requirements of CBC 11B-206.4.1 Exception 2 in the truck dock areas that provide maneuvering space at such exit doors. If the buildings are subdivided into multiple occupancies, then an accessible path of travel to the right-of-way shall be proved from each tenant space per CBC 11B-206.2.2.

D5. Prior to building permit issuance, applicant must submit separate demolition permit applications for all structures being removed per 2016 CBC 105, as it is not exempt from permits.

D6. Prior to the issuance of demolition permits, applicant must submit and receive approval for the Asbestos Survey Report, Asbestos Notification Form, Demolition Permit Release Form and pay all appropriate fees per San Joaquin County Air Pollution District.

D7. Prior to construction of any structures, applicant must 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.

D8. Prior to issuance of a building permit, the applicant shall provide plans that depict complete onsite utility details such as the size and type of pipe, the length of pipe sections, the distance between cleanouts, and dimensions of manholes and/or catch basins, etc., per 2016 California Plumbing Code Chapters 7 and 11.

D9. Prior to issuance of a building permit, the applicant shall provide plans that demonstrate level interior floor landings at the east and west walls of building 2, per CBC 1010.1.5.

Fire Prevention Conditions of Approval

E1. Prior to building permit approval, applicant shall satisfy all conditions from the South San Joaquin County Fire Authority letter dated 10/14/19.

EXHIBIT C

EXHIBIT C

Authorized Representatives

John Travers
Superintendent
JTravers@alstonco.com
Office: 916.340.2400
Cell: 916.216.1065
Fax: 916.340.0565

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/05/2021

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

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

PRODUCER Willis Towers Watson Midwest, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com
INSURED Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A: Hartford Casualty Insurance Company — 29424 INSURER B: Twin City Fire Insurance Company — 29459 INSURER C: American Guarantee and Liability Insurance — 26247 INSURER D: Ohio Casualty Insurance Company — 24074 INSURER E: Berkley Assurance Company — 39462 INSURER F:

COVERAGES **CERTIFICATE NUMBER:** W20884569 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT X LOC OTHER:	Y	Y	83 UEA QT2505	09/01/2020	09/01/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY	Y	Y	83 UEA QT2506	09/01/2020	09/01/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $	Y	Y	83 RHA AC2219	09/01/2020	09/01/2021	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: No (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	83 WEA QT2504	09/01/2020	09/01/2021	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
C	Excess Liability $15M xs $10M	Y	Y	AEC 7005574-00	09/01/2020	09/01/2021	Each Occurance Aggregate	$15,000,000 $15,000,000

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

RE: 08-2002-0100 Tracy Logistics Park

SEE ATTACHED

CERTIFICATE HOLDER

LIT Industrial Limited Partnership
c/o Clarion Partners
1717 McKinney Avenue, Suite 1900
Dallas, TX 75202

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Willis Towers Watson Midwest, Inc.	Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826
POLICY NUMBER See Page 1	
CARRIER: See Page 1 / NAIC CODE: See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

LIT Industrial Limited Partnership c/o Clarion Partners, its subsidiary companies, affiliated companies, and parent companies of every tier and their respective directors, officers, employees, agents, servants, assignees permitted herein, lender, if any and the tenant for the Project if any, City of Tracy, its officers, agents, employees, and volunteers are included as Additional Insureds as respects to General Liability, Auto Liability and Umbrella/Excess Liability as required by written contract.

LIT Industrial Limited Partnership c/o Clarion Partners, its subsidiary companies, affiliated companies, and parent companies of every tier and their respective directors, officers, employees, agents, servants, assignees permitted herein, lender, if any and the tenant for the Project if any, City of Tracy, its officers, agents, employees, and volunteers are included as Additional Insureds as respects to Pollution Liability as required by written contract, agreement, or permit.

General Liability, Auto Liability policies as required by written contract and Pollution Liability as required by written contract, agreement, or permit shall be Primary and Non-Contributory with any other insurance in force for or which may be purchased by Additional Insureds.

The Umbrella/Excess policy Follows Form.

Waiver of Subrogation applies in favor of Additional Insureds with respects to General Liability, Auto Liability, Pollution Liability and Workers Compensation as permitted by law, as required by written contract.

Waiver of Subrogation applies in favor of Additional Insureds with respects to Umbrella/Excess Liability as required by written contract executed prior to the loss.

INSURER AFFORDING COVERAGE: Ohio Casualty Insurance Company NAIC#: 24074
POLICY NUMBER: ECO (21) 5818 8953 EFF DATE: 09/01/2020 EXP DATE: 09/01/2021

ADDITIONAL INSURED: Y
SUBROGATION WAIVED: Y

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Excess Liability	Each Occurrence	$25,000,000
	Aggregate	$25,000,000

INSURER AFFORDING COVERAGE: Berkley Assurance Company NAIC#: 39462
POLICY NUMBER: PCADB-5012613-0920 EFF DATE: 09/01/2020 EXP DATE: 09/01/2021

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Professional Liability	Each Claim:	$1,000,000
	Aggregate:	$1,000,000

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Willis Towers Watson Midwest, Inc.		Alston Construction Company, Inc. 8775 Folsom Blvd, Suite 201 Sacramento, CA 95826
POLICY NUMBER See Page 1		
CARRIER See Page 1	NAIC CODE See Page 1	EFFECTIVE DATE: See Page 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

INSURER AFFORDING COVERAGE: Berkley Assurance Company NAIC#: 39462

POLICY NUMBER: PCADB-5012613-0920 EFF DATE: 09/01/2020 EXP DATE: 09/01/2021

ADDITIONAL INSURED: Y

SUBROGATION WAIVED: Y

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Pollution Liability	Each Claim	$5,000,000
	Aggregate	$5,000,000

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SR ID: 21065961 BATCH: 2083372 CERT: W20884569

POLICY NUMBER: 83 UEA QT2505

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - OPTION II

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Designated Project(s) Or Location(s) Of Covered Operations:
ALL, EXCEPT ADDITIONAL INSUREDS THAT ARE INSURED UNDER A SEPARATE ADDITIONAL INSURED ENDORSEMENT ON THIS POLICY	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. With respect to those person(s) or organization(s) shown in the Schedule above when you have agreed in a written contract or written agreement to provide insurance such as is afforded under this policy to them, Subparagraph **f., Any Other Party**, under the **Additional Insureds When Required By Written Contract, Written Agreement Or Permit** Paragraph of **Section II – Who Is An Insured** is replaced with the following:

f. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **e.**, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused by:

(1) Your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;

(b) In connection with your premises owned by or rented to you and shown in the Schedule; or

(c) In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:

(i) The written contract or agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard"; or

(2) The acts or omissions of the additional insured in connection with their general supervision of your operations at the project(s) or location(s) designated in the Schedule.

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The insurance afforded to the additional insured shown in the Schedule applies:

(1) Only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:
   (a) During the policy period; and
   (b) Subsequent to the execution of such written contract or written agreement; and
   (c) Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.
(2) Only to the extent permitted by law; and
(3) Will not be broader than that which you are required by the written contract or agreement to provide for such additional insured.

With respect to the insurance afforded to the person(s) or organization(s) that are additional insureds under this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or
(2) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to the additional insured shown in the schedule are described in the Limits Of Insurance section.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in **Section IV – Commercial General Liability Conditions**, except as otherwise amended below.

B. With respect to insurance provided to the person(s) or organization(s) that are additional insureds under this endorsement, the **When You Add Others As An Additional Insured To This Insurance** subparagraph, under the **Other Insurance** Condition of **Section IV – Commercial General Liability Conditions** is replaced with the following:

When You Add Others As An Additional Insured To This Insurance

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Paragraph **(c)** below. This insurance does not apply to other insurance to which the additional insured in the Schedule has been added as an additional insured.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(i) The additional insured in the Schedule is a Named Insured under such other insurance; and
(ii) You have agreed in a written contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured in the Schedule.

(c) Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

All other terms and conditions in the policy remain unchanged.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:
BLANKET WHERE REQUIRED BY WRITTEN CONTRACT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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Policy Number: 83 UEA QT2506

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED AND RIGHTS OF RECOVERY AGAINST OTHERS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

A. Any person or organization whom you are required by contract to name as additional insured is an "insured" for LIABILITY COVERAGE but only to the extent that person or organization qualifies as an "insured" under the WHO IS AN INSURED provision of Section II - LIABILITY COVERAGE.

B. For any person or organization for whom you are required by contract to provide a waiver of subrogation, the Loss Condition - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US is applicable.

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(1) During the policy period, and

(2) Subsequent to the execution of such written contract, and

(3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d..

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(3)** and **(4)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/20 Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

ANY PERSON OR ORGANIZATION
FROM WHOM YOU ARE REQUIRED BY
WRITTEN CONTRACT OR AGREEMENT
TO OBTAIN THIS WAIVER OF
RIGHTS FROM US.

Countersigned by _____
Authorized Representative

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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Berkley Assurance Company

Blanket Notice of Cancellation to Others Endorsement

In consideration of the premium paid, it is understood and agreed that the following is added to Section XI.G. Cancellation and Termination:

5. If we cancel this Policy by written notice to you for any reason other than non-payment of premium, we will mail notification that such Policy has been cancelled to each person or organization shown in a Schedule provided to us by you or by any entity you have instructed to provide such Schedule. Such Schedule:

   a. Must be initially provided to us within fifteen (15) days after the later of:

      i. the effective date of the **Policy Period** shown in the Declarations; or
      ii. the date this Endorsement has been added to this Policy;

   b. Must contain the names and addresses of only the persons or organizations requiring notification that such Policy has been cancelled;

   c. Must be in an electronic format that is acceptable to us; and

   d. Must be accurate.

   Such Schedule may be updated and provided to us during the policy period. Such updated Schedule must comply with Paragraphs b., c., and d. above.

6. Our delivery of the notification as described in Paragraph 5. of this Endorsement will be based on the most recent Schedule in our records as of the date the notice of cancellation is mailed or delivered to you. Delivery of the notification as described in Paragraph 5. of this endorsement will be completed at least ninety (90) days prior to the effective date of cancellation.

7. Proof of mailing the notification will be sufficient proof that we have complied with Paragraphs 5. and 6. of this Endorsement.

8. Our delivery of notification described in Paragraphs 5. and 6. of this Endorsement is intended as a courtesy only. Our failure to provide such delivery of notification will not:

   a. Extend the Policy cancellation date;
   b. Negate the cancellation; or
   c. Provide any additional insurance that would not have been provided in the absence of this Endorsement.

9. We are not responsible for the accuracy, integrity, timeliness and validity of information contained in the Schedule provided to us as described in Paragraphs 5. and 6. of this Endorsement.

Whenever printed in this Endorsement, the boldface type terms shall have the same meanings as indicated in the Policy Form. All other provisions of the Policy remain unchanged.

Insured Alston Construction Company Inc.		Policy Number PCADB-5012613-0920
Effective Date of This Endorsement 09/01/2020	Authorized Representative	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

Policy Number: 83 WEA QT2504 **Endorsement Number:**

Effective Date: 09/01/20 Effective hour is the same as stated on the Information Page of the policy.

Named Insured and Address: ALSTON CONSTRUCTION COMPANY INC

3500 LENOX RD NE STE 501
ATLANTA, GA 30326

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

© 2011, The Hartford

Faithful Performance Bond

Bond Number 1001150996

Name of Project: Tracy Logistics Park
Tract No.: _____ (if applicable)
Off-Site Improvement Agreement

CITY OF TRACY
Tracy, California

Whereas, the City Council of the City of Tracy, State of California, and **LIT Industrial Limited Partnership** (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said Agreement, dated _____ 20___, and identified as **Tracy Logistics Park Off-Site Improvement Agreement** is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we the principal and **U.S. Specialty Insurance Company** as surety, are held and firmly bound unto the City of Tracy (hereinafter called "City"), in the penal sum of **Fifteen Million Six Hundred Thirty-Five Thousand Seven Hundred Eighty-Two and Zero Cents** dollars ($ **15,635,782.00**) lawful money of the United States, for the payment of which sum well and truly made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City of Tracy, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on

April 20, 20**21**.

LIT Industrial Limited Partnership
Principal

By: _____
John M. Clinton, Sr. Vice President

U.S. Specialty Insurance Company
Surety

By: _____
Sarah C. Brown, Attorney-in-Fact

ACKNOWLEDGEMENT BY CORPORATION

STATE OF TEXAS

COUNTY OF DALLAS

On this 22nd day of April, 2021, before me personally appeared John M. Clinton, to me known, who being by me duly sworn, did acknowledge and say that he/she is the Senior Vice President of LIT Industrial Limited Partnership, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Laurie Weaver
Notary Public

LAURIE WEAVER
Notary Public, State of Texas
Comm. Expires 07-17-2022
Notary ID 129888567

My Commission Expires: 07-17-2022

ACKNOWLEDGEMENT BY SURETY

STATE OF COLORADO

COUNTY OF ARAPAHOE

On this 20th day of April, 2021, before me personally appeared Sarah C. Brown to me known, who being by me duly sworn, did acknowledge and say that he/she is the Attorney-in-Fact of U.S. Specialty Insurance Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Ashlea Mercede McCaughey
Ashlea Mercede McCaughey, Notary Public

ASHLEA MERCEDE MCCAUGHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164040543
MY COMMISSION EXPIRES OCTOBER 24, 2024

My Commission Expires: October 24, 2024

TOKIO MARINE HCC

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Donald Appleby, Todd Bengford, Sarah C. Brown, Ashlea McCaughey, Jessica Jean Rini or Mark Sweigart of Greenwood Village, Colorado

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** ******Seventy Five Million****** Dollars (***75,000,000.00***). This Power of Attorney shall expire without further action on April 23rd, 2022. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of June, 2018.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California

County of Los Angeles

By: _____
Daniel P. Aguilar, Vice President

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

On this 1st day of June, 2018, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

SONIA O. CARREJO
Notary Public - California
Los Angeles County
Commission # 2239479
My Comm. Expires Apr 23, 2022

Signature _____ (seal)

I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 20th day of April, 2021.

Corporate Seals
Bond No. 1001150996

Agency No. 16589

_____
Kio Lo, Assistant Secretary

HCCSMANPOA05/2019

visit tmhcc.com/surety for more information

Labor and Material Bond

Bond Number 1001150996

Name of Project: Tracy Logistics Park
Tract No.: _____ (if applicable)
Off-Site **Improvement Agreement**

CITY OF TRACY
Tracy, California

Whereas, the City Council of the City of Tracy, State of California, and **LIT Industrial Limited Partnership** (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said Agreement, dated _____ 20___, and identified as **Tracy Logistics Park Off-Site Improvement Agreement** is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we the principal and **U.S. Specialty Insurance Company** as surety, are held and firmly bound unto the City of Tracy (hereinafter called "City"), in the penal sum of **Fifteen Million Six Hundred Thirty-Five Thousand Seven Hundred Eighty-Two and Zero Cents** dollars ($ **15,635,782.00**) lawful money of the United States, for the payment of which sum well and truly made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City of Tracy, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on

April 20, 20**21**.

LIT Industrial Limited Partnership
Principal
By: _____
John M. Clinton, Sr. Vice President

U.S. Specialty Insurance Company
Surety
By: _____
Sarah C. Brown, Attorney-in-Fact

ACKNOWLEDGEMENT BY CORPORATION

STATE OF TEXAS

COUNTY OF DALLAS

On this 22nd day of April, 2021, before me personally appeared John M. Clinton, to me known, who being by me duly sworn, did acknowledge and say that he/she is the Senior Vice President of LIT Industrial Limited Partnership, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Laurie Weaver
Notary Public

My Commission Expires: 07-17-2022

LAURIE WEAVER
Notary Public, State of Texas
Comm. Expires 07-17-2022
Notary ID 129888567

ACKNOWLEDGEMENT BY SURETY

STATE OF COLORADO

COUNTY OF ARAPAHOE

On this 20th day of April, 2021, before me personally appeared Sarah C. Brown to me known, who being by me duly sworn, did acknowledge and say that he/she is the Attorney-in-Fact of U.S. Specialty Insurance Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Ashlea Mercede McCaughey
Ashlea Mercede McCaughey, Notary Public

My Commission Expires: October 24, 2024

ASHLEA MERCEDE MCCAUGHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164040543
MY COMMISSION EXPIRES OCTOBER 24, 2024

TOKIO MARINE HCC

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Donald Appleby, Todd Bengford, Sarah C. Brown, Ashlea McCaughey, Jessica Jean Rini or
Mark Sweigart of Greenwood Village, Colorado

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** ******Seventy Five Million****** Dollars (***75,000,000.00***). This Power of Attorney shall expire without further action on April 23rd, 2022. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of June, 2018.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California

County of Los Angeles

By: _____
Daniel P. Aguilar, Vice President

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

On this 1st day of June, 2018, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

SONIA O. CARREJO
Notary Public - California
Los Angeles County
Commission # 2239479
My Comm. Expires Apr 23, 2022

Signature _____ (seal)

I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 20th day of April, 2021.

Corporate Seals
Bond No. 100150996

Agency No. 16589

_____
Kio Lo, Assistant Secretary

HCCSMANPOA05/2019

visit tmhcc.com/surety for more information

MAINTENANCE BOND

Name of Project: Tracy Logistics Park *Bond No.* 1001151035
Tract No.: _____
Off-Site **Improvement Agreement**

KNOW ALL MEN BY THESE PRESENTS:

That **LIT Industrial Limited Partnership**, as Principal and **U.S. Specialty Insurance Company**, incorporated under the laws of the State of **Texas**, as Surety, are held and firmly bound unto **City of Tracy**, State of **California**, as Obligee, in the amount of **One Million Five Hundred Sixty-Three Thousand Five Hundred Seventy-Eight and Zero Cents** Dollars, ($ **1,563,578.00**), for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal entered into a written agreement with the Obligee on _____ Providing for the construction of certain subdivision improvements in **Tracy Logistics Park** in the City of **Tracy**, State of **California**; and

WHEREAS, said work has been or will be completed by the Principal.

NOW, THEREFORE, if said Principal shall promptly replace and repair any work proven to be defective because of faulty workmanship and/or material within a period of one (1) year from date of acceptance of the work by the Obligee, then this obligation to be void; Otherwise to remain in full force and effect.

Signed, sealed and dated this **21st** day of **April**, 20 **20**

LIT Industrial Limited Partnership
Principal

By: _____
John M. Clinton, Sr. Vice President

U.S. Specialty Insurance Company
Surety

By: _____
Sarah C. Brown, Attorney-in-Fact

ACKNOWLEDGEMENT BY CORPORATION

STATE OF TEXAS

COUNTY OF DALLAS

On this 22nd day of April, 2021, before me personally appeared John M. Clinton, to me known, who being by me duly sworn, did acknowledge and say that he/she is the Senior Vice President of LIT Industrial Limited Partnership, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Laurie Weaver
Notary Public

My Commission Expires: 07-17-2022

LAURIE WEAVER
Notary Public, State of Texas
Comm. Expires 07-17-2022
Notary ID 129888567

ACKNOWLEDGEMENT BY SURETY

STATE OF COLORADO

COUNTY OF ARAPAHOE

On this 21st day of April, 2021, before me personally appeared Sarah C. Brown to me known, who being by me duly sworn, did acknowledge and say that he/she is the Attorney-in-Fact of U.S. Specialty Insurance Company, the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office in the above County, the day and year written above.

Ashlea Mercede McCaughey
Ashlea Mercede McCaughey, Notary Public

My Commission Expires: October 24, 2024

ASHLEA MERCEDE MCCAUGHEY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164040543
MY COMMISSION EXPIRES OCTOBER 24, 2024

TOKIO MARINE HCC

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

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Donald Appleby, Todd Bengford, Sarah C. Brown, Ashlea McCaughey, Jessica Jean Rini or
Mark Sweigart of Greenwood Village, Colorado

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver **any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed** ******Seventy Five Million****** Dollars (***75,000,000.00***). This Power of Attorney shall expire without further action on April 23rd, 2022. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of June, 2018.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California

County of Los Angeles

By: _____
Daniel P. Aguilar, Vice President

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

On this 1st day of June, 2018, before me, Sonia O. Carrejo, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (seal)

SONIA O. CARREJO
Notary Public - California
Los Angeles County
Commission # 2239479
My Comm. Expires Apr 23, 2022

I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 21st day of April, 2021.

Corporate Seals
Bond No. 100115035

Agency No. 16589

_____
Kio Lo, Assistant Secretary

HCCSMANPOA05/2019

visit tmhcc.com/surety for more information

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

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(1) ACCEPTING OFFSITE IMPROVEMENTS FOR LIT INDUSTRIAL LIMITED PARTNERSHIP AS COMPLETE AND ASSUMING ALL FUTURE OPERATIONS AND MAINTENANCE, (2) AUTHORIZING THE CITY ENGINEER TO RELEASE IMPROVEMENT SECURITY IN ACCORDANCE WITH THE OFFSITE IMPROVEMENT AGREEMENT, (3) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (4) RESCINDING TRACY CITY COUNCIL RESOLUTION NO. 2021-057.

WHEREAS, on December 19, 2019, the Development Services Director approved a Development Review Application (D18-0034) for the construction of three (3) new industrial buildings totaling 1,035,500 square feet and their related parking and landscape improvements located at the northeast corner of East Grant Line Road and Chrisman Road (Assessor's Parcel Numbers 213-070-48, 213-070-49, 213-070-52, 213-070-53, 213-070-85 and 213-070-87), subject to specific Conditions of Approval; and

WHEREAS, on December 19, 2019, the City Engineer approved a Tentative Subdivision Map (TSM), (TSM 19-0004); and

WHEREAS, on July 9, 2021, the City Engineer approved and signed TSM No. 19-0004 (TSM); and

WHEREAS, the TSM was recorded with the San Joaquin County Recorder's Office as Book 27 PM Page 016; and

WHEREAS, the TSM included fee dedications to the City for roadways and storm drainage detention basins, accepted by the City Clerk subject to satisfactory completion of public improvements; and

WHEREAS, a total of 11.747 acres, valued at $1,174,700, were offered in fee dedication as public right-of-way for Chrisman Road, Grant Line Road, and Pescadero Avenue subject to completion of improvements as required in the Conditions of Approval; and

WHEREAS, a total of 9.7749 acres, valued at $977,490, were offered in fee dedication as public detention basins subject to completion of improvements as required in the Conditions of Approval; and

WHEREAS, 10-foot-wide public utility easements along the project frontages of Grant Line Road, Chrisman Road, and Pescadero Avenue were granted to the City as required in the Conditions of Approval; and

WHEREAS, on May 18, 2021, by Resolution No. 2021-0057, the City Council approved a Deferred Improvement Agreement (DIA) requiring LIT Industrial Limited Partnership, a Delaware Limited Partnership (Developer) to maintain temporary retention basins until such time as the new NEI detention basin and pump station were accepted by the City; and

WHEREAS, the DIA was not executed by the Developer and the City due to an administrative error in the approved DIA, but the Developer did perform the required maintenance until the NEI Detention Basin and Pump Station was accepted by the City; and

WHEREAS, the DIA is no longer necessary, and the City may rescind its approval of the DIA; and

WHEREAS, on June 8, 2021, pursuant to Emergency Ordinance 1273, the City Manager approved an Offsite Improvement Agreement (OIA) with the Developer for the Project allowing construction of public improvements pursuant to the Conditions of Approval; and

WHEREAS, the Developer has completed all the work required to be done in accordance with the OIA and has requested acceptance of the public improvements; and

WHEREAS, the City Engineer has inspected the completed improvements and confirmed that they conform to the OIA and City plans and specifications; and

WHEREAS, the Developer furnished Faithful Performance, Labor and Materials, and Warranty Bonds assuring completion of the work; and

WHEREAS, Faithful Performance Bonds may be released upon acceptance of improvements by the City Council; and

WHEREAS, Labor and Material Bonds may be released six (6) months after recordation of Notice of Completion in accordance with Tracy Municipal Code 12.36.080; and

WHEREAS, the original Warranty Bond will be retained by the City's Engineering Division and shall be released one year after City Council's acceptance of improvements and any warranty work is completed; and

WHEREAS, the estimated cost of the public improvements are as follows:

Cost Breakdown	
Roadway Improvements	$ 5,532,409
Storm Drain	$ 1,845,128
Sanitary Sewer	$ 71,144
Water	$ 668,500
Recycled Water	$ 54,120
Traffic Signals	$ 1,144,000
Street Lighting	$ 2,877,886
Landscaping	$ 1,490,108
Total	**$ 13,683,295**

; and

WHEREAS, once accepted by the City, maintenance of public improvements will be funded through the City's Landscape Maintenance District; and

WHEREAS, the Developer has received Transportation Impact Fee Credits in the amount of $4,646,795.08 and is eligible to receive reimbursement in the amount of $479,098.36 per the OIA; and

WHEREAS, the Developer has received Storm Drainage Impact Fee Credits in the amount of $2,037,086.06 and are eligible to receive reimbursement in the amount of $377,825.96 per the OIA; and

WHEREAS, the Developer will receive the reimbursements upon their written request in accordance with Tracy Municipal Code Section 13.08; and

WHEREAS, the acceptance and operation of these offsite improvements is consistent with the Northeast Industrial and General Plan EIRs and no further review under the California Environmental Quality Act is necessary; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby accepts the offsite improvements for LIT Industrial Limited Partnership as complete and accepts future maintenance and repair; and be it

FURTHER RESOLVED: That the City Council authorizes the City Engineer to release the improvement security in accordance with the Offsite Improvement Agreement and applicable law; and be it

FURTHER RESOLVED: That City Council authorizes the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office for the offsite improvements for LIT Industrial Limited Partnership; and be it

FURTHER RESOLVED: That the City Council rescinds Resolution No. 2021-057.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.M

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving an Offsite Improvement Agreement between the City and Prologis, L.P. for offsite improvements to Hopkins Road, as a portion of the frontage obligation for IPC Building 20.

EXECUTIVE SUMMARY

This agenda item seeks approval of an Offsite Improvement Agreement (OIA) (Attachment B), for the construction of off-site improvements by Prologis, L.P. (Developer). Construction of these improvements is a condition of approval for International Park of Commerce (IPC) Building 20 within the Cordes Ranch Specific Plan. The offsite improvements include construction of roadway, utility improvements and other associated improvements on Hopkins Road.

BACKGROUND AND LEGISLATIVE HISTORY

On September 17, 2013, the City and Developer entered into a Development Agreement (DA) for the Cordes Ranch Specific Plan (CRSP). On December 20, 2013, the DA was recorded with San Joaquin County. On May 17, 2016, the City adopted the CRSP.

On July 14, 2021, Planning Commission approved Tentative Subdivision Map Application TSM19-0002 for Tract 4103 - International Park of Commerce Tentative Subdivision Map by Planning Commission Resolution No. 2021-012 (Tentative Map - Attachment A).

Since the approval of the DA and CRSP, Developer has been submitting, and the City has been approving, various buildings by Development Review Permits (DRP) via Title 10 of the municipal code.

On November 6, 2024, the Community Development Director approved a DRP (D24-0018) for IPC Building 20 along with various Conditions of Approval (COA). The COAs included, among other things, to construct IPC Building 20's frontage improvements. The required frontage improvements for this agenda item are related to Hopkins Road. Other frontage and COA requirements for this project will be considered at another time.

The Developer's civil engineer previously submitted improvement plans for Hopkins Road. The City reviewed and approved the associated improvement plans.

ANALYSIS

This agenda item is to approve the OIA for Hopkins Road which will allow the improvements, required by the COAs, on Hopkins Road to be constructed and inspected.

Pursuant to the Tracy Municipal Code, Developer is required to execute the OIA and to post necessary security to guarantee completion of the improvements. The OIA is a legally binding mechanism guaranteeing Developer's construction of the off-site improvements. The Improvement Plans and OIA are on file with the City Engineer under Tracking No. ENG21-0031. Developer has executed the OIA and submitted the required security to guarantee completion of

the subject improvements.

Upon completion of the improvements, staff will present the improvements to City Council for acceptance and maintenance.

City staff will bring other items required as part of the project COAs to City Council for consideration at a future date.

FISCAL IMPACT

There will be no fiscal impact associated with this action. Developer will pay for the cost of processing the Agreement, construction, and inspection. In addition, there are no fee credits due to Developer for the off-site improvements included in the OIA.

PUBLIC OUTREACH/INTEREST

Not applicable.

COORDINATION

This staff report was prepared by Engineering staff. Engineering staff coordinated with the Parks and Recreation Department regarding streetscape landscaping. No further coordination is required with other departments for the preparation of this report.

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 California Environmental Quality Act (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

Staff Recommends that City Council, by resolution, approve an Offsite Improvement Agreement between the City and Prologis, L.P. for offsite improvements to Hopkins Road, as a portion of the frontage obligation for IPC Building 20.

Prepared by: Al Gali, Associate Engineer

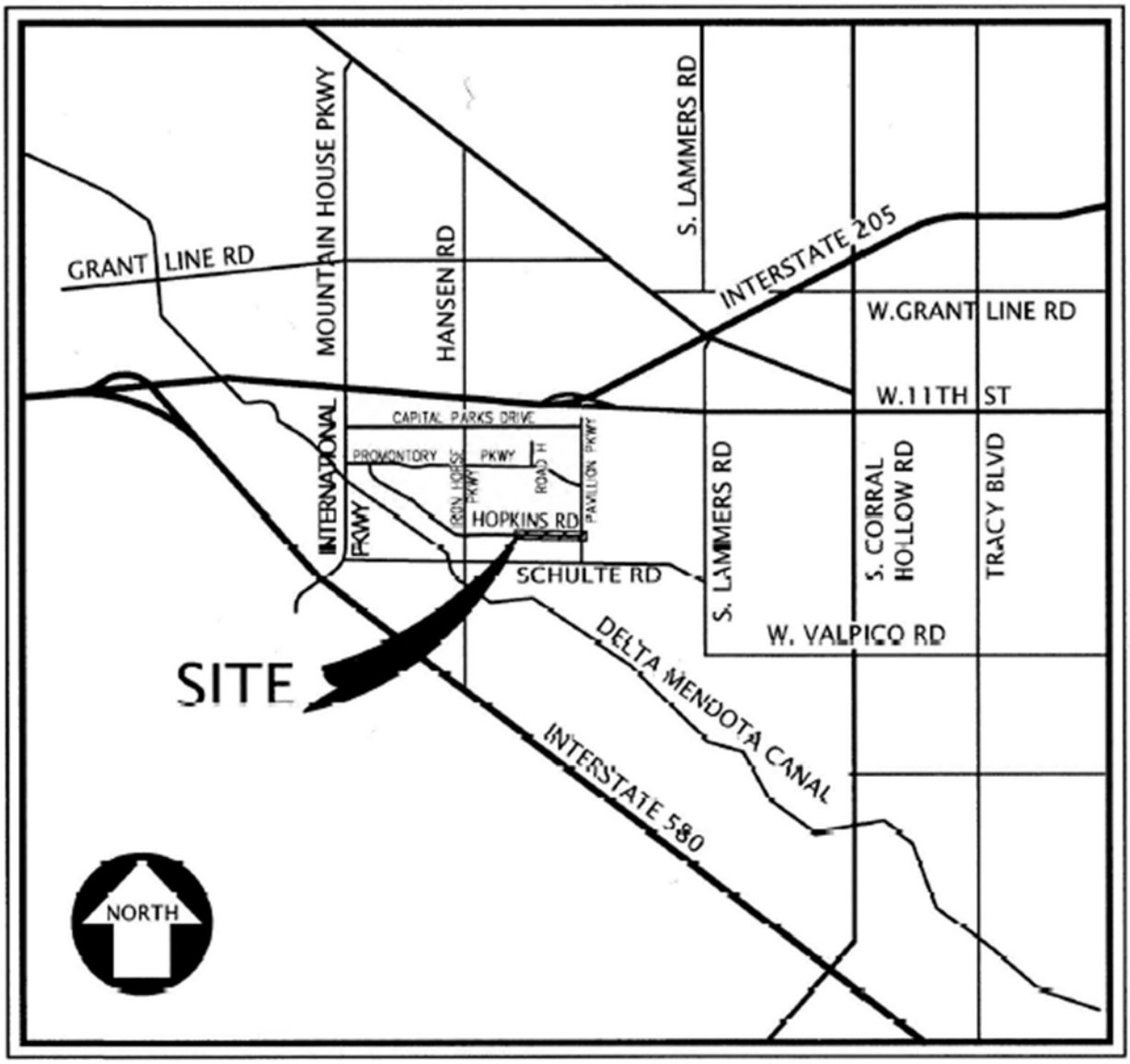
Reviewed by: Sara Castro, Finance Director
Matthew Summers, Interim Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, 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)
STREET IMPROVEMENTS ON IPC HOPKINS ROAD EXTENSION

This **OFFSITE IMPROVEMENT AGREEMENT FOR INTERNATIONAL PARK OF COMMERCE (IPC) – STREET IMPROVEMENTS ON IPC HOPKINS ROAD EXTENSION,** ("***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***"). The Cordes Ranch Specific Plan ("***Specific Plan***") is intended to create a state-of-the-art commerce and business park within the Specific Plan Area by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty-one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein ("***Project***").

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. In connection therewith, the City Council approved that certain *Development Agreement by and Between the City of Tracy and Prologis, L.P.* ("***Development Agreement***").

C. On November 6, 2024, the Community Development Director approved a Development Review Permit for International Park of Commerce Building 20, D24-0018 ("**IPC Building 20**"). IPC Building 20 is on file with the City 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 Development Agreement, Specific Plan and 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, signing and striping, joint trench and associated improvements on Hopkins Road. (collectively, the "***Work***"). The Work is described more fully in the forty (40) sheets entitled "International Park of Commerce –Street Improvement Plans for Hopkins Road Extension" (ENG21-0031) consisting of fifteen (15) sheets of Civil Improvement plans prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, fourteen (14) sheets of Irrigation and Landscape Plans sheets prepared by David Babcock + Associates of Lafayette, California, four (4) sheets of Joint Trench Plans prepared by Vizion Utility Partners of Pleasanton, California, three (3) sheets of Street Light Plans prepared by Vizion Utility Partners of Pleasanton, California, one (1) sheet of

Signing and Striping Plans prepared by TJKM of Pleasanton, California, and (3) three sheets of Photometric plans prepared by Vizion Utility Partners of Pleasanton, California ("***Plans and Specifications***") signed by the City Engineer on August 18, 2022. The Plans and Specifications 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**").

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). 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.

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 herein.

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. 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.

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 **$ 1,994,630.00** to secure faithful performance of this Agreement (until the day following the date upon which the City Council accepts the Work as complete).

4.2. Labor and Material security in the amount of **$ 1,994,630.00** 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).

4.3. Warranty security in the amount of **$ 199,463.00** 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).

5. IRREVOCABLE OFFER OF DEDICATION. Concurrently with the execution of this Agreement, Developer shall execute the Irrevocable Offer of Dedication (IOD) in the form attached hereto as Exhibit D. 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.

6. 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.

6.1. 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.

6.2. 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 two million dollars ($2,000,000) 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.

6.3. 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.

6.4. 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.

6.5. 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.

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

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

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

6.9. 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.

6.10. 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.

7. 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.

8. 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.

8.1. 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 8.1 is provided, and Developer shall not commence Work prior to the date specified in said written notice.

8.2. 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.

8.3. 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 8.1 above, and subject to extension for force majeure.

9. INSPECTION BY CITY. 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. When requested by Developer, City shall use reasonable efforts to complete the requested inspection.

City inspections of the Work shall be conducted in accordance with the applicable provisions of Section 4 of the Development Agreement.

10. FEES AND FEE CREDITS. Developer shall pay all fees due to City in connection with the Work, and shall not be eligible for fee credits, in accordance with the applicable provisions of Title 13 of the City of Tracy Municipal Code or the Development Agreement, whichever is applicable. Accordingly, to the extent not previously paid, concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall pay City the applicable Program Soft Costs (as that term is defined in the Development Agreement) in accordance with the applicable provisions of Section 5.1(b) of the Development Agreement.

11. DEFAULT.

11.1. 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 11, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

11.2. 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):

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

11.2.2. The Developer abandons the Work site.

11.2.3. The Developer fails to perform one or more material requirements of this Agreement, and fails to cure any such non-performance pursuant to Section 11.3, below.

11.2.4. The Developer violates any legal requirements related to the Work, and fails to cure such violation pursuant to Section 11.3, below.

11.3. 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:

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

11.3.2. Demand that Developer complete performance of the Work.

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

11.3.4. 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.

11.3.5. Any other judicial remedies available to the City.

12. 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.

13. 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.

14. 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 4.3 above.

15. 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.

16. 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.

17. 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 14, above, has expired, at which time the indemnification obligations under this Section 17 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Developer's obligations under this Section 17 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 14, above.

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 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.

19. NOTICES.

19.1. 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

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

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

21. 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.

22. SEVERABILITY. In the event a court of competent jurisdiction holds any term of this Agreement invalid, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.

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. 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. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the Work. This Agreement supersedes all prior negotiations, representations or agreements as such may relate to performance of the Work.

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]

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

CITY OF TRACY

Nancy D. Young, Mayor

Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

PROLOGIS, L.P. a Delaware Limited Partnership

By: Prologis, Inc. a Maryland corporation, its General Partner

MATTHEW SIMS

Date: July 25TH 2024

ATTACHMENTS:

Exhibit A - Conditions of Approval – Tentative Subdivision Map TSM19-0002
Exhibit B – Legal Description of the Property
Exhibit C - Contact Information of Authorized Representative
Exhibit D – Irrevocable Offer of Dedication

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of ALAMEDA }

On JULY 25, 2024 before me, SONIA YASMIN AGUIRRE,
Date *Here Insert Name and Title of the Officer*

personally appeared MATTHEW SIMS
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

SONIA YASMIN AGUIRRE
COMM. #2422846
NOTARY PUBLIC - CALIFORNIA
ALAMEDA COUNTY
My Comm. Exp. Oct. 22, 2026

Place Notary Seal and/or Stamp Above

Signature _____
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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CITY OF TRACY
DETERMINATION OF
THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR

Application Number D24-0018

A determination of the Community and Economic Development Director to: (1) approve the Development Review Permit, Application Number D24-0018, for the construction of an approximately 1,300,256 square-foot industrial building, named the International Park of Commerce (IPC) Building #20 with associated parking lot, landscaping and other site improvements on a 66.06-acre site bounded by Bud Lyons Road to the west, Hopkins Road to the north, and West Schulte Road to the south APN 209-220-28 and 209-220-30; and (2) determine that this project is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15183 - a subsequent project is relieved from further environmental review if all potential impacts were either addressed in a previous EIR or can be substantially mitigated by the imposition of uniformly applied development policies or standards.. The Applicant is HPA, Inc (Ms. Tyneise Beyer) and the Property Owner is Prologis, LP. (Mr. Michael Rowe).

Staff has reviewed the application and determined that the following City regulations apply:

1. Cordes Ranch Specific Plan (CRSP) Zone
2. Off-Street Parking Requirements (TMC Sec 10.08.3440, Article 26)
3. Development Review (TMC Sec 10.08.3920, Article 30)
4. City Design, Goals and Standards

The Community and Economic Development Department has determined that the project is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15183 - a subsequent project is relieved from further environmental review if all potential impacts were either addressed in a previous EIR or can be substantially mitigated by the imposition of uniformly applied development policies or standards. No further environmental assessment is required.

THE COMMUNITY AND ECONOMIC DEVELOPMENT DIRECTOR, AFTER CONSIDERING ALL OF THE EVIDENCE PRESENTED, HEREBY APPROVES DEVELOPMENT REVIEW PERMIT APPLICATION NUMBER D24-0018, SUBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN EXHIBIT 1 AND BASED ON THE FOLLOWING FINDINGS:

1. The proposal increases the quality of the project site and enhances the property in a manner that improves the property, the surrounding area and the citizens of Tracy because the project as proposed is consistent with the intent of Cordes Ranch Specific Plan district. The project meets the setback, lot coverage and design standards of the zoning district. The proposed parking and layout meet the requirements of the municipal code along with the landscaping coverage and screening for the site. The project has been reviewed for consistency with the massing, architectural style and colors and textures of the surrounding industrial buildings and development. The project meets or exceeds the aesthetics of the area and will provide for the infill of a vacant parcel.

2. The proposal conforms to the Cordes Ranch Specific Plan Zone, the City of Tracy General Plan, the Citywide Design Goals and Standards, and other City regulations because the proposed the project as proposed is consistent with the intent of Cordes Ranch Specific Plan district and specific plan. The project meets the setback, lot coverage and design standards of the zoning district. The proposed parking and layout meet the requirements of the municipal code along with the landscaping coverage and screening for the site.

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The project has been reviewed for consistency with the massing, architectural style and colors and textures of the surrounding commercial businesses. The project meets or exceeds the aesthetics of the area and will provide for the infill of a vacant parcel.

DocuSigned by:
Forrest Ebbs
0E603EC9E0364BD...

11/8/2024 | 9:47 AM PST

Forrest Ebbs
Community and Economic Development Director

Date of Action

Docusign Envelope ID: 39A1DC0C-4BC5-4DAB-BB07-784FB91270D3

City of Tracy
Final Conditions of Approval
IPC Building 20
Development Review Permit Application Number D24-0018
November 6, 2024

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to the IPC Building 20 Project (hereinafter "Project"), which includes the following:

A.1. Development Review Permit Application Number D24-0018: A Development Review Permit for the construction of an approximately 1,300,256 square foot industrial building, named the International Park of Commerce (IPC) Building #20 with associated parking lot, landscaping and other site improvements on a 66.06-acre site bounded by Bud Lyons Road to the west, Hopkins Road to the north, and West Schulte Road to the south APN 209-220-28 and 209-220-30).

A.2. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the project plans approved by the Community and Economic Development Department on November 6, 2024 to the satisfaction of the Community and Economic Development Director.

A.3. Payment of applicable fees. The Developer 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 City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, the Cordes Ranch Specific Plan, and the City's Design Goals and Standards.

A.5. Building Permit Required. The Developer shall submit a building permit application along with all pertinent construction documents such as plans, specifications, and/or calculations to the Building Safety Division prior to the construction of any regulated structures, on-site improvements, or accessibility features. Construction documents shall conform to the Title 24 California Code of Regulations edition effective on the date of application for a building permit.

A.6. Copy on Building Permit Plans. The Developer shall include a sheet with a legible photocopy of the approving determination and these Conditions of Approval. This sheet shall be included in all plan sets, including all job copies, and shall be available for reference by any City official, including building inspectors.

A.7. Definitions.

a. "Developer" means any person, or other legal entity, represented as the project applicant or proponent.

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b. "City Engineer" means the City Engineer of the City of Tracy.

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, the Cordes Ranch Specific Plan, and the City's Design Documents (including the Standard Plans, Standard Specifications, and relevant Public Facility Master Plans).

d. "Community and Economic Development Director" means the Director of the City of Tracy Community and Economic Development Department, or any other person designated by the City Manager or the Community and Economic Development Director to perform the duties set forth herein.

e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project, Application Number D24-0018. 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.8. 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:

a. the Planning and Zoning Law (Government Code sections 65000, et seq.),

b. the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"),

c. the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines"),

d. California Building Code, and

e. Fire Codes.

A.9. Development Impact Fees: The Developer shall pay all adopted Development Impact Fees prior to issuance of a Building Permit to the satisfaction of the City Engineer.

A.10. 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.

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A.11. Habitat conservation. Prior to issuance of a building permit 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) Habitat Division, to the satisfaction of the Community and Economic Development Director.

A.12. Air Pollution Control District. Prior to issuance of a building permit or grading permit, the Developer shall demonstrate compliance with all applicable requirements of the San Joaquin Valley Air Pollution Control District (APCD), to the satisfaction of the Community and Economic Development Director

A.13. Community Facilities District. The Developer shall agree to formally join any and all forthcoming Community Facilities District(s) (CFD) established for the Cordes Ranch Specific Plan area. Should the CFD not be established at the time of Final Certificate of Occupancy of the building, the Developer shall agree to enter into a binding agreement to ensure that the property is annexed into the CFD upon its formation.

B. Site Plan - The following conditions shall be satisfied through inclusion in the plan set submitted with any future application for Building Permit:

B.1. Parking Lot

a. 12-inch-wide concrete curbs shall be installed 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. Parking stalls shall be striped in accordance with Standard Plan 141.

c. Any sidewalk, landscape planters, or bio-retention areas that are perpendicular to parking stalls shall extend up to 24 inches into the parking stall, including a six-inch concrete curb, in place of wheel stops where feasible. No credit towards parking lot landscape requirements shall be given for the resulting additional landscaping.

d. Bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510.

B.2. Parking Lot Lighting. Detailed plans that demonstrate a minimum of one foot candle power illumination throughout the parking area as defined in TMC Section 10.08.3450. Parking area lighting shall be designed and installed so that it is directed downward onto the parking surface and away from the public right-of-way and adjacent properties.

B.3. Landscaping and Irrigation. The Developer shall provide detailed landscape and irrigation plans with the applications for Building Permits that satisfy the following conditions:

a. Plans shall demonstrate compliance with the Cordes Ranch Specific Plan, the City of Tracy Design Goals & Standards, and the Tracy Municipal Code Section 10.08.3560 for parking

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area landscaping. Said plans shall clearly delineate the property line and shall include a planting legend indicating, at minimum, the quantity, planting size, and height and width at maturity.

b. Each planter shall contain a combination of trees, shrubs, and live groundcover. 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 at planting. Landscaping shall be continuously maintained to prevent incidence of wildfire.

c. 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.4. Landscape & Irrigation Maintenance. Prior to the issuance of a building permit for each building or site, 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 for that phase.

B.5. Fencing. Chain-link or vinyl fencing is prohibited where visible from any public right-of-way, and barbed wire, razor wire, or electric fence is prohibited anywhere on site.

B.6. Screening Utilities and Equipment. The Developer shall provide detailed plans with the application for Building Permits that satisfy the following conditions:

a. Trash collection areas, such as trash and recycling compactors or traditional trash and recycling dumpsters shall be screened by structures or enclosures architecturally complementary of the main building to the satisfaction of the Community and Economic Development Director. Trash and recycling collection enclosures shall include a masonry wall enclosure with a minimum wall height of seven feet, solid metal doors, and a solid roof structure. The enclosure, including the roof, shall be architecturally compatible with the adjacent buildings, which includes but is not limited to, design, materials, and colors.

b. 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 readily visible from any public right-of-way. The plans shall demonstrate that such equipment is fully screened from view behind parapet walls to the satisfaction of the Community and Economic Development Director.

c. All PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or substantially screened from view behind structures or landscaping, to the satisfaction of the Community and Economic Development Director.

d. Truck loading areas, dock doors, and trash compactors shall be substantially screened from view from the public right-of-way. Landscape screening shall be tall and dense enough to substantially screen to the top of trailers, dock doors, and trash compactors from public view.

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Where there are gaps between trees and beneath tree canopies, screen shrubs shall be planted to prevent views between tree trunks, per the Cordes Ranch Specific Plan landscape guidelines

B.7. Architectural Details. The Developer shall provide detailed plans with the applications for Building Permits that satisfy the following conditions:

a. All vents, gutters, downspouts, flashing, and electrical conduits shall be internal to the structures or painted to match the color of the adjacent surfaces, and other ground-mounted, wall-mounted, or building-attached utilities, including bollards, shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Community and Economic Development Director.

b. Signs. No business identification signs are approved with this development review permit. All business identification signs shall obtain a sign permit in accordance with the Cordes Ranch Specific Plan and the Tracy Municipal Code.

B.8. Landscape Plan. Prior to issuance of a construction or building permit, Developer shall demonstrate compliance with the 2015 Model Water Efficient Landscape Ordinance and/or the Green Building Code from state law and obtain approval by the Utilities Department through the following:

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 hydro zone 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.

b. A Certificate of Completion must be completed, signed, and submitted to the Utilities Department prior to Final Occupancy.

C. **On-Site Utility Plans –** The construction of on-site utilities is subject to review and approval through the Building Permit process. A Utility Plan shall be submitted concurrent with

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the application for a Building Permit and is subject to review and approval through the issuance of a Building Permit. The following conditions shall be addressed on the Utility Plan:

C.1. Storm Drainage

a. All permanent underground storm drainage lines and structures to be maintained by the City shall be located within right-of-way to be dedicated to the City or within an easement. If applicable, interim facilities and storm drain lines and collection basins shall be maintained by the Developer.

b. Storm drainage plans are to be submitted with the required hydrologic and hydraulic calculations for the sizing of storm drainage pipe(s) and retention basins and shall comply with Storm Drainage Study and City Regulations.

c. All storm water structural and construction details that are not part of the City Standard Plans or City Design Standards shall be provided by the Developer and submitted to the City for approval as part of the improvement plans.

d. Storm drainage shall be contained within storm drainage retention basins suitable for dedication to the City of Tracy. These basins shall be provided with appropriate fencing with warning signs, access roadways to and from public roadways and access roadways into the ponds for maintenance purposes as approved by the City Engineer. All storm drainage inlets into this basin shall have inlet structures with design acceptable to the City Engineer.

e. Fixed vertical sediment depth markers shall be installed near discharge points into the retention basins to assist with measurements of sediment deposition over time and future assessments of the need for maintenance activities.

f. Developer shall coordinate with the City's Landscape Architect, Planning Division, and Parks and Recreation Department to determine the type and extent of landscaping and irrigation improvements required to be installed within and adjacent to the retention basins. Landscape Plans for the basins shall be submitted from approval by the City Engineer.

C.2. Sanitary Sewer

a. All sanitary sewer lines and associated improvements shall be designed and installed per City Regulations.

b. No final inspection of any building will be performed or certificate of occupancy for building will be issued, until the improvements listed above are completed and functional, as determined by the City Engineer.

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C.3. Water Distribution System

a. All potable water lines and associated improvements shall be designed and installed per City Regulations.

b. During the construction phases (vertical construction) of the Project, the Developer shall be responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshall.

c. Should the water system pressure exceed 80 psi, pressure reducing valves should be installed on the Project's domestic service connections. In addition, the on-site fire service pipelines should be at least 10-inches in diameter to adequately deliver a fire flow requirement of 4,500 gpm. The design of the individual pressure reducing valves for services shall be subject to approval by the Building Official.

d. Fire Service Line – The Developer shall design and install fire hydrants at the locations approved by the Fire Marshall. Before the approval of the Improvement Plans, the Developer shall obtain written approval from the Fire Marshall for the design, location and construction details of the fire service connections to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

D. Grading Plan – A Grading Permit shall be secured prior to site disturbance or grading of the site. The following conditions shall be satisfied through inclusion in the plan set submitted with any future application for Grading Permit:

D.1. Contents. The Developer shall provide all relevant documents related to the grading permit, as required by the City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer.

D.2. Erosion Control Grading Plans shall specify the method of erosion control to be employed and materials to be used.

D.3. Grading and Drainage Plans: The Developer shall submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geo-technical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.

a. When the grade differential between the Project site and the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Developer shall submit Retaining Wall Plans that includes the construction detail(s) and structural calculations of the retaining wall or masonry wall for City's review and approval.

b. If an engineered slope is used to retain soil on adjacent property outside the Project boundary, a slope easement will be necessary from the adjacent property. The Developer shall

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obtain a slope easement from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.

c. If applicable, the Developer shall show existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Developer shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

E. Off-Site Public Improvements – The project requires the construction of off-site public improvements to provide necessary transportation and utility services to the project site. Off-Site Public Improvements require the prior issuance of an Off-Site Improvement Agreement (OIA), Encroachment Permit, and/or similar permit from the City Engineer. These permit processes all have unique submittal and inspection requirements, as well as unique fees.

The following improvements are required prior to occupancy of the building:

E.1. Active Improvements. If not already completed, the Developer shall construct the following transportation improvements to the satisfaction of the City Engineer:

a. Hopkins Extension (ENG21-0031)

b. Promontory Extension (ENG21-0028)

c. 1K Improvements (ENG18-0071)

d. Promontory Extension Roundabout (ENG21-0011)

e. Lammers Road & Valpico Road Intersection Improvements and Traffic Signal (ENG22-0041) City staff will work to ensure that appropriate agreements between the County and City are in place for the work to begin and be completed with IPC 20 construction.

E.2. Intersection #4 – International Parkway & Promontory Parkway: If not already completed, the Developer shall fund, design, and construct the intersection in accordance with the Transportation Master Plan and the Cordes Ranch Specific Plan with the following modifications:

a. Southbound U-Turn Movements shall be prohibited through signage.

b. Traffic signals shall be modified and signal timing adjusted to allow a protected westbound right turn overlap with the protected southbound left movement.

E.3. Intersection – Lammers Road & Valpico Road: If not already completed, the Developer shall fund, design, and construct the interim intersection in accordance with the Cordes Ranch Specific Plan with the following modifications:

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a. The intersection shall include a signal with northbound left turn lane, southbound left turn lane, westbound right-turn lane with overlap signal phasing.

E.4. Intersection #19 / 19a / 19b / 19c – Old Schulte Road & Lammers Road: If not already completed, the Developer shall fund, design, and construct the intersection in accordance with the Transportation Master Plan and the Cordes Ranch Specific Plan with the following modifications:

a. The eastbound approach shall include a signal and a left-turn lane.

b. The eastbound approach shall include a right-turn lane.

c. The northbound left turn lane shall be extended by 250 feet.

d. The traffic signal phasing shall be retimed to accommodate the rerouted volumes.

e. Roadway Network Signal Retiming: Due to the rerouting of traffic, the Developer shall update the signal timing for all signals along Promontory Parkway and Old Schulte Road between International Parkway and Lammers Road, including the endpoints, and International Parkway/Berkeley Road. If not already completed, the Developer shall install the necessary cable network to connect the modified traffic signals to the City's traffic control center.

E.5. Outstanding Conditions of Approval/Improvements: The Developer shall complete all outstanding off-site transportation public improvements required by the Development Review approvals for IPC Buildings 16 and 28, if not already completed.

E.6. Sanitary Sewer: The Developer shall fund, design, and/or construct all necessary sanitary sewer lines and facilities as generally described on the Project plans and/or as required by the City of Tracy's adopted Wastewater Master Plan.

E.7. Storm Drainage: The Developer shall fund, design, and/or construct all necessary storm drainage facilities as generally described on the Project plans in compliance with the City of Tracy's adopted Storm Drainage Master Plan. All permanent underground storm drainage lines and structures to be maintained by the City shall be located within right-of-way to be dedicated to the City or within an easement. If applicable, interim facilities and storm drain lines and collection basins shall be maintained by the Developer.

a. Developer shall obtain City approved improvement plans depicting a storm drainage conveyance greenbelt, or comparable conveyance facility, along the Project's southerly and easterly boundary in accordance with the City of Tracy Storm Drainage Master Plan.

E.8. Water Supply. The Developer shall fund, design, and/or construct all necessary water supply lines and facilities as generally described on the Project plans in compliance with the City of Tracy's adopted Water System Master Plan.

E.9. Private Utilities. All private utility services to serve the Project such as electric, telephone and cable TV to the building must be installed underground, within right-of-way or a dedicated

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Public Utility Easement (PUE) and at the location approved by the City and the respective owner(s) of the utilities.

E.10. Prior to any occupancy, acceptance of public improvements, or release of improvement security, Developer shall submit Engineer of Record prepared AutoCad and GIS shape files with attributes of said Record Drawings in format acceptable to the City.

F. South San Joaquin County Fire Authority (SSJCFA) Conditions

F.1 Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

a. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.

b. Deferred submittals for fire sprinkler system, fire protection water supply, and fire alarm system shall be listed on the coversheet. Each deferred submittal shall be submitted, reviewed and approved by SSJCFA prior to installation.

c. Fire protection water supply application must be submitted separately from construction permit. All piping and installation shall be in accordance with CFC §507 & NFPA standards. Approval of grading and/or on-site improvements does not grant installation of underground fire service.

d. Fire sprinklers shall be designed by a licensed fire protection contractor or engineer. Hydraulic calculations, specifications and plans shall be submitted prior to issuance of building permit.

e. A request for fire flow shall be submitted to the South San Joaquin County Fire Authority and results shall be approved by the Fire Marshal prior to construction. Fire flow requirements shall be in accordance with CFC Appendix B.

f. Fire department connections shall be installed in accordance with CFC §912 and NFPA standards. A hydrant shall be placed within 100’ of the FDC, in accordance with 2022 California Fire Code §912.2.1 as amended by the Tracy Municipal Code §9.06.070 Section 912.2.1 FDC locations shall be approved by the fire code official prior to the issuance of construction permit.

g. Fire control room locations shall be approved by the fire code official prior to the issuance of construction permit.

h. Provide a truck turning template which clearly shows the truck turning radius of 30’ inside and 50’ outside. Truck turning template shall show all ingress and egress paths available.

F.2 Engineering and building permit applications received by our offices are subject to the current fee schedule for South San Joaquin County Fire Authority. Contact our offices for additional information.

a. Application processing fees and minimum plan review fees are due at time of submittal of construction documents.

b. Additional plan review fees, minimum inspection fees and administrative fees are calculated on approval of project and shall be paid prior to issuance of permit.

c. Permit holder is responsible for any additional inspection fees incurred and shall be paid prior to final inspection.

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F.3 Building is assumed it will be constructed as a ‘speculative building’. Additional permits will be required for each separate tenant improvement. Construction documents shall be submitted to South San Joaquin County Fire Authority for review and approval prior to the start of construction or demolition.

a. Prior to occupancy of each new business, the tenant shall contact South San Joaquin County Fire Authority for a new business inspection. Additional fees may be required for New Business, Annual and Operational Fire Permits. All fees shall be paid prior to approval of inspections.

F.4 All hydrants shall be installed, inspected and tested prior to bringing combustible materials onsite, including storage.

F.5 A Knox Box shall be required for this project. Each tenant shall have keys placed in the Knox Box. The operator of the building shall immediately notify the Fire Authority and provide the new key where a lock is changed or rekeyed. The key to such shall be secured in the Knox Box.

F.6 The building shall be provided with approved address identification in accordance with 2022 California Fire Code §505.1 as amended by the Tracy Municipal Code §9.06.070 Section 912.2.CFC §505.1. The address shall be Illuminated at night. Illumination shall be either internally or externally at an intensity of 5.0 foot-candles.

F.7 Prior to final inspection, emergency radio responder coverage shall be tested to confirm coverage areas. It is beneficial for the applicant to conduct testing at foundation as retrofitting for the coverage shall be submitted to SSJCFA for review and approval prior to installation.
a. Additional improvements may warrant additional testing to be performed. Testing shall be the determination of the fire code official.

F.8. Prior to construction, an address must be posted at the construction site entrance. Address must be a minimum of 4 inches high by ½ inch numerals. Address must be provided so that emergency service personnel can locate the construction site in the event of an emergency.

F.9. Prior to construction, all-weather fire apparatus access roads shall be installed. Fire apparatus access roads during construction shall have a minimum 20’ unobstructed width in accordance with CFC §503

F.10. Additional comments may occur upon submittal of construction documents.

Exhibit B – Legal Description of the Property

ROAD DEDICATION & PUBLIC UTILITY EASEMENT HOPKINS ROAD EXTENSION

REAL PROPERTY SITUATE IN SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF ADJUSTED PARCEL 2 AS SAID PARCEL IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED JULY 9, 2019 AS INSTRUMENT NUMBER 2019-071941, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MONUMENT AT THE INTERSECTION OF HOPKINS ROAD AND JUDAH WAY AS SHOWN ON THAT CERTAIN RECORD OF SURVEY RECORDED JULY 17, 2017, IN BOOK 39 OF SURVEYS, AT PAGE 23, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY;

THENCE SOUTH 01° 09' 54" WEST, 30.00 FEET;

THENCE SOUTH 88° 50' 06" EAST, 1178.28 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 01° 09' 54" EAST, 60.00 FEET;

THENCE SOUTH 88° 50' 06" EAST, 1603.65 FEET TO THE BEGINNING OF A TANGENT CURVE;

THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 215.000 FEET, THROUGH A CENTRAL

ANGLE OF 17°21'43" FOR AN ARC DISTANCE OF 65.15 FEET;

THENCE NORTH 35°49'32" EAST, 87.55 FEET;

THENCE SOUTH 00° 24' 44" WEST, 206.51 FEET;

THENCE NORTH 44° 12' 18" WEST, 92.06 FEET;

THENCE NORTH 88° 50' 06" WEST, 1654.80 FEET TO THE **POINT OF BEGINNING**;

CONTAINING 107,768 SQUARE FEET OR 2.4740 ACRES OF LAND, MORE OR LESS.

TOGETHER WITH A 10.00-FOOT-WIDE PUBLIC UTILITY EASEMENT BEING BOUNDED ON THE NORTHERLY LINE OF HOPKINS ROAD, THE NORTHERLY LINE OF WHICH BEING PARALLEL WITH AND 10.00 FEET NORTHERLY OF THE NORTH LINE OF THE ABOVE DESCRIBED ROAD DEDICATION. SAID 10.00-FOOT-WIDE STRIP AS SHOWN ON THE ATTACHED DEPICTION.

ALSO, TOGETHER WITH A 10.00-FOOT-WIDE PUBLIC UTILITY EASEMENT BEING BOUNDED ON THE SOUTHERLY LINE OF HOPKINS ROAD, THE SOUTHERLY LINE OF WHICH BEING PARALLEL WITH AND 10.00 FEET SOUTHERLY OF THE SOUTH LINE OF THE ABOVE DESCRIBED ROAD DEDICATION. SAID 10.00-FOOT-WIDE STRIP AS SHOWN ON THE ATTACHED DEPICTION.

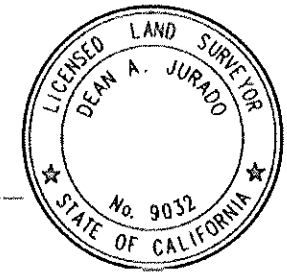
THE BASIS OF BEARINGS FOR THIS PLAT AND LEGAL DESCRIPTION IS THE LINE TAKEN AS S89°05'42"E, BETWEEN TWO FOUND MONUMENTS (STATION NUMBER 2043 AND STATION NUMBER 2044) OF THE CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD83 (EPOCH 2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN BOOK 36 OF SURVEYS AT PAGE 118, SAN JOAQUIN COUNTY RECORDS. THE DISTANCES SHOWN ARE GROUND DISTANCES. MULTIPLY DISTANCES SHOWN BY 0.99992068 TO OBTAIN GRID DISTANCES.

AS SHOWN ON EXHIBIT B, ATTACHED HERETO AND MADE A PART HEREOF.

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

DEAN A. JURADO, P.L.S. 9032

07-22-2024
DATE



T2S, R4E, SECTION 26 M.D.B.&M.

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	S1°09'54"W	30.00'
L2	N1°09'54"E	60.00'
L3	N35°49'32"E	87.55'
L4	S0°24'44"W	206.51'
L5	N44°12'18"W	92.06'

LICENSED LAND SURVEYOR
DEAN A. JURADO
No. 9032
STATE OF CALIFORNIA

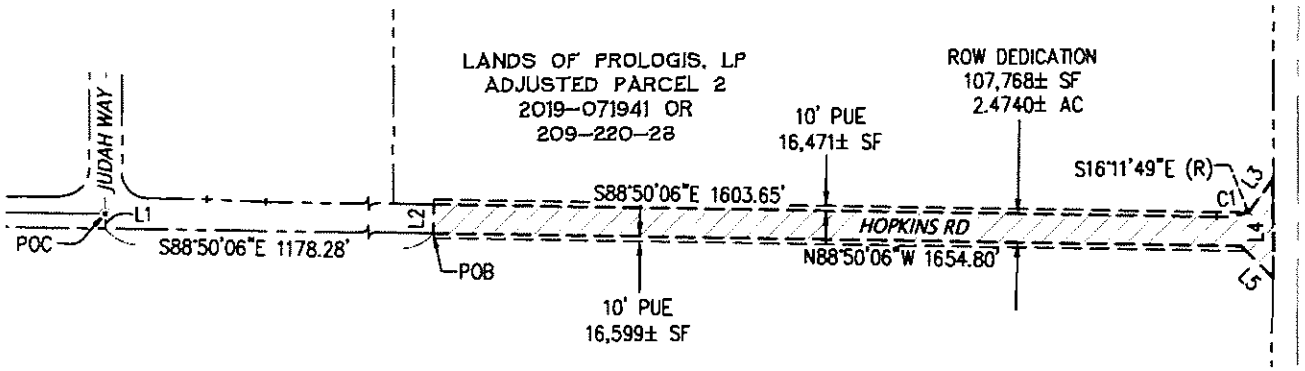
NORTH

0 150' 300' 600'
Scale 1" = 300'

LEGEND

- ROW LINE
- PROPERTY LINE
- EASEMENT LINE
- MON PER ROS 39 S 23

AC	ACRES
OR	OFFICIAL RECORDS
POB	POINT OF BEGINNING
POC	POINT OF COMMENCEMENT
PUE	PUBLIC UTILITY EASEMENT
ROW	RIGHT OF WAY
SF	SQUARE FEET



KIER+WRIGHT
250 Cherry Lane, Suite 107, 208
Manteca, CA 95337
Phone: (209) 328-1123
www.kierwright.com

EXHIBIT "B"
ROW & PUE DEDICATION

TRACY, CALIFORNIA

DATE	JULY, 2024
SCALE	1" = 300'
BY	JF
JOB NO.	A09500-440
SHEET	1 OF 1

CITY OF TRACY
OFFSITE IMPROVEMENT AGREEMENT
INTERNATIONAL PARK OF COMMERCE (IPC)
STREET IMPROVEMENTS ON IPC HOPKINS ROAD EXTENSION

EXHIBIT "C"
PAGE 1 OF 1

Name of Person	Company Name	Telephone Number
Matthew Sims	Prologis, LP	(510) 298-9810
Michael Bassillios	Kier & Wright Engineers	(925) 245-8788

Remainder of the Page Intentionally Left Blank

Faithful Performance

Bond Number **K41878071**

Name of Project: Hopkins Road Extension
Tract No.: International Park of Commerce (IPC)
Offsite Street **Improvement Agreement**

CITY OF TRACY
Tracy, California

Whereas, the City Council of the City of Tracy, State of California, and PROLOGIS, L.P. (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said Agreement, dated September 3 2013, and identified as **OFFSITE IMPROVEMENT AGREEMENT FOR INTERNATIONAL PARK OF COMMERCE (IPC) – STREET IMPROVEMENTS ON IPC HOPKINS ROAD EXTENSION,** is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we the principal and Federal Insurance Company as surety, are held and firmly bound unto the City of Tracy (hereinafter called "City"), in the penal sum of One Million Nine Hundred Ninety Four Thousand Six Hundred Thirty and 00/100 dollars ($1,994,630.00) lawful money of the United States, for the payment of which sum well and truly made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City of Tracy, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on July 22, 2024.

PROLOGIS, L.P.
A Delaware limited partnership
Principal
BY: Prologis, Inc., a Maryland corporation,
Its general partner

By: _____
Name: MATTHEW SIMS
Title: VICE PRESIDENT

Federal Insurance Company
Surety

By: _____
Tanya Chinchilla, Attorney-in-Fact

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of ALAMEDA

On JULY 25, 2024 (Date) before me, SONIA YASMIN AGUIRRE/NOTARY PUBLIC (Here Insert Name and Title of the Officer),

personally appeared MATTHEW SIMS (Name(s) of Signer(s))

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

SONIA YASMIN AGUIRRE
COMM. #2422846
NOTARY PUBLIC - CALIFORNIA
ALAMEDA COUNTY
My Comm. Exp. Oct. 22, 2026

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

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Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California)
County of Contra Costa)

On July 22, 2024 before me, Lisa M. Lucas, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Tanya Chinchilla
Name(s) of Signer(s)

,

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

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

WITNESS my hand and official seal.

Signature Lisa M. Lucas
Signature of Notary Public

LISA M. LUCAS
COMM. # 2431224
NOTARY PUBLIC - CALIFORNIA
CONTRA COSTA COUNTY
COMM. EXPIRES JAN. 13, 2027

Place Notary Seal Above

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Title or Type of Document: _____ Document Date: _____

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☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

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Labor and Material Bond

Bond Number: K41878071

Name of Project: Hopkins Road Extension
Tract No.: International Park of Commerce (IPC)
Offsite Street Improvement Agreement

CITY OF TRACY
Tracy, California 95376

Whereas, the City Council of the City of Tracy, State of California, and PROLOGIS, L.P. (hereinafter designated as "Principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said Agreement, dated September 3, 2024, and identified as **OFFSITE IMPROVEMENT AGREEMENT FOR INTERNATIONAL PARK OF COMMERCE (IPC) – STREET IMPROVEMENTS ON IPC HOPKINS ROAD EXTENSION,** is hereby referred to and made a part hereof; and

Whereas, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Tracy to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said principal and the undersigned, as corporate surety, are held and firmly bound unto the City of Tracy and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of One Million Nine Hundred Ninety Four Thousand Six Hundred Thirty and 00/100 dollars ($1,994,630.00) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed upon that this bond shall insure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement, or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on July 22, 2024.

PROLOGIS, L.P.
A Delaware limited liability partner
Principal
By: Prologis, Inc., a Maryland corporation,
Its general partner

By: _____
Name: Matthew Sims
Title: Vice President

Federal Insurance Company
Surety

By: _____
Tanya Chinchilla, Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

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

State of California)
County of Contra Costa)

On July 22, 2024 before me, Lisa M. Lucas, Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Tanya Chinchilla
Name(s) of Signer(s)

,

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

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

WITNESS my hand and official seal.

LISA M. LUCAS
COMM. # 2431224
NOTARY PUBLIC - CALIFORNIA
CONTRA COSTA COUNTY
COMM. EXPIRES JAN. 13, 2027

Signature Lisa M. Lucas
Signature of Notary Public

Place Notary Seal Above

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Capacity(ies) Claimed by Signer(s)

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☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
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☐ Other: _____
Signer Is Representing: _____

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CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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State of California
County of ALAMEDA }

On JULY 25, 2024 before me, SONIA YASMIN AGUIRRE,
Date *Here Insert Name and Title of the Officer*

personally appeared MATTEW SIMS
Name(s) of Signer(s)

,

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

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

WITNESS my hand and official seal.

SONIA YASMIN AGUIRRE
COMM. #2422846
NOTARY PUBLIC - CALIFORNIA
ALAMEDA COUNTY
My Comm. Exp. Oct. 22, 2026

Signature _____
Signature of Notary Public

Place Notary Seal and/or Stamp Above

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☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, **WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint A.W. Brown, Tanya Chinchilla, Lisa M. Lucas, D. Richard Stinson and Nicholas Tan of San Ramon, California ----------

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY** and **ACE AMERICAN INSURANCE COMPANY** have each executed and attested these presents and affixed their corporate seals on this **8th** day of **April 2024.**

Rupert HD Swindells, Assistant Secretary

Warren Eichhorn, Vice President

STATE OF NEW JERSEY
County of Hunterdon SS.

On this **8th** day of **April, 2024** before me, a Notary Public of New Jersey, personally came Rupert HD Swindells and Warren Eichhorn, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Rupert HD Swindells and Warren Eichhorn, being by me duly sworn, severally and each for himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal

Albert Contursi
NOTARY PUBLIC OF NEW JERSEY
No 50202369
Commission Expires August 22,2027

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Rupert HD Swindells, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this July 22, 2024

Rupert HD Swindells, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT BETWEEN THE CITY AND PROLOGIS, L.P. FOR OFFSITE IMPROVEMENTS TO HOPKINS ROAD, AS A PORTION OF THE FRONTAGE OBLIGATION FOR IPC BUILDING 20.

WHEREAS, on September 17, 2013, the City and Developer entered into a Development Agreement (DA) for the Cordes Ranch Specific Plan (CRSP). On December 20, 2013, the DA was recorded with San Joaquin County. On May 17, 2016, the City adopted the CRSP; and

WHEREAS, on July 14, 2021, Planning Commission approved a Tentative Subdivision Map Application TSM19-0002 for Tract 4103 - International Park of Commerce Tentative Subdivision Map by Planning Commission Resolution No. 2021-012 (Tentative Map); and

WHEREAS, since the approval of the DA and CRSP, Developer has been submitting and the City has been approving various buildings by Development Review Permits (DRPs); and

WHEREAS, on November 6, 2024, the City via a Community Development Director public hearing approved International Park of Commerce Building 20, DRP D24-0018; and

WHEREAS, DRP D24-0018 is subject to specified Conditions of Approval (COAs) which, among other things, require Developer to construct roadway and utility improvements on Hopkins Road; and

WHEREAS, the approval of the Offsite Improvement Agreement (OIA) will allow the improvements on Hopkins Road to be constructed and inspected; and

WHEREAS, pursuant to the Tracy Municipal Code, Developer is required to execute the OIA and to post the necessary securities to guarantee completion of the improvements; and

WHEREAS, the OIA is a legally binding mechanism guaranteeing Developer's construction of the off-site improvements. The Improvements Plans and OIA are on file with the City Engineer under Tracking No. ENG21-0031. Developer has executed the OIA and submitted the required security to guarantee completion of the subject improvements; and

WHEREAS, upon completion of the improvements, staff will present the improvements to City Council for acceptance and maintenance; and

WHEREAS, City staff will bring other items required as part of the project COAs to City Council for consideration at a future date; and

WHEREAS, the proposed Project is within the scope of the development program evaluated in the CRSP EIR (Environmental Impact Report) and no subsequent EIR is required pursuant to Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, under Section 15168(c) of the CEQA Guidelines, no further environmental review is required for the Project; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves an Offsite Improvement Agreement between the City and Prologis, L.P. for offsite improvements to Hopkins Road, required for the International Park of Commerce Building 20 DRP (D24-0018).

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.N

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for 7-Eleven Store #41531 as complete and assuming all future operations and maintenance, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Clerk to accept a public utility easement along North Tracy Boulevard and West Clover Road and file with the San Joaquin County Recorder's Office.

EXECUTIVE SUMMARY

This agenda item seeks approval of a resolution accepting offsite improvements for 7-Eleven Store #41531 constructed by 7-Eleven, Inc., a Texas Corporation (Developer), as complete and the City to assume all future maintenance and operations. This also seeks authorization for the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement (OIA) and allow the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. Furthermore, this agenda item seeks authorization for the City Clerk to accept and file with the San Joaquin County Recorder's Office a public utility easement along North Tracy Boulevard and West Clover Road.

BACKGROUND AND LEGISLATIVE HISTORY

On May 12, 2021, by Resolution 2021-006, Planning Commission approved a Development Application for a 7-Eleven convenience store and gas station, located at 3379 North Tracy Boulevard. Approval was subject to certain Conditions of Approval, including, among other things, offsite improvements along the North Tracy Boulevard and West Clover Road project frontage and a required dedication of property interest to the City.

On November 15, 2022, by Resolution 2022-170, the City Council approved an OIA with the Developer allowing construction of public improvements along the North Tracy Boulevard and West Clover Road frontages pursuant to the Conditions of Approval.

ANALYSIS

The Developer has completed public improvements for 7-Eleven Store #41531, located at 3379 North Tracy Boulevard (see Attachment A for Location Map), in accordance with the OIA, project plans, and specifications.

The OIA required the Developer to perform the scope of work defined in the following plan set: "Offsite Improvement Plans for 7-Eleven Store #41531" consisting of 15 sheets, prepared by Tait & Associates of Rancho Cordova, California (the Work). The Developer has completed all the Work required to be done in accordance with the OIA and has requested acceptance of the public improvements. The City Engineer has inspected the completed Work and confirmed that the improvements conform to the OIA and City plans and specifications.

Bonds were provided by the Developer as required by the OIA in the amounts as follows:

Bond Type		Amount
Faithful Performance	$	193,904.70
Labor and Material	$	193,904.70
Warranty	$	19,390.47

Faithful Performance Bonds may be released upon acceptance of improvements by the City Council. Labor and Material Bonds may be released thirty (30) days after recordation of Notice of Completion as statute of limitations period expires in accordance with Civil Code §9356. The original Warranty Bond will be retained by the City's Engineering Division and shall be released one year after the City Council acceptance of improvements and any warranty work is completed.

All public improvements required by the OIA were constructed within existing public right-of-way. No additional fee dedications were required.

The Developer has submitted a fully executed and notarized 10-foot wide Public Utility Easement dedication along the full frontage of North Tracy Boulevard and West Clover Road as required by Condition of Approval C.5.1.h. Staff recommends the City Council authorize the City Clerk to accept the easement and file with the San Joaquin County Recorder's Office.

FISCAL IMPACT

All improvements were completed by the Developer in accordance with the OIA and there was no fiscal impact to the City for the construction cost. Once accepted by the City, maintenance and operations will be funded through the City's Landscape Maintenance District. The estimated cost of the public improvements are as follows:

Cost Breakdown		
Roadway Improvements	$	51,471
Water	$	4,186
Sanitary Sewer	$	10,340
Storm Drain	$	308
Landscaping	$	55,000
Traffic Signal	$	72,600
Total	**$**	**193,905**

PUBLIC OUTREACH / INTEREST

Not applicable.

COORDINATION

Project construction activities were coordinated with the City of Tracy Public Works Department.

CEQA DETERMINATION

A determination was made by Planning Commission Resolution 2021-006 that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15332 and no further environmental assessment was necessary.

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

Staff recommends that the City Council, by resolution (1) accept offsite improvements for 7-Eleven Store #41531 as complete and assume all future operations and maintenance, (2) authorize the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorize the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorize the City Clerk to accept a public utility easement along North Tracy Boulevard and West Clover Road and file with the San Joaquin County Recorder's Office.

Prepared by: Miguel Hernandez, Construction Project Manager

Reviewed by: Sara Castro, Finance Director
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:

Attachment A – Location Map
Attachment B – 7-Eleven PUE Dedication

EXHIBIT A

PROJECT LOCATION
W Clover Rd
N Tracy Blvd
Apna Bazaar
Subway

Attachment B

Recording Requested by:
City of Tracy

Return to:
Adrianne Richardson, City Clerk
333 Civic Center Plaza
Tracy, CA 95376

Recording Fee: Exempt
use (Government Code Section 6103 and 27383)

Space above this line for Recorder's

APN: 214-180-210-0

Documentary Transfer Tax: Exempt
(Revenue and Taxation Code
Section 11922)

PUBLIC UTILITY EASEMENT DEDICATION

For A Valuable Consideration, receipt of which is hereby acknowledged, Lyle Schmidtchen (Grantor) represents that, as the owner of the herein-described real property, Grantor hereby grants a dedication to the CITY OF TRACY, a municipal corporation, the hereinafter described real property for the following public purpose:

Installation and maintenance of any and all public utility facilities including but not limited to poles, wires and conduits for electrical, telephone, communication, television, gas, storm, sanitary, and water services, and any and all appurtenances pertaining thereto that shall be used subject to the approval of the City Engineer

The real property referred to above is situated in the City of Tracy, County of San Joaquin, State of California and is more particularly described as follows:

SEE ATTACHED:

EXHIBIT A FOR LEGAL DESCRIPTION

EXHIBIT B FOR PLAT

SIGNATURE PAGE

Signed this 3rd day of February, 2022

Corporation/Business Name: 7-Eleven Inc.

Grantor Signatures: L. Schmidtchen
Signature

_____

_____

(Notary Acknowledgment Required for Each signatory)

CERTIFICATION

This is to certify that the interest in real property offered herein to the City of Tracy is hereby accepted pursuant to the authority conferred by Tracy City Council Resolution No. 1670, dated August 6, 1968, and the grantee consents to the recordation thereof.

DATED: _____

_____
By:Adrianne Richardson, City Clerk
City of Tracy

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT "A"

LEGAL DESCRIPTION

FOR PUBLIC UTILITY EASEMENT PURPOSES

THAT PORTION OF PARCEL TWO OF A PARCEL MAP, IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1, PAGE 16 OF PARCEL MAPS, RECORDS OF THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID PARCEL TWO;

THENCE, ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF CLOVER ROAD AND WESTERLY RIGHT-OF-WAY LINE OF TRACY ROAD, THE FOLLOWING FOUR (4) COURSES:

(1) NORTH $89^0$53'00" EAST 105.48 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 40.00 FEET, A RADIAL BEARING TO SAID BEGINNING OF CURVE BEARS NORTH $02^0$16'30" EAST;

(2) SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF $52^0$22'11" AND AN ARCLENGTH OF 36.56 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 75.00 FEET, A RADIAL BEARING TO SAID BEGINNING OF NON-TANGENT CURVE BEARS NORTH $54^0$38'43" EAST;

(3) SOUTHEASTERLY ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF $32^0$01'39" AND AN ARCLENGTH OF 41.92 FEET;

(4) SOUTH $00^0$13'45" EAST 144.04 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL TWO;

THENCE, LEAVING SAID WESTERLY RIGHT-OF-WAY LINE OF TRACY ROAD AND ALONG THE SOUTHERLY LINE OF SAID PARCEL TWO, SOUTH $89^0$53'00" WEST 10.00 FEET TO A LINE PARALLEL WITH AND DISTANT 10.00 FEET WESTERLY, MEASURED AT RIGHT ANGLES, FROM SAID WESTERLY RIGHT-OF-WAY LINE OF TRACY ROAD;

THENCE, ALONG SAID PARALLEL LINE, NORTH $00^0$13'45" WEST 143.74 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 65.00 FEET, A RADIAL BEARING TO SAID BEGINNING OF NON-TANGENT CURVE BEARS NORTH $86^0$26'35" EAST;

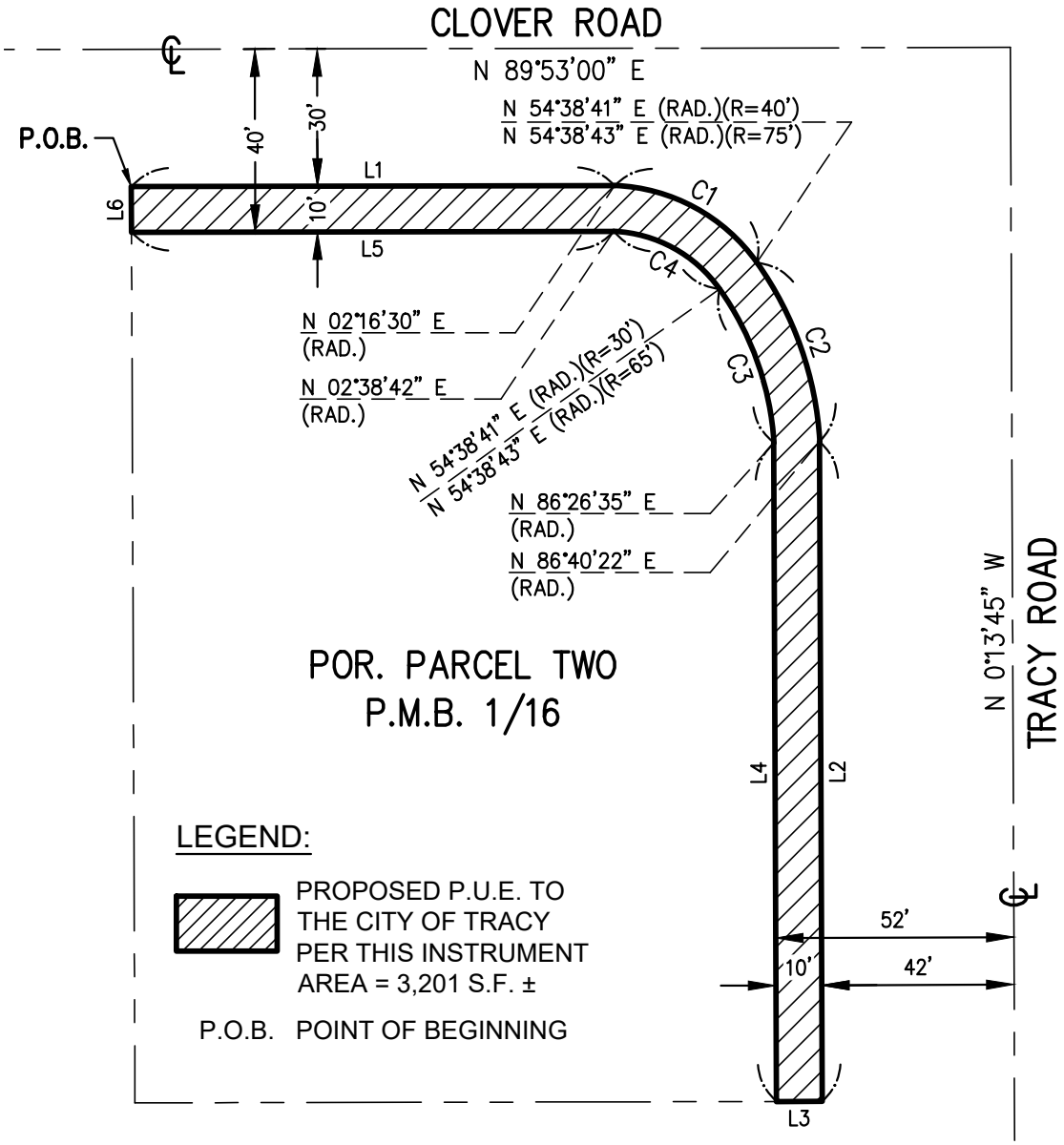
THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $31^0$47'52" AND AN ARCLENGTH OF 36.07 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 30.00 FEET, A RADIAL BEARING TO SAID BEGINNING OF CURVE BEARS NORTH $54^0$38'41" EAST;

THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF $51^0$59'59" AND AN ARCLENGTH OF 27.23 FEET TO A LINE PARALLEL WITH AND DISTANT 10.00 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES, FROM SAID SOUTHERLY RIGHT-OF-WAY LINE OF CLOVER ROAD;

THENCE, ALONG SAID PARALLEL LINE, SOUTH $89^0$53'00" WEST 105.24 FEET TO THE WESTERLY LINE OF SAID PARCEL TWO;

EXHIBIT B

PLAT



LINE TABLE		
NUMBER	BEARING	LENGTH
L1	N89° 53' 00"E	105.48'
L2	S0° 13' 45"E	144.04'
L3	S89° 53' 00"W	10.00'
L4	N0° 13' 45"W	143.74'
L5	S89° 53' 00"W	105.24'
L6	N0° 13' 45"W	10.00'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	52° 22' 11"	40.00'	36.56'
C2	32° 01' 39"	75.00'	41.92'
C3	31° 47' 52"	65.00'	36.07'
C4	51° 59' 59"	30.00'	27.23'

1/13/22

PROFESSIONAL LAND SURVEYOR
MICHAEL FURLONG
No. 8899
EXP. 12/31/23
STATE OF CALIFORNIA

0 40' 80'

1 inch = 40 ft.

1 OF 1

EXHIBIT "B"

CITY OF TRACY
COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

TAIT & ASSOCIATES INC.
Engineering - Surveying - Environmental
701 PARKCENTER DRIVE, SANTA ANA, CALIFORNIA 92705
TEL. (714) 560-8200

THENCE, ALONG SAID WESTERLY LINE OF PARCEL TWO, NORTH 00°13'45" WEST 10.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 3,201 SQUARE FEET, MORE OR LESS.

ALSO SHOWN IN EXHIBIT "B", ATTACHED HEREWITH AND MADE A PART HEREOF.

1/13/22

DATE

MICHAEL FURLONG, PLS 8899
LICENSE EXPIRES 12/31/23

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

(1) ACCEPTING OFFSITE IMPROVEMENTS FOR 7-ELEVEN STORE #41531 AS COMPLETE AND ASSUMING ALL FUTURE OPERATIONS AND MAINTENANCE, (2) AUTHORIZING THE CITY ENGINEER TO RELEASE IMPROVEMENT SECURITY IN ACCORDANCE WITH THE OFFSITE IMPROVEMENT AGREEMENT, (3) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (4) AUTHORIZING THE CITY CLERK TO ACCEPT A PUBLIC UTILITY EASEMENT ALONG NORTH TRACY BOULEVARD AND WEST CLOVER ROAD AND FILE WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE.

WHEREAS, on May 12, 2021, by Resolution 2021-006, Planning Commission approved a Development Application for a 7-Eleven convenience store and gas station, located at 3379 North Tracy Boulevard. Approval was subject to certain Conditions of Approval, including offsite improvements along the North Tracy Boulevard and West Clover Road project frontage and a required dedication of property interest to the City; and

WHEREAS, on November 15, 2022, by Resolution 2022-170, City Council approved an Offsite Improvement Agreement (OIA) with 7-Eleven, Inc., a Texas Corporation (Developer) allowing construction of public improvements along the North Tracy Boulevard and West Clover Road frontages pursuant to the Conditions of Approval; and

WHEREAS, the Developer has completed all the work required to be done in accordance with the OIA and has requested acceptance of the public improvements. The City Engineer has inspected the completed improvements and confirmed that they conform to the OIA and City plans and specifications; and

WHEREAS, the Developer furnished Faithful Performance, Labor and Materials, and Warranty Bonds assuring completion of the work; and

WHEREAS, Faithful Performance Bonds may be released upon acceptance of improvements by the City Council; and

WHEREAS, Labor and Material Bonds may be released thirty (30) days after recordation of Notice of Completion as statute of limitations period expires in accordance with Civil Code §9356. Warranty Bonds may be released one year after City Council acceptance of improvements and any warranty work is completed; and

WHEREAS, the estimated cost of the improvements are as follows:

Cost Breakdown

Roadway Improvements	$	51,471
Water	$	4,186
Sanitary Sewer	$	10,340
Storm Drain	$	308
Landscaping	$	55,000
Traffic Signal	$	72,600
Total	**$**	**193,905**

and;

WHEREAS, a 10-foot-wide public utility easement along the North Tracy Boulevard and West Clover Road frontage has been offered by the Developer, as required in Condition of Approval C.5.1.h; and

WHEREAS, once accepted by the City, maintenance will be funded through the City's Landscape Maintenance District; and

WHEREAS, the acceptance of these improvements is exempt from review under the California Environmental Quality Act per CEQA Guidelines section 15332; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the offsite improvements for 7-Eleven Store #41531 as complete and assumes future maintenance and operations; and be it

FURTHER RESOLVED: That the City Engineer may release the improvement security in accordance with the OIA and applicable law; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office for the offsite improvements for 7-Eleven Store #41531; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to accept dedications of a public utility easement along North Tracy Boulevard and West Clover Road and file with the San Joaquin County Recorder's Office.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.O

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) accepting offsite improvements for Edgewood Commercial Center as complete and assuming all future maintenance and operations, (2) authorizing the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorizing the City Clerk to accept a public utility easement along South Corral Hollow Road and file with the San Joaquin County Recorder's Office.

EXECUTIVE SUMMARY

This agenda item seeks approval of a resolution accepting offsite improvements for Edgewood Commercial Center constructed by Bodal Properties, LLC, a California Limited Liability Company (Developer), as complete and the City to assume all future maintenance and operations. Staff also seeks authorization for the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement (OIA) and allow the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. Furthermore, this agenda item seeks authorization for the City Clerk to accept and file with the San Joaquin County's Recorder's Office a public utility easement along South Corral Hollow Road.

BACKGROUND AND LEGISLATIVE HISTORY

The Developer has completed public improvements for Edgewood Commercial Center, located at 4600 South Corral Hollow Road (see Attachment A for Location Map), in accordance with the OIA, project plans, and specifications.

On July 7, 2020, by Resolution 2020-122, the City Council approved 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 South Corral Hollow Road and Middlefield Drive. Approval was subject to certain Conditions of Approval, including among other things, offsite improvements along the South Corral Hollow Road and Middlefield Drive project frontage.

On October 29, 2021, pursuant to Emergency Ordinance 1273, the City Manager approved an OIA with the Developer for the Edgewood Commercial Center allowing construction of public improvements along the South Corral Hollow Road and Middlefield Drive frontages pursuant to the Conditions of Approval.

ANALYSIS

The OIA required the Developer to perform the scope of work defined in the following plan set: "Edgewood Commercial Center Phase 1 Fuel Island and Convenience Store" consisting of 20 sheets, prepared by Schack & Company, Inc. of Tracy, California (the Work). The Developer has completed all the Work required to be done in accordance with the OIA and has requested acceptance of the public improvements. The City Engineer has inspected the completed Work and confirmed that the improvements conform to the OIA and City plans and specifications.

Bonds were provided by the Developer as required by the OIA in the amounts as follows:

Bond Type		Amount
Faithful Performance	$	992,991.14
Labor and Material	$	992,991.14
Warranty	$	99,299.11

Faithful Performance Bonds may be released upon acceptance of improvements by the City Council. Labor and Material Bonds may be released thirty (30) days after recordation of Notice of Completion as statute of limitations period expires in accordance with Civil Code §9356. The original Warranty Bond will be retained by the City's Engineering Division and shall be released one year after the City Council acceptance of improvements and any warranty work is completed.

All public improvements required by the OIA were constructed within existing public right-of-way. No additional fee dedications were required.

The Developer has submitted a fully executed and notarized 10-foot wide Public Utility Easement dedication along the full frontage of South Corral Hollow Road as required by Condition of Approval C.5.1.h. Staff recommends the City Council authorize the City Clerk to accept the easement and file with the San Joaquin County Recorder's Office.

FISCAL IMPACT

All improvements were completed by the Developer in accordance with the OIA and there was no fiscal impact to the City for the construction cost. Once accepted by the City, maintenance and operations will be funded through the City's Landscape Maintenance District. The estimated cost of the public improvements are as follows:

Cost Breakdown		
Roadway Improvements	$	604,607
Water	$	11,116
Storm Drain	$	4,950
Landscaping	$	79,363
Traffic Signal	$	280,500
Street Lighting	$	12,375
Total	**$**	**992,911**

PUBLIC OUTREACH / INTEREST

Not applicable.

COORDINATION

Project construction activities were coordinated with City of Tracy Public Works Department.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION

Prior to commencement of construction, an analysis of the project showed that there would be no significant on or off-site impacts as a result of this particular project which were not already discussed in the General Plan Environmental Impact Reports (EIRs). There was also no evidence of any significant impacts to occur off-site as a result of the project, as traffic, air quality, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects had been identified as a result of this 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

Staff recommends that City Council, by resolution (1) accept offsite improvements for Edgewood Commercial Center as complete and assume all future maintenance and operations, (2) authorize the City Engineer to release improvement security in accordance with the Offsite Improvement Agreement, (3) authorize the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (4) authorize the City Clerk to accept a public utility easement along South Corral Hollow Road and file with the San Joaquin County Recorder's Office.

Prepared by: Miguel Hernandez, Construction Project Manager

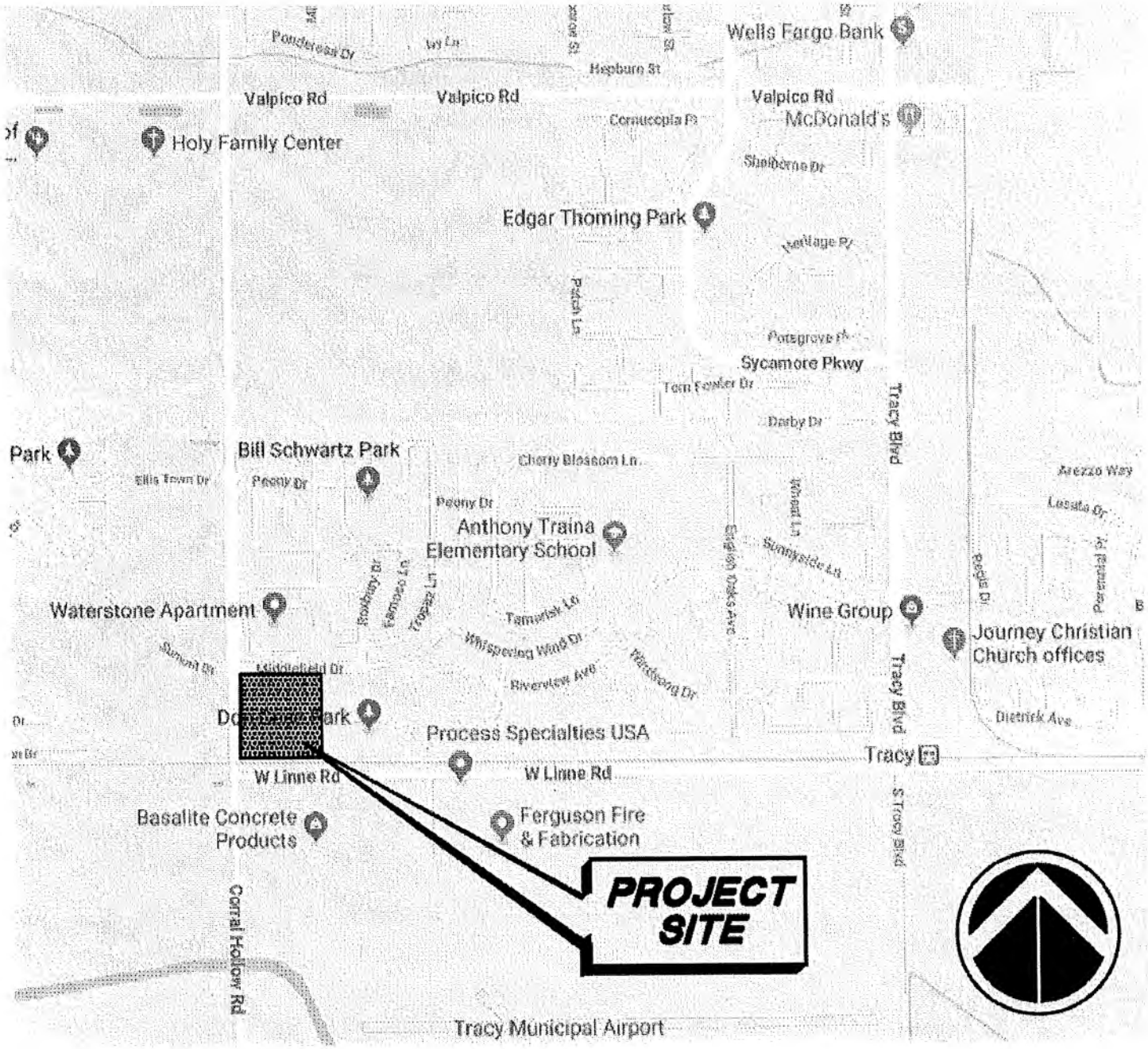
Reviewed by: Sara Castro, Finance Director
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:

Attachment A – Location Map
Attachment B – PUE Dedication

EXHIBIT A



LOCATION MAP

Recording Requested by:
City of Tracy

Return to:
Adrianne Richardson, City Clerk
333 Civic Center Plaza
Tracy, CA 95376

Recording Fee: Exempt
(Government Code Section 6103 and 27383)

Space above this line for Recorder's use
APN: 244-020-31

Documentary Transfer Tax:
Exempt (Revenue and Taxation
Code Section 11922)

PUBLIC UTILITY EASEMENT DEDICATION

For A Valuable Consideration, receipt of which is hereby acknowledged, Bodal Properties LLC, a limited liability company (Grantor) represents that, as the owner of the herein-described real property, Grantor hereby grants a dedication to the CITY OF TRACY, a municipal corporation, the hereinafter described real property for the following public purpose:

Installation and maintenance of any and all public utility facilities including but not limited to poles, wires and conduits for electrical, telephone, communication, television, gas, storm, sanitary, and water services, and any and all appurtenances pertaining thereto that shall be used subject to the approval of the City Engineer.

The real property referred to above is situated in the City of Tracy, County of San Joaquin, State of California and is more particularly described as follows:

SEE ATTACHED:

EXHIBIT A FOR LEGAL DESCRIPTION

EXHIBIT B FOR PLAT

SIGNATURE PAGE

Signed this 9th day of January, 2025

Corporation/Business Name: Bodal Properties LLC

Grantor Signatures: _____
Signature

_____ _____

SEE ATTACHED

(Notary Acknowledgment Required for Each signatory)

CERTIFICATION

This is to certify that the interest in real property offered herein to the City of Tracy is hereby accepted pursuant to the authority conferred by Tracy City Council Resolution No. 1670, dated August 6, 1968, and the grantee consents to the recordation thereof.

DATED: _____

_____

By: Adrianne Richardson, City Clerk
City of Tracy

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of San Joaquin }

On Jan. 9 2025 before me, H Buttar Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Harpreet Singh
Name(s) of Signer(s)

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

H. BUTTAR
Notary Public - California
San Joaquin County
Commission # 2412372
My Comm. Expires Aug 7, 2026

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

WITNESS my hand and official seal.

Signature H Buttar
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Public Utility Easement Dedication

Document Date: 1/9/2025 Number of Pages: 1

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

©2019 National Notary Association

LEGAL DESCRIPTION
EXHIBIT "A"
10-FOOT
PUBLIC UTILITY EASEMENT

AN EASEMENT FOR PUBLIC UTILITY PURPOSES OVER THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 12, OF EDGEWOOD, UNIT NO. 6, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD OCTOBER 28, 1999, AND RECORDED IN VOLUME 34 OF MAPS AND PLATS AT PAGE 75, SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 10-FEET IN WIDTH, LYING 5.00 FEET EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE.

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 12; THENCE SOUTH 89 DEGREES 30 MINUTES 41 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 12, 5.00 FEET TO THE **TRUE POINT OF BEGINNING;** THENCE NORTH 00 DEGREES 23 MINUTES 03 SECONDS EAST, PARALLEL TO THE WEST LINE OF SAID LOT 12, A DISTANCE OF 608.47 FEET TO A POINT; THENCE NORTH 45 DEGREES 23 MINUTES 03 SECONDS EAST, PARALLEL TO THE NORTHWESTERLY LINE OF SAID LOT 12, A DISTANCE OF 72.83 FEET TO THE NORTH LINE OF SAID LOT 12, SAID POINT ALSO BEING THE POINT OF TERMINUS OF THE ABOVE DESCRIBED CENTERLINE.

THE SIDELINES OF THE ABOVE DESCRIBED EASEMENT SHALL BE EXTENDED OR SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINE OF SAID LOT 12.

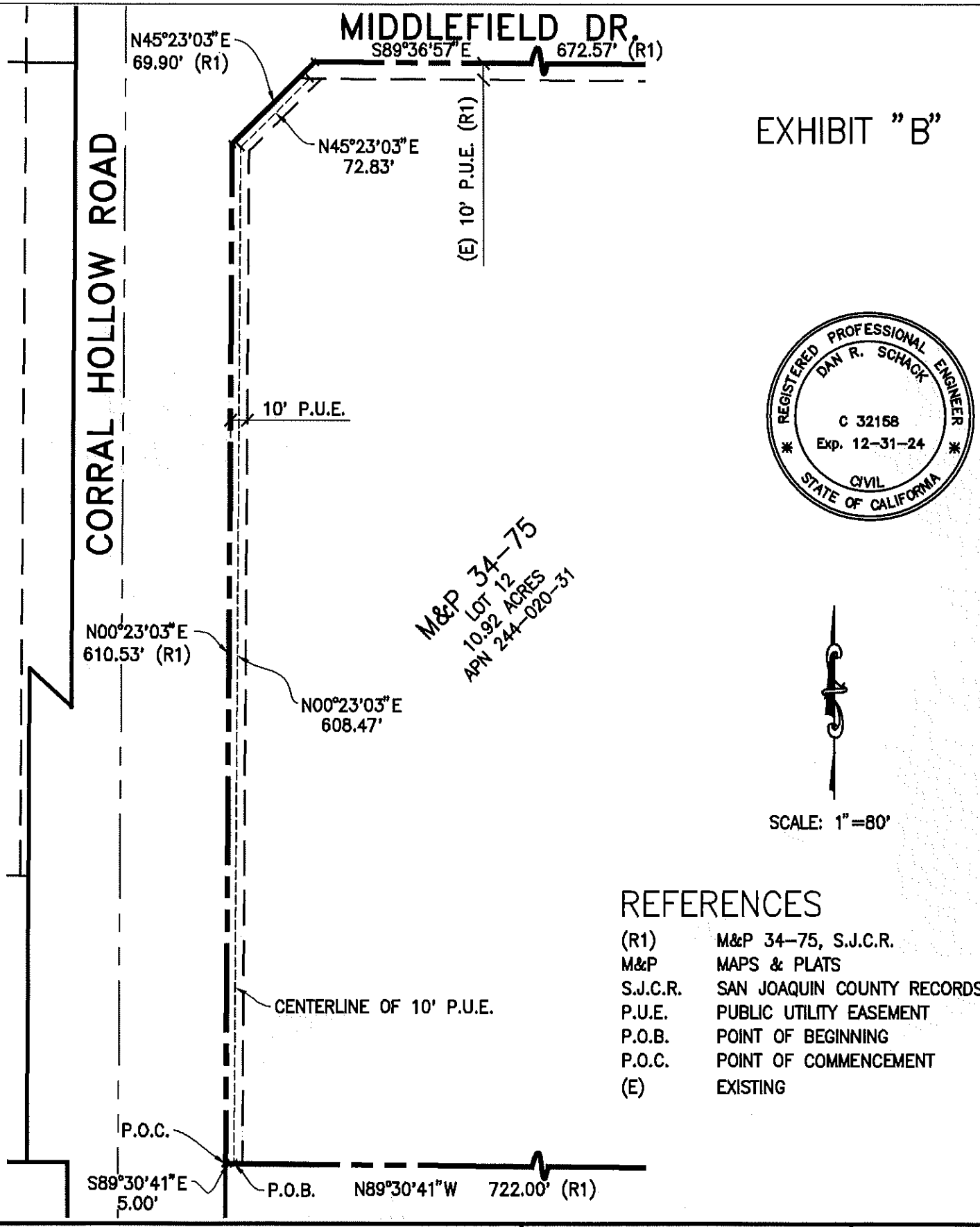


EXHIBIT "B"

REGISTERED PROFESSIONAL ENGINEER
DAN R. SCHACK
C 32158
Exp. 12-31-24
CIVIL
STATE OF CALIFORNIA

SCALE: 1"=80'

REFERENCES

(R1)	M&P 34-75, S.J.C.R.
M&P	MAPS & PLATS
S.J.C.R.	SAN JOAQUIN COUNTY RECORDS
P.U.E.	PUBLIC UTILITY EASEMENT
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
(E)	EXISTING

Schack & Company, Inc.
Civil Engineering • Building Design • Surveying
(209) 835-2178 • P.O. Box 339 • Tracy, California 95378 • FAX (209) 835-1438

Edgewood Commercial Dev.
10' P.U.E.
4600 S. CORRAL HOLLOW ROAD
TRACY, CA 95377

Date:	09/05/24
Job:	19.007
By:	DW
Sheet	1 of 1

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

---

(1) ACCEPTING OFFSITE IMPROVEMENTS FOR EDGEWOOD COMMERCIAL CENTER AS COMPLETE AND ASSUMING ALL FUTURE MAINTENANCE AND OPERATIONS, (2) AUTHORIZING THE CITY ENGINEER TO RELEASE IMPROVEMENT SECURITY IN ACCORDANCE WITH THE OFFSITE IMPROVEMENT AGREEMENT, (3) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (4) AUTHORIZING THE CITY CLERK TO ACCEPT A PUBLIC UTILITY EASEMENT ALONG SOUTH CORRAL HOLLOW ROAD AND FILE WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE.

WHEREAS, on July 7, 2020, City Council approved a Development Review Permit for a retail convenience store, an automobile service station with electric vehicle charging station, and associated parking and landscaping improvements located at 4600 South Corral Hollow Road (Project), subject to Conditions of Approval which required, among other things, certain public improvements along South Corral Hollow Road and Middlefield Drive to be completed and dedications of property interests be made to the City; and

WHEREAS, on October 29, 2021, pursuant to Emergency Ordinance 1273, the City Manager approved an Offsite Improvement Agreement (OIA) with Bodal Properties, LLC, a California Limited Liability Company (Developer) for the Edgewood Commercial Center allowing construction of public improvements along the South Corral Hollow Road and Middlefield Drive frontages; and

WHEREAS, the Developer has completed all the work required to be done in accordance with the OIA and has requested acceptance of the public improvements; and

WHEREAS, the City Engineer has inspected the completed improvements and confirmed that they conform to the OIA and City plans and specifications; and

WHEREAS, the Developer furnished Faithful Performance, Labor and Materials, and Warranty Bonds assuring completion of the work; and

WHEREAS, Faithful Performance Bonds may be released upon acceptance of improvements by the City Council; and

WHEREAS, Labor and Material Bonds may be released thirty (30) days after recordation of Notice of Completion as statute of limitations period expires in accordance with Civil Code §9356. Warranty Bonds may be released one year after City Council acceptance of improvements and any warranty work is completed; and

WHEREAS, the estimated cost of the improvements are as follows:

Cost Breakdown		
Roadway Improvements	$	604,607
Water	$	11,116
Storm Drain	$	4,950
Landscaping	$	79,363
Traffic Signal	$	280,500
Street Lighting	$	12,375
Total	**$**	**992,911**

WHEREAS, a 10-foot-wide public utility easement along the South Corral Hollow Road frontage has been offered by the Developer, as required in Conditions of Approval, C.5.1.h; and

WHEREAS, once accepted by the City, maintenance and operations will be funded through the City's Landscape Maintenance District; and

WHEREAS, the acceptance and operation of these offsite improvements is consistent with the General Plan EIR and no further review under the California Environmental Quality Act is necessary; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the offsite improvements for Edgewood Commercial Center as complete and assumes future maintenance and operations; and be it

FURTHER RESOLVED: That the City Engineer may release the improvement security in accordance with the OIA and applicable law; and be it

FURTHER RESOLVED: That City Council authorizes the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office for the public improvements along South Corral Hollow Road and Middlefield Drive; and be it

FURTHER RESOLVED: That City Council authorizes the City Clerk to accept dedication of a public utility easement along South Corral Hollow Road and file with the San Joaquin County Recorder's Office.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 21st day of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 1.P

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) accepting the construction improvements for City Hall Memorial Flag Poles Project, Capital Improvement Project 78192, (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorizing the City Engineer to release the improvement security and retention payment in accordance with the Project contract and Tracy Municipal Code Section 12.36.080, and (4) authorizing the Finance Department to close the Project.

EXECUTIVE SUMMARY

This agenda item seeks the adoption of a resolution by the City Council accepting the construction improvements for the City Hall Memorial Flag Poles Project (Project), Capital Improvement Project (CIP) 78192, constructed by GCJ Inc. of Tracy, California (Contractor) as complete and authorizing the City Clerk to file a Notice of Completion. This resolution would also authorize the City Engineer to release the Contractor's retention and improvement security in accordance with the existing contract and Tracy Municipal Code Section 12.36.080.

BACKGROUND AND LEGISLATIVE HISTORY

In Fiscal Year (FY) 2021/2022, the City Council authorized the creation of a CIP for the City Hall Memorial Flag Poles Project, CIP 78192, to add six (6) flag poles with up lights to the existing war memorial along with updated landscape. As part of the budget approval process in FY 2021/2022, $75,000 was allocated, however, to complete the scope of work, additional budget appropriations in the amount of $125,746 were allocated.

Staff prepared the plans, specifications, and bid documents for the Project in-house. The scope of work included installing six new flag poles with up-lights for each branch of the United States Military (Army, Air Force, Coast Guard, Marine Corps, Navy, and Space Force), updating drought-tolerant landscaping in the general area of the memorial, and other related work.

Staff advertised the Project for competitive bids on July 5, 2024, and July 12, 2024, and opened bids on August 6, 2024. On September 3, 2024, the Tracy City Council approved and awarded a construction contract (Contract), attached hereto as Attachment A, in the amount of $148,085 to GCJ Inc. of Tracy, California, pursuant to City Council Resolution No. 2024-150. Under this resolution, the City Manager received authorization to approve Project change orders up to the specified contingency amount of $14,808, if needed.

In accordance with the Contract and Tracy Municipal Code section 12.36.080, the Contractor furnished Improvement securities in the following amounts:

Bond Type	Amount
Faithful Performance Security	$148,085
Labor and Material Security	$148,085
Warranty Security	$ 14,808

ANALYSIS

The Contractor has now completed all required work in accordance with the plans and specifications. The City Engineer has inspected the completed work and confirmed that it conforms to the Project plans and specifications, which was completed within the time frame of the original contract. Subject to City Council's approval, a Notice of Completion for the CIP will be recorded with the San Joaquin County Recorder's Office. Filing the Notice of Completion by the City Clerk will finalize acceptance of the Project pursuant to Tracy Municipal Code Section 12.36.110. The Project carries a one-year Warranty Bond for all construction improvements.

Faithful Performance Bonds may be released upon acceptance of the improvements by the City. Labor and Material Bonds may be six (6) months after recordation of the Notice of Completion. The Warranty Bond may be released one (1) year after the City accepts the improvements and any warranty work is completed.

FISCAL IMPACT

The City Hall Memorial Flag Poles Project, CIP 78192, is an approved Capital Improvement Project with a budget of $204,746. The total Project cost is $191,145 and the remaining balance of $13,601 will be released back into the General Fund Projects Fund (F301).

Final costs for the Project were within the approved budget as follows:

A.	Construction Contract Amount	$	148,085
B.	Contract Change Orders	$	14,615
C.	Design, construction management, inspection, testing & miscellaneous project management expenses	$	28,445
	Total Project Costs	$	191,145
	Total Budget Amount	$	204,746
	Budget Remaining	$	13,601

COORDINATION

Coordination between the Engineering Division, the Department of Public Works, and the Parks and Recreation Department took place.

CEQA DETERMINATION

Staff has reviewed and determined the Project was Categorically Exempt under the California Environmental Quality Act (CEQA) based on Article 19 Section 15301 (e)(h), Class 1 "Existing Facilities". A Notice of Exemption was filed with the County of San Joaquin and State Clearing House in compliance with CEQA guidelines.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, (1) accept the construction improvements for City Hall Memorial Flag Poles Project, Capital Improvement Project 78192, (2) authorize the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, (3) authorize the City Engineer to release the improvement security and retention payment in accordance with the Project contract and Tracy Municipal Code Section 12.36.080, and (4) authorize the Finance Department to close the Project.

Prepared by: Miguel Hernandez, Construction Project Manager

Reviewed by: Sharat Bandugula, PE, Acting Assistant City Engineer
Sara Castro, Finance Director
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Arturo M. Sanchez, Acting City Manager

Attachments:

Attachment A - GCJ, Inc. Construction Contract CIP 78192

Attachment A

Contract

This public works contract ("Contract") is entered into by and between the City of Tracy ("City") and GCJ, Inc. ("Contractor") for work on the City Hall Memorial Flag Poles Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On September 3, 2024, City authorized award of this Contract to Contractor for the amount of Contractor's bid.

2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following (subject to the order of precedence in Section 3.2 of the General Conditions):

   2.1 Notice Inviting Bids;
   2.2 Instructions to Bidders;
   2.3 Addenda, if any;
   2.4 Bid Proposal and attachments thereto;
   2.5 Contract;
   2.6 Payment, Performance and Warranty Bonds;
   2.7 General Conditions;
   2.8 Special Conditions;
   2.9 Project Drawings and Specifications;
   2.10 Change Orders and Contract amendments, if any;
   2.11 Notice of Award;
   2.12 Notice to Proceed; and
   2.13 The following:
   No other documents

3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor one hundred forty eight thousand eighty five Dollars ($148,085.00) (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.

5. **Time for Completion.** Contractor will complete the Work for the Project within 45 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.

Docusign Envelope ID: 5F604F8D-9EFA-40BB-9DCA-2BE07CC53FDE

6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of $ 200 for each calendar day of unexcused delay in completion, and the Contract Price will be reduced accordingly.

7. **Labor Code Compliance.**

   7.1 **General.**This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance. Contractor shall comply with all other applicable federal, state, and local laws, regulations and policies pertaining to labor standards insofar as those laws, regulations and policies apply to the performance of this Contract, including any applicable City employment requirements, including but not limited to, the City's Local Hiring Policy (attached as Exhibit 1 to this Contract).

   7.2 **Prevailing Wages.**This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at http://www.dir.ca.gov/DLSR.

   7.3 **DIR Registration.**City will not enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code section 1725.5, subject to limited legal exceptions.

8. **Workers' Compensation Certification.**Under Labor Code section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. **Conflicts of Interest.**Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or policy or in violation of any California law, including under Government Code section 1090 et seq.and under the Political Reform Actas set forth in Government Code section 81000 et seq. and its accompanying regulations. Any violation of thisSectionconstitutes a material breach of the Contract.

10. **Independent Contractor.**Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.

11. **Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

Parks and Recreation Department
Attn: Richard Joaquin, Park Planning and Development Manager
Address: 333 Civic Center Plaza
City/State/Zip: Tracy, CA 95376
Email: richard.joaquin@cityoftracy.org
Copy to: Adrianne Richardson, City Clerk

Contractor:

Name: GCJ Inc.
Address: 3508 Shamrock Wy Ste. 101
City/State/Zip: Tracy, Ca 95376
Phone: (209) 831-7928
Attn: Derek Scalise
Email: dereke gcjinc.com
Copy to: _____

12. **General Provisions.**

12.1 **Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.

12.2 **Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.

12.3 **Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of San Joaquin County, and no other place.

12.4 **Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

12.5 **Integration; Severability.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in effect.

12.6 **Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, at least two signatures are required pursuant to California Corporation Code section 313: (1) one from an officer on the operations side of the corporation (such as president, vice president, chief operating officer, etc.); and (2) one from the finance side of the corporation

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(such as the chief financial officer, treasurer, etc.) or from the corporate secretary. Alternatively, if only one signature will be obtained from a corporation, attach the corporate resolution authorizing that individual to bind the corporation to contracts.

[Signatures are on the following page.]

Docusign Envelope ID: 5F604F8D-9EFA-40BB-9DCA-2BE07CC53FDE

The parties agree to this Contract as witnessed by the signatures below:

CITY:

Signed by:
s/ 70A0C3171A21463...

Eleassia Davis, Mayor Pro Tem
Name/Title [print]

Date: 9/5/2024 | 4:24 PM PDT

Approved as to form:

Signed by:
s/ Bijal Patel
1ED768991DBE474...

Bijal Patel
Name/City Attorney

Date: 9/5/2024 | 4:07 PM PDT

Attest:

s/ Mary Lopez for, City Clerk
Name [print]

Date: 9/5/2024

CONTRACTOR: G.C.J., Inc.
Business Name

s/

Derek Saulse, V.P.
Name/Title [print]

Date: 09/04/24

Seal:

GCJ INC. CORPORATE SEAL 09/03/2008 CALIFORNIA

Second Signature (See Section 12.6):

s/

Virginia Sepulveda, Secretary
Name/Title [print]

Date: 9/4/24

922160
Contractor's California License Number(s) and Expiration Date(s)

END OF CONTRACT

Bond Number: 101170172
Premium: Included

Payment Bond

The City of Tracy ("City") and GCJ Inc. ("Contractor") have entered into a contract, dated _____, 20___ ("Contract") for work on the City Hall Memorial Flag Poles Project ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____ Merchants Bonding Company (Mutual) ___, its surety ("Surety"), are bound to City as obligee in an amount not less than $148,085.00***** _____, under California Civil Code sections 9550, et seq.

2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay any of the persons named in California Civil Code section 9100 amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors, under California Unemployment Insurance Code section 13020, with respect to the work and labor, then Surety will pay for the same.

3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.

4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be void. Otherwise, Surety's obligations will remain in effect.

5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code sections 2819 and 2845. City waives requirement of a new bond for any supplemental contract under Civil Code section 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

   Attn: Kevin Byers
   Address: PO Box 14498
   City/State/Zip: Des Moines, IA 50306
   Phone: 800-678-8171
   Fax: 515-243-3854
   Email: kbyers@merchantsbonding.com

6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of the County in which the Project is located, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce this Bond.

7. **Effective Date; Execution.** This Bond is entered into and is effective on September 3, 2024. Two identical counterparts of this Bond, each of which is deemed an original for all purposes, are hereby executed and submitted.

SURETY: Merchants Bonding Company (Mutual)
Business Name

s/ Erin Johnson

Erin Johnson, Attorney-in-Fact
Name/Title [print]

(Acknowledgment with Surety's Notary Seal and Surety's Power of Attorney must be attached.)

CONTRACTOR: G.C.J. Inc.
Business Name

s/

Denell Scalise, Vice President
Name/Title [print]

s/

Virginia Sepulveda, President
Name/Title [print]

GCJ INC CORPORATE SEAL 09/03/2008 CALIFORNIA

APPROVED BY CITY:

s/

Name/Title [print]

END OF PAYMENT BOND

ACKNOWLEDGMENT

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

State of California
County of San Joaquin)

On September 3rd, 2024 before me, L. Salerno, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

L. SALERNO
Notary Public - California
San Joaquin County
Commission # 2454852
My Comm. Expires Jul 24, 2027

Payment Bond #101170172

DOCUMENT NAME: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

County of Sacramento }

On 9-3-2024 (Date) before me, Sandra R. Black (Insert Name of Notary exactly as it appears on the official seal), Notary Public,

personally appeared Erin Johnson (Name(s) of Signer(s)),

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

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

Witness my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☑ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Carol B Henry; Chelsea Nielson; Erin Johnson; Jonathan Russell; Robin L Amstutz; Sandra R Black; Stella Winterbourne

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 3rd day of February , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 3rd day of February 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly swom did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 3rd day of September , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

Bond Number: 101170172
Premium: $2,345.00

Performance Bond

The City of Tracy ("City") and GCJ Inc. ("Contractor") have entered into a contract, dated _____, 20____ ("Contract") for work on the City Hall Memorial Flag Poles Project ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as Principal and Merchants Bonding Company (Mutual), its surety ("Surety"), are bound to City as obligee for an amount not less than $148,085.00*****. By executing this Bond, Contractor and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.

2. **Surety's Obligations; Waiver.** If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become void upon recordation of the notice of completion, provided Contractor has timely provided a warranty bond as required under the Contract. Otherwise Surety's obligations will remain in effect until expiration of the one year warranty period under the Contract. Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code sections 2819 and 2845.

3. **Application of Contract Balance.** Upon making a demand on this Bond, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or back charges to which City is entitled under the terms of the Contract.

4. **ContractorDefault.** Upon written notification from City that Contractor is in default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:

   4.1 Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

   4.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense, or

   4.3 Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.

5. **Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

6. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: Kevin Byers
Address: PO Box 14498
City/State/Zip: Des Moines, IA 50306
Phone: 800-678-8171
Fax: 515-243-3854
Email: kbyers@merchantsbonding.com

7. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court for the County in which the Project is located, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce this Bond.

8. **Effective Date; Execution.** This Bond is entered into and effective on September 3, 2024. Two identical counterparts of this Bond, each of which is deemed an original for all purposes, are hereby executed and submitted.

SURETY: Merchants Bonding Company (Mutual)
Business Name

s/ Erin Johnson

Erin Johnson, Attorney-in-Fact
Name/Title [print]

(Acknowledgment with Surety's Notary Seal and Surety's Power of Attorney must be attached.)

CONTRACTOR: GCJ Inc.
Business Name

s/

Denali Scalise, Vice President
Name/Title [print]

GCJ INC. CORPORATE SEAL 09/03/2008 CALIFORNIA

s/

Virginia Sepulveda, President
Name/Title [print]

APPROVED BY CITY:

s/

Name/Title [print]

END OF PERFORMANCE BOND

ACKNOWLEDGMENT

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

State of California
County of San Joaquin)

On September 3rd, 2024 before me, L. Salerno, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

L. SALERNO
Notary Public - California
San Joaquin County
Commission # 2454852
My Comm. Expires Jul 24, 2027

Performance Bond #101170172

DOCUMENT NAME: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

County of Sacramento }

On 9-3-2024 (Date) before me, Sandra R. Black (Insert Name of Notary exactly as it appears on the official seal), Notary Public,

personally appeared Erin Johnson (Name(s) of Signer(s)),

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

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

Witness my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of the form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☑ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Carol B Henry; Chelsea Nielson; Erin Johnson; Jonathan Russell; Robin L Amstutz; Sandra R Black; Stella Winterbourne

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 3rd day of February , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 3rd day of February 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 3rd day of September , 2024 .

MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

Bond Number: 101170172
Premium: Included

Warranty Bond

The City of Tracy ("City") and GCJ Inc.
("Contractor") have entered into a contract, dated _____, 20___ ("Contract") for work on the City Hall Memorial Flag Poles Project ("Project"). The Contract is incorporated by reference into this Warranty Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and Merchants Bonding Company (Mutual), its surety ("Surety"), are bound to City as obligee in the maximum amount of 10% of the final Contract Price, unless otherwise specified in the Contract Documents.

2. **Warranty Period.** The Contract requires Contractor to guarantee its Work and that of its Subcontractors on the Project, against defects in materials or workmanship which are discovered during the one year period commencing with recordation of the notice of completion (the "Warranty Period").

3. **Surety's Obligations.** If Contractor faithfully carries out and performs its guarantee under the Contract, and, on due notice from City, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Contractor promptly reimburses City for all loss and damage that City sustains because of Contractor's failure to makes such repairs in accordance with the Contract requirements, then Surety's obligations under this Bond will be void. Otherwise, Surety's obligations will remain in effect.

4. **Waiver.** Surety waives the provisions of Civil Code sections 2819 and 2845.

5. **Notice.**Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

   Attn: Kevin Byers
   Address: PO Box 14498
   City/State/Zip: Des Moines, IA 50306
   Phone: 800-678-8171
   Fax: 515-243-3854
   Email: kbyers@merchantsbonding.com

6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court in which the Project is located, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce this Bond.

7. **Effective Date; Execution.** This Bond is entered into and is effective on September 3, 2024. Two identical counterparts of this Bond, each of which is deemed an original for all purposes, are hereby executed and submitted.

[Signatures are on the following page.]

SURETY: Merchants Bonding Company (Mutual)
Business Name

s/ Erin Johnson

Erin Johnson, Attorney-in-Fact
Name/Title [print]

(Acknowledgment with Surety's Notary Seal and Surety's Power of Attorney must be attached.)

CONTRACTOR: GCJ Inc.
Business Name

s/

Denek Scalise, Vice President
Name/Title [print]

s/

Virginia Sepulveda, President
Name/Title [print]

GCJ INC CORPORATE SEAL 09/03/2008 CALIFORNIA

APPROVED BY CITY:

s/

Name/Title [print]

END OF WARRANTY BOND

ACKNOWLEDGMENT

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

State of California
County of San Joaquin)

On September 3rd, 2024 before me, L. Salerno, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

L. SALERNO
Notary Public - California
San Joaquin County
Commission # 2454852
My Comm. Expires Jul 24, 2027

Warranty Bond #101170172

DOCUMENT NAME: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

County of Sacramento }

On 9-3-2024 (Date) before me, Sandra R. Black (Insert Name of Notary exactly as it appears on the official seal), Notary Public,

personally appeared Erin Johnson (Name(s) of Signer(s)),

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

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

Witness my hand and official seal.

Signature _____ (Signature of Notary Public)

SANDRA R. BLACK
COMM. # 2319775
NOTARY PUBLIC-CALIFORNIA
SACRAMENTO COUNTY
Comm. Exp. DEC. 6, 2025

Place Notary Seal Above

OPTIONAL

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Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner ☐ Limited ☐ General
- ☑ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
- ☐ Individual
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- ☐ Partner ☐ Limited ☐ General
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- ☐ Guardian or Conservator
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MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

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Carol B Henry; Chelsea Nielson; Erin Johnson; Jonathan Russell; Robin L Amstutz; Sandra R Black; Stella Winterbourne

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

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In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

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MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 3rd day of February 2024 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

Penni Miller
Commission Number 787952
My Commission Expires
January 20, 2027

Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

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MERCHANTS NATIONAL BONDING, INC. -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

POA 0018 (1/24)

CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE

License Number 922160

Entity CORP

Business Name G C J INC

Classification(s) C 8 A

Expiration Date 11/30/2024

www.cslb.ca.gov

CONTRACTORS STATE LICENSE BOAR

Contractor's License Detail for License # 922160

DISCLAIMER: A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

- CSLB complaint disclosure is restricted by law (B&P 7124.6) If this entity is subject to public complaint disclosure click on link that will appear below for more information. Click here for a definition of disclosable actions.
- Only construction related civil judgments reported to CSLB are disclosed (B&P 7071.17).
- Arbitrations are not listed unless the contractor fails to comply with the terms.
- Due to workload, there may be relevant information that has not yet been entered into the board's license database.

Data current as of 9/3/2024 2:22:26 PM

Business Information

G C J INC
3508 SHAMROCK WAY SUITE 101
TRACY, CA 95377
Business Phone Number:(209) 831-7928

Entity	Corporation
Issue Date	09/15/2008
Reissue Date	11/12/2008
Expire Date	11/30/2024

License Status

This license is current and active.

All information below should be reviewed.

Classifications

- B - GENERAL BUILDING
- A - GENERAL ENGINEERING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with HUDSON INSURANCE COMPANY.
Bond Number: 30119670
Bond Amount: $25,000
Effective Date: 08/27/2023
Contractor's Bond History

Bond of Qualifying Individual

- The qualifying individual VIRGINIA ANN SEPULVEDA certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.
  Effective Date: 11/12/2008
- The qualifying individual DEREK ALAN SCALISE certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.
  Effective Date: 12/08/2023

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/3/2024

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

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

PRODUCER
Bowermaster Insurance Brokers
7777 Center Avenue, Suite 600
Huntington Beach CA 92647

CONTACT NAME: Jenna Gonzalez
PHONE (A/C, No, Ext): 714-733-6200 FAX (A/C, No):
E-MAIL ADDRESS: jgonzalez@bowermaster.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Landmark American Insurance Co.	33138
INSURER B : State Compensation Insurance Fund	35076
INSURER C : Lloyd's	
INSURER D : Evanston Insurance Company	35378
INSURER E : Ascot Insurance Company	23752
INSURER F :	

INSURED GOWACO-002
GCJ, Inc.
PO Box 84
Tracy CA 95378

COVERAGES **CERTIFICATE NUMBER:** 1780566546 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	Y		7063754130 ✓	12/16/2023	12/16/2024	EACH OCCURRENCE	$ 1,000,000
	[ ] CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	[ ] POLICY [X] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	[ ] OTHER:							$
A	AUTOMOBILE LIABILITY			7063594489	12/16/2023	12/16/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	[ ] OWNED AUTOS ONLY [X] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
	X Comp $500 X Coll $500							$
A	[ ] UMBRELLA LIAB [ ] OCCUR			7063594508	12/16/2023	12/16/2024	EACH OCCURRENCE	$ 5,000,000
	X EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$ 5,000,000
	[ ] DED X RETENTION $ 10,000							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N		Y	93645112024	8/16/2024	12/16/2024	X PER STATUTE [ ] OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y	N/A					E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Contractors E&O			AXPCTRL0000924	3/18/2024	3/18/2025	Limit/Aggregate/Deduc	$2mm/$2mm/$15k
D	Pollution Liability			CPLMOL123695	5/10/2024	5/10/2026	Limit/Deductible	$5mm/$10,000
E	Builders Risk/Instal Floater LBNL			IMMA2310001594-02	2/15/2024	2/15/2025	Various LBNL CA Jobs	$2,500,000

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

Builders Risk/Install Floater LLNL - Policy # 1086100 - Effective 11/4/23 to 11/4/24 - Various LLNL CA Jobs - Berkley National Insurance Company - Admitted NAIC #38911 - Limit $5,000,000
RE: City Hall Memorial Flag Poles Project CIP 78192.

City of Tracy and its officers, officials, employees, and agents are Additional Insured as respects to General Liability; coverage is Primary, and Waiver of Subrogation applies per attached forms. 30 days notice of cancellation applies per policy provisions.

CERTIFICATE HOLDER

City of Tracy
333 Civic Center Plaza
Tracy CA 95376

CANCELLATION

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

AUTHORIZED REPRESENTATIVE
Richard A. Layton

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1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

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

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or
2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

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

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Lessor of Equipment

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

D. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

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

F. Mortgagee, Assignee or Receiver

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

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

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

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
   - **a.** the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
   - **b.** the construction, erection, or removal of elevators; or
   - **c.** the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

   The coverage granted by this paragraph does not apply to:
   - **a. Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
   - **b. Bodily injury** or **property damage** included within the **products-completed operations hazard.**

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:
   - **a.** the **Named Insured's** acts or omissions; or
   - **b.** the acts or omissions of those acting on the **Named Insured's** behalf,

   in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

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2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

2. **ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. **BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

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

4. **BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. **BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

B. **NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. **BROAD NAMED INSURED**

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

a. on the effective date of this **Coverage Part**; or

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

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STATE COMPENSATION INSURANCE FUND

HOME OFFICE
SAN FRANCISCO

ALL EFFECTIVE DATES ARE AT 12:01 AM PACIFIC STANDARD TIME OR THE TIME INDICATED AT PACIFIC STANDARD TIME

ENDORSEMENT AGREEMENT

WAIVER OF SUBROGATION
BLANKET BASIS

BROKER COPY

REP
9364511-24
NEW
SC
9-95-03-07

EFFECTIVE AUGUST 16, 2024 AT 12.01 A.M.
AND EXPIRING DECEMBER 16, 2024 AT 12.01 A.M.

G C J INC
3508 SHAMROCK WAY STE 101
TRACY, CA 95377

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE 2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

PERSON OR ORGANIZATION	JOB DESCRIPTION
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: **AUGUST 6, 2024**

2572

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS -

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to **Section II, Paragraph A.1., Who Is An Insured:**

1. **a.** Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,

   b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an "insured" under any other liability "policy" providing "auto" coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

   The insurance afforded by this provision **A.2.**:

   a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.

   b. Does not apply to:

   (1) "Bodily injury" or "property damage" caused by an "accident" that occurred before you acquired or formed the organization; or

   (2) Any such organization that is an "insured" under any other liability "policy" providing "auto" coverage.

3. Any person or organization that you are required by a written contract to name as an additional insured is an "insured" but only with respect to their legal liability for acts or omissions of a person, who qualifies as an "insured" under Section II – Who Is An Insured and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.

4. An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

"Policy," as used in this provision **A. Who Is An Insured**, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or

2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In **a.(2)**, the limit for the cost of bail bonds is changed from $2,000 to $5,000; and

2. In **a.(4)**, the limit for the loss of earnings is changed from $250 to $500 a day.

C. Fellow Employee

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C. is excess over any other collectible insurance.

II. PHYSICAL DAMAGE COVERAGE

A. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

The following is added to **Section III, Paragraph A.3.**:

With respect to any covered "auto," any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

B. Transportation Expenses

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

a. $60 per day, in lieu of $20; subject to

b. $1,800 maximum, in lieu of $600.

C. Loss of Use Expenses

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Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

a. $1,000 maximum, in lieu of $600.

D. Hired "Autos"

The following is added to **Section III. Paragraph A.**:

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

a. Any covered "auto" you lease, hire, rent or borrow without a driver; and

b. Any covered "auto" hired or rented by your "employee" without a driver, under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

c. The most we will pay for any one "accident" or "loss" is the actual cash value, cost of repair, cost of replacement or $75,000, whichever is less, minus a $500 deductible for each covered auto. No deductible applies to "loss" caused by fire or lightning.

d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned "autos."

e. Such physical damage coverage for hired "autos" will:

(1) Include loss of use, provided it is the consequence of an "accident" for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

(2) Such coverage as is provided by this provision will be subject to a limit of $750 per "accident."

E. Airbag Coverage

The following is added to **Section III, Paragraph B.3.**:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

F. Electronic Equipment

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

c. Physical Damage Coverage on a covered "auto" also applies to "loss" to any permanently installed electronic equipment including its antennas and other accessories.

d. A $100 per occurrence deductible applies to the coverage provided by this provision.

G. Diminution In Value

The following is added to **Section III, Paragraph B.6.**:

Subject to the following, the "diminution in value" exclusion does not apply to:

a. Any covered "auto" of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and

b. Any covered "auto" of the private passenger type hired or rented by your "employee" without a driver for a period of 30 days or less, under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

c. Such coverage as is provided by this provision is limited to a "diminution in value" loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.

d. The most we will pay for "loss" to a covered "auto" in any one accident is the lesser of:

(1) $5,000; or

(2) 20% of the "auto's" actual cash value (ACV).

III. Drive Other Car Coverage – Executive Officers

The following is added to **Sections II and III**:

1. Any "auto" you don't own, hire or borrow is a covered "auto" for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers," except:

a. An "auto" owned by that "executive officer" or a member of that person's household; or

b. An "auto" used by that "executive officer" while working in a business of selling, servicing, repairing or parking "autos."

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Such Liability and/or Physical Damage Coverage as is afforded by this provision.

(1) Equal to the greatest of those coverages afforded any covered "auto"; and

(2) Excess over any other collectible insurance.

2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are "insureds" while using a covered "auto" described in this provision.

IV. BUSINESS AUTO CONDITIONS

A. Duties In The Event Of Accident, Claim, Suit Or Loss

The following is added to **Section IV, Paragraph A.2.a.**:

(4) Your "employees" may know of an "accident" or "loss." This will not mean that you have such knowledge, unless such "accident" or "loss" is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.**:

(6) Your "employees" may know of documents received concerning a claim or "suit." This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an "accident" or "loss."

C. Concealment, Misrepresentation or Fraud

The following is added to **Section IV, Paragraph B.2.**:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to **Section IV, Paragraph B.5.**:

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract. That written contract must have been entered into prior to "Accident" or "Loss."

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(5).(a). is revised to provide:

a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V. Paragraph C. is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

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1. ADDITIONAL INSUREDS

a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

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

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

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

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Lessor of Equipment

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

D. Lessor of Land

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

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

F. Mortgagee, Assignee or Receiver

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

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

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

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
   a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
   b. the construction, erection, or removal of elevators; or
   c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

   The coverage granted by this paragraph does not apply to:
   a. **Bodily injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
   b. **Bodily injury** or **property damage** included within the **products-completed operations hazard.**

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** caused by:
   a. the **Named Insured's** acts or omissions; or
   b. the acts or omissions of those acting on the **Named Insured's** behalf,

   in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.

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2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard.**

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY – EXPANDED DEFINITION

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

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

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:

   a. on the effective date of this **Coverage Part**; or

   b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

   qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

   But this **BROAD NAMED INSURED** provision does not apply to:

   (a) any partnership, limited liability company or joint venture; or

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STATE COMPENSATION INSURANCE FUND

HOME OFFICE
SAN FRANCISCO

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ENDORSEMENT AGREEMENT

WAIVER OF SUBROGATION
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REP
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NEW
SC
9-95-03-07

EFFECTIVE AUGUST 16, 2024 AT 12.01 A.M.
AND EXPIRING DECEMBER 16, 2024 AT 12.01 A.M.

G C J INC
3508 SHAMROCK WAY STE 101
TRACY, CA 95377

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE 2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

PERSON OR ORGANIZATION	JOB DESCRIPTION
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO: **AUGUST 6, 2024**

2572

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

---

(1) ACCEPTING THE CONSTRUCTION IMPROVEMENTS FOR CITY HALL MEMORIAL FLAG POLES PROJECT, CIP 78192 (2) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, (3) AUTHORIZING THE CITY ENGINEER TO RELEASE THE IMPROVEMENT SECURITY AND RETENTION PAYMENT IN ACCORDANCE WITH THE PROJECT CONTRACT AND TRACY MUNICIPAL CODE SECTION 12.36.080, AND (4) AUTHORIZING THE FINANCE DEPARTMENT TO CLOSE THE PROJECT

WHEREAS, on September 3, 2024, the City Council approved and awarded a construction contract (Contract), pursuant to Resolution 2024-150, to GCJ Inc. of Tracy, California (Contractor), in the amount of $148,085.00 for Capital Improvement Project CIP 78192 City Hall Flag Memorial Flag Poles Project (Project); and

WHEREAS, the City Manager also had the authorization to approve Project change orders up to the specified contingency amount of $14,808 if needed; and

WHEREAS, on December 10, 2024, Contract Change Order (CCO) #1 was approved by the City engineer in the amount of $14,615.00 for the addition and replacement of miscellaneous landscape, lighting and irrigation in inoperable conditions within the project limits; and

WHEREAS, the Contractor has asked the City to accept the completed improvements as related to the Project site and release the improvement security furnished for this CIP; and

WHEREAS, the City Engineer has inspected the completed improvements for the Project site and has determined that the Contractor has constructed the Project improvements in conformity with approved plans and specifications and has submitted record drawings of the improvements; and

WHEREAS, pursuant to Tracy Municipal Code section 12.36.110, the City seeks to accept the Project improvements as complete; and

WHEREAS, with the Project improvements complete, the City also seeks to file a Notice of Completion pursuant to Civil Code Sections 8184 *et seq.* for the Project site improvements with the San Joaquin County Recorder's Office; and

WHEREAS, in accordance with the Project Contract and Tracy Municipal Code section 12.36.080, the Contractor furnished Improvement securities in the following amounts:

Bond Type	Amount
Faithful Performance Security	$148,085.00
Labor and Material Security	$148,085.00
Warranty Security	$ 14,808.50

; and

WHEREAS, Faithful Performance Bonds may be released upon acceptance of the improvements by the City; Labor and Material Bonds may be released six (6) months after recordation of the Notice of Completion, as the statute of limitations period expires in accordance with civil code 9356; and Warranty Bond may be released one (1) year after the City accepts the improvements and any warranty work is completed; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the construction improvements for, City Hall Memorial Flag Poles Project**,** Capital Improvement Project 78192, completed by GCJ Inc. of Tracy, California; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to file a Notice of Completion for the Project and record said Notice of Completion with the San Joaquin County Recorder's Office; and be it

FURTHER RESOLVED: That the City Engineer may release the Project improvement securities in accordance with the terms of the Contract; and be it

FURTHER RESOLVED: That the Finance Department may close the Project; and be it

FURTHER RESOLVED: That prior to commencement of construction, the Project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, which pertains to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of an existing facility.

* * * * * * * * * * * * * *

The foregoing Resolution 2025-_____was adopted by the Tracy City Council on the 21st of January 2025 by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

January 21, 2025

Agenda Item 3.A

RECOMMENDATION

Staff recommends the City Council review the top three (3) names recommended by the Parks and Community Services Commission and select two (2) for the naming of the Tracy Hills Phase 2 Neighborhood Parks 1 and 4.

EXECUTIVE SUMMARY

The City Council, Policy D-2 (Resolution No. 2021-013) allows for the selection and approval of names for public buildings, parks, and recreation facilities. The Parks, Recreation & Community Services Department has coordinated the process for naming two new parks in the Tracy Hills Phase 2 Neighborhood Park 1 and Neighborhood Park 4 through public input. Following the closing of the public solicitation of names, the top three (3) names (in priority order) chosen by the Parks & Community Services Commission are being recommended to Council for their review and selection of two (2) names for the new neighborhood parks.

BACKGROUND AND LEGISLATIVE HISTORY

On February 2, 2021, City Council amended guidelines and procedures in Council Policy D-2, Naming of Public Buildings, Parks, and Facilities (Resolution No. 2021-013). These guidelines include policies for consideration of names, procedures that allow for public input and review of applications at a public Parks & Community Services Commission meeting. The top three names (in priority order) from the Parks Commission are then forwarded to City Council for final approval.

On June 1, 2023, the Parks & Community Services Commission approved the Tracy Hills Phase 2 Neighborhood Parks 1 and 4 Conceptual Master Plans. Shortly after, on November 14, 2023, Integral Communities (Developer) submitted a request to initiate the Park Naming Process for this project.

ANALYSIS

On March 25, 2024, the Parks, Recreation and Community Services Department initiated the solicitation of names for two new parks in the Tracy Hills Phase 2 Neighborhood Park 1 and Neighborhood Park 4 through the local newspaper (Tracy Press), on social media, on the City of Tracy website, and through an email to stakeholders and community groups. Public solicitation of names was accepted for a period of 30 days. The Parks & Recreation Department processed 46 applications submitted with a total of 13 names proposed for the parks.

On June 6, 2024, staff brought this item to the Parks & Community Services Commission to review all 46 applications and 13 park names. Following discussion, Parks Commission is recommending the following names in priority order for City Council's consideration for the two new Tracy Hills Parks:

(1) Daniel Ray Schack Park
(2) Sam Matthews Park
(3) Steve Abercrombie Park

At the discretion of the City Council, the Schack family has requested the City Council to consider naming Neighborhood Park 1 after Daniel Ray Schack for his adoration for dogs, this park will feature a dog park for both large and small dogs. If the City Council approves naming Neighborhood Park 1 after Daniel Ray Schack, Neighborhood Park 4 would subsequently be named after Sam Matthews, in accordance with the priority order recommended by the Parks & Community Services Commission.

All applicants have been invited via email to attend the City Council meeting.

PUBLIC OUTREACH/INTEREST

Community outreach was conducted for a 30-day period through social media, Tracy Press and emails to stakeholders and community groups.

FISCAL IMPACT

A park monument with the Council selected and approved names will be built and placed in the parks. There is no direct fiscal impact associated with this action as the funds are included in the developer's overall park budget.

CEQA DETERMINATION

This item is exempt from the California Environmental Quality Act based on CEQA Guidelines Section 15061(b)(3), the commonsense exemption, which states that a project is not subject to CEQA "where it can see with certainty that there is no possibility that the activity in question may have significant effect on the environment".

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 the City Council review the top three (3) names recommended by the Parks and Community Services Commission and select two (2) for the naming of the Tracy Hills Phase 2 Neighborhood Parks 1 and 4.

Prepared by: Justin Geibig, Recreation Services Supervisor

Reviewed by: Jolene Jauregui-Correll, Parks, Recreation & Community Services Manager
Brian MacDonald, Parks, Recreation, & Community Services Director
Sara Castro, Finance Director
Matthew Summers, Interim Assistant City Attorney
Arturo Sanchez, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A - Four (4) Applications Submitted for the three (3) Nominated Names
Attachment B - Naming Public Buildings, Parks and Facilities Policy

ATTACHMENT A

City of Tracy
Parks & Recreation Department

333 Civic Center Plaza
Tracy, CA 95376

(209) 831.6200

Think Inside the Triangle™

NOMINATION FOR NAMING
PUBLIC BUILDINGS, PARKS, AND FACILITIES

DATE OF NOMINATION 4/24/24

NOMINATOR: Alyssa Wooten

ADDRESS: [redacted]

PHONE: [redacted]

RECOMMENDED NAME: Daniel Ray Schack

LOCATION: Tracy Hills Neighborhood Parks

____	MINI PARK	X	NEIGHBORHOOD PARK
____	COMMUNITY PARK	____	LINEAR PARK
____	SPORTS COMPLEX	____	SPECIAL USE PARK
____	OPEN SPACE / CONSERVATION LAND	____	PUBLIC BUILDING
____	PUBLIC FACILITY	____	OTHER

IF A FAMILY MEMBER, WHAT IS THE RELATIONSHIP? Daniel is my father.

The policy for naming public buildings, parks and facilities is attached. The City of Tracy requests that the nominator review the attached policy and prepare a 1-2 page summary of how the recommended name meets one or more of the considerations listed in items #1-#7 attached. Please be as **complete as possible.**

Example:

- Involvement and Commitment to Community
- Local Clubs and Organizations Served
- Schools Attended
- Significance to City of Tracy
- Why nominating the person

Submit this form and summary via mail to the address below or email directly to: parks@cityoftracy.org

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

Daniel R. Schack was born and raised in Tracy. After moving away for college, where he met Cynthia L. Johnson, the two of them moved back to Tracy to raise their family and start their lives. Dan grew up right around the corner from where he now has his business. Dan, our dad, is an integral part of the positive aspects of Tracy and he continues to work selflessly to improve our growing community, to ultimately leave our town a little better today than it was yesterday.

Since 1987, Dan has owned Schack & Company, Inc., a local civil engineering, architecture, and project development firm in downtown Tracy. This office building is not only a place of business, but a hub for many hours of community service and humanitarian work. What most do not know, is there is so much more that Dan gives to the community than is ever seen. As a quick synopsis, he has been honored for the following awards in our Tracy community due his dedication to his family, friends, business, and community.
Ugh bb on

- 1995 - City of Tracy, Professional of the Year
- 2003 - City of Tracy, Citizen of the Year
- 2004 - Tracy Unified School District, Outstanding Acts of Good Character Award
- 2006 - City of Tracy, Outstanding Acts of Good Character Award
- 2009 - Organization of the Year, Good Sam Community Services (Dan R. Schack, Pres)
- 2010 - Boys & Girls Clubs, Distinguished Service Award
- 2014 - Best of Tracy Engineering Firm, Tracy Press Readers Awarding in
- 2018 - Best of Tracy Engineering/Architectural Firm
- 2019 - City of Tracy, From The Heart Award
- 2019 - Best of Tracy Engineering/Architectural Firm

Dan’s dedication started at an early age as a native Tracyite. It has been noted that he is recognized for his valued reputation and commitment to the community. Dan is known by ALL (not an understatement) to be loyal, professional,and understanding of the community as a whole. He values relationships and a good handshake promise.

More notable contributions to our community that I think of when speaking about my father are the Glover/Schack Flu Shot Clinics, Paws 4 Friends Pet Therapy Program, involvement in “Good Samaritan Community Services”, “Tracy Friends for Parks, Recreation, & Community Services Foundation”, and being the founding President of Tracy City Center Association.

Dan has been the director of the Glover/Schack Flu Shot Program since 2006, more recently partnering with Sutter Tracy Hospital to provide free flu shots to the community. This program was founded, with Dan’s mentor Dr. A.R. Glover, to serve those in our community. After Dr. Glover passed, Dan has still committed to this program and promised to carry on Dr. Glover’s legacy to continue the clinic for Tracy.

Dan also was the founding chairman and President of Tracy Friends for Parks, Recreation and Community Services Foundation (a non-profit organization) since 2010. This program promotes the social, cultural, and leisure needs of the residents of Tracy. Furthermore, it provides scholarship opportunities for Tracy youth, provides funding for special projects, enhances programs, activities, and events that are offered by the City Parks and Recreation Department of Tracy.

In 2010, Dan founded and served as the President of Tracy City Center Association (TCCA), and currently serves as the Vice President. As mentioned on their website, TCCA's goal is to support public improvements for business and property owners within the TCCA district and downtown Tracy. TCCA organizes and puts on events in downtown Tracy such as the local farmer's markets, Wine Strolls, community parades, and also facilitates public improvements to our downtown. Without a doubt, this organization has positively transformed our city's Downtown and we are proud that our father was an integral part of that development.

As a way to continue building capacity from within, Dan provides job shadowing and mentorship for high school aged students at Kimball High School, West High School, Millennium High School, and Tracy High School. Students come into the office to learn the trade of owning a business and the aspects of his engineering firm. Furthermore, Dan speaks at career events to inspire others and has done so for the past fifteen years, alongside housing approximately 10 students at Schack and Company each year.

Dan has served as the Chairman of Good Samaritan Community Services (non profit) since 1998. Good Sam is specifically focused on supporting the poor, underprivileged, distressed, and elderly members of Tracy. Additionally, the group fosters and sponsors local organizations on their quest to develop their own organization into a full fledged 501c3 organization. Some of the more notable Tracy organizations who got their start through Good Sam include Case for Kids, D.A.R.E., Tracy Firefighters Charity, Tracy Senior Association, Tracy Repertory Theatre, Habitat for Humanity Tracy chapter, Noah's Ark, and so many more.

Many people that know Dan, or Danny as he was known as an adolescent, know his love for animals, especially his love for his three Bernese Mountain Dogs: Braemar, Rio, and Nico. Dan became a member of the Paws 4 Friends Pet Therapy Program in 2006 in which his dogs became certified to provide comfort visits to schools, elder care facilities, VA hospitals, library visits, and reading opportunities for students with special needs. This was a special opportunity for Dan and he took a lot of pride in making others smile. He often mentions that the reluctant readers often found strength in

reading to his dogs. Much of the community service he still participates in is for animals, which is a special way of feeding his own soul.

It is difficult to put into a short summary all of the accomplishments of Daniel R. Schack. He has and continues to put others before himself and does so without others often knowing. To have his name at a park in the Tracy community would be a respected reminder that good things do happen to great people. Your consideration for this nomination is much appreciated. And we are most certain that his Tracy-raised young grandkids will surely love seeing their Papa’s name at a place they can smile, dance, and play at.

City of Tracy
Parks & Recreation Department

333 Civic Center Plaza
Tracy, CA 95376

(209) 831.6200

TRACY

"Think Inside the Triangle"

NOMINATION FOR NAMING PUBLIC BUILDINGS, PARKS, AND FACILITIES

DATE OF NOMINATION 4-4-24

NOMINATOR: Karen Baccheth + Paula Fagundes

ADDRESS: [redacted]

PHONE: [redacted]

RECOMMENDED NAME: Sam Matthews

LOCATION: Tracy Hills

_____	MINI PARK	X	NEIGHBORHOOD PARK
_____	COMMUNITY PARK	_____	LINEAR PARK
_____	SPORTS COMPLEX	_____	SPECIAL USE PARK
_____	OPEN SPACE / CONSERVATION LAND	_____	PUBLIC BUILDING
_____	PUBLIC FACILITY	_____	OTHER

IF A FAMILY MEMBER, WHAT IS THE RELATIONSHIP? _____

The policy for naming public buildings, parks and facilities is attached. The City of Tracy requests that the nominator review the attached policy and prepare a 1-2 page summary of how the recommended name meets one or more of the considerations listed in items #1- #8 highlighted below. Please be as **complete as possible.**

Example:

- Involvement and Commitment to Community
- Local Clubs and Organizations Served
- Schools Attended
- Significance to City of Tracy
- Why nominating the person

Submit this form and summary via mail to the address below or email directly to: parks@cityoftracy.org

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

Sam Matthews

I would like to nominate Sam Matthews for consideration for the Tracy Hills Park. My family has been fortunate to live next-door to the Matthews family for 61 years. We as kids knew Sam as a journalist and newspaper editor. We enjoyed hanging out at the Tracy Press with his daughters Laurie and Meg.

Sam Matthews lived an amazing 91 years. Sam attended Tracy high school then went onto graduate from Stanford University. After serving time in the army Sam became Co-Publisher of the Tracy press along with his brother Tom. If you ever had a question about Tracy all you had to do was ask Sam. He was a walking encyclopedia about Tracy. Sam loved Tracy. he was a regular at Baristas, enjoying conversations and coffee. He would play golf at the Tracy golf course. He enjoyed his rotary club meetings, where he was passed president and a long time member. Sam was honored in 2017 at the Grand Theater to watch a documentary about his career and his connection to Tracy history. In 2010 Sam was made honorary mayor of Tracy for a day. He also served as Grand Marshall for the Mexican Independence Day cultural celebration parade.

We were so fortunate to have so many years knowing Sam. Sam had an amazing commitment to local news, Tracy history, and civic involvement. I can't think of a more deserving person than Sam Matthews to have a park named after. This park naming would be a beautiful way to thank Sam for all he did for our city.

Sincerely,

Karen Bacchetti and
Paula Fagundes

City of Tracy
Parks & Recreation Department

333 Civic Center Plaza
Tracy, CA 95376

(209) 831.6200

Think Inside the Triangle"

NOMINATION FOR NAMING
PUBLIC BUILDINGS, PARKS, AND FACILITIES

DATE OF NOMINATION 04/24/2024

NOMINATOR: Julia Ulrich

ADDRESS [redacted]

PHONE: [redacted]

RECOMMENDED NAME: Stephen J. Abercrombie

LOCATION: Tracy Hills Phase 2A Neighborhood Parks 1 and 4

_____	MINI PARK	X	NEIGHBORHOOD PARK
X	COMMUNITY PARK	_____	LINEAR PARK
_____	SPORTS COMPLEX	_____	SPECIAL USE PARK
_____	OPEN SPACE / CONSERVATION LAND	_____	PUBLIC BUILDING
_____	PUBLIC FACILITY	_____	OTHER

IF A FAMILY MEMBER, WHAT IS THE RELATIONSHIP? N/A

The policy for naming public buildings, parks and facilities is attached. The City of Tracy requests that the nominator review the attached policy and prepare a 1-2 page summary of how the recommended name meets one or more of the considerations listed in items #1-#7 attached. Please be as **complete as possible.**

Example:

- Involvement and Commitment to Community
- Local Clubs and Organizations Served
- Schools Attended
- Significance to City of Tracy
- Why nominating the person

Submit this form and summary via mail to the address below or email directly to: parks@cityoftracy.org

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

Julia Ulrich
[redacted]

April 24, 2024

Parks & Recreation Department
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Subject: Nomination for Naming of New Parks at Tracy Hills Phase 2A - Stephen J. Abercrombie

Dear Members of the Parks & Recreation Department,

I am writing to you with great enthusiasm to nominate a remarkable individual, Stephen J. Abercrombie, for the honor of having one of the new parks in Tracy Hills Phase 2A named after him. Stephen has not only served our community with dedication through his roles in law enforcement and local governance but also touched the lives of our youngest citizens through education and advocacy.

Stephen Abercrombie's long-standing commitment to our community began in 2002 when he first introduced the Drug Abuse Resistance Education (D.A.R.E.) program to the students of Tracy. As a D.A.R.E. instructor, Stephen has educated over 75,000 students across 9 school districts. His efforts have instilled valuable life skills and knowledge, equipping our children to face challenges such as drug use, bullying, and peer pressure.

Stephen's leadership and service have been recognized on numerous occasions. Notably, he was named Tracy's Employee of the Month in August 2022 for his exceptional guidance of the D.A.R.E. program. His role has been instrumental in shaping the program's success, which is evident from the commendations he has received, including the Cal-Nev-Ha Foundation Community Service Award from the Kiwanis Club of Tracy and the Tracy Chamber of Commerce Male Citizen of the Year Award.

Furthermore, Stephen has served on the Tracy City Council from 2006 to 2012 and is currently the President of the Tracy Unified School District Board of Education. His involvement extends beyond governance as he also chairs the Brighter Christmas holiday charity drive, which serves over 600 low-income Tracy families annually, demonstrating his commitment to enriching our community.

It is evident that Stephen's dedication has not only influenced the present generation but will continue to impact future generations. Naming a park after Stephen J. Abercrombie would be a fitting tribute to his tireless service and lasting contributions to the community of Tracy.

Thank you for considering this nomination. I am confident that by naming one of the new parks after Stephen J. Abercrombie, we will be honoring a true community hero and inspiring future generations to follow in his footsteps of service and leadership.

Sincerely,

Julia Ulrich
[redacted]

City of Tracy
Parks & Recreation Department

333 Civic Center Plaza
Tracy, CA 95376

(209) 831.6200

"Think Inside the Triangle"

NOMINATION FOR NAMING
PUBLIC BUILDINGS, PARKS, AND FACILITIES

DATE OF NOMINATION 4/9/24

NOMINATOR: Adrianna Hutchens, Kaelyn Garcia, and Ragavardhini Pattangi

ADDRESS: [redacted]

PHONE: [redacted]

RECOMMENDED NAME: Steve Abercrombie

LOCATION: Community Park

____	MINI PARK	____	NEIGHBORHOOD PARK
X	COMMUNITY PARK	____	LINEAR PARK
____	SPORTS COMPLEX	____	SPECIAL USE PARK
____	OPEN SPACE / CONSERVATION LAND	____	PUBLIC BUILDING
____	PUBLIC FACILITY	____	OTHER

IF A FAMILY MEMBER, WHAT IS THE RELATIONSHIP? NA

The policy for naming public buildings, parks and facilities is attached. The City of Tracy requests that the nominator review the attached policy and prepare a 1-2 page summary of how the recommended name meets one or more of the considerations listed in items #1-#7 attached. Please be as **complete as possible.**

Example:

- Involvement and Commitment to Community
- Local Clubs and Organizations Served
- Schools Attended
- Significance to City of Tracy
- Why nominating the person

Submit this form and summary via mail to the address below or email directly to: parks@cityoftracy.org

Parks & Recreation Department
Attn: Parks & Recreation Director
333 Civic Center Plaza

Steve Abercrombie also known as Officer Abercrombie has truly dedicated himself to serving as the D.A.R.E officer for the Tracy Unified School District. Through his role, he has made a significant impact on the lives of students by educating them about the dangers of drugs and helping them make positive choices.

Additionally, Officer Abercrombie has also gone above and beyond by creating his own non-profit organization, Good Samaritan Community Services. This shows his passion and commitment to making a difference in the community. He used this organization to help fundraise over $10,000 for the West High School prom. His organization has held rummage sales providing children's books, toys, household appliances, cleaning supplies and so much more to families in need.

Officer Abercrombie has worked closely with Brighter Christmas encouraging his D.A.R.E students and his high school leadership students to volunteer with Brighter Christmas during the winter seasons. In addition, Officer Abercrombie has been a role model to the high school students of Merrill F. West High in Tracy, California. He frequently visits the West High leadership class to help with school participation, event ideas and community support.

I am nominating Officer Abercrombie because it would be a wonderful way to honor his contributions to the Tracy community. Parks are often named after individuals who have made a significant impact and have dedicated themselves to serving others. It would be a great tribute to Officer Abercrombie's hard work as the D.A.R.E officer and his commitment to keeping the community safe. I'm sure many people would appreciate having a park named after him.

It's wonderful to see individuals like Officer Abercrombie who invest their time and energy into making their community a better place. They truly inspire others to get involved and make a difference too.

Sincerely,

Merrill F. West High's Senior ASB

Adrianna Hutchens, Kaelyn Garcia, Ragavardhini Pattangi

RESOLUTION 2021-013

AMENDING COUNCIL POLICY D-2, NAMING
PUBLIC BUILDINGS, PARKS AND FACILITIES

WHEREAS, On June 4, 2019, the City Council directed staff to review and revise Council Policy D-2 regarding the naming of public buildings, parks and facilities, and

WHEREAS, On December 5, 2019, the Parks and Community Services Commission discussed the need to amend Council Policy D-2 to include additional criteria, and

WHEREAS, The Parks and Community Services Commission reviewed, approved, and recommended to the City Council an amendment to Council Policy D-2;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby adopts the attached amended Council Policy D-2, Naming Public Buildings, Parks and Facilities as recommended by the Parks and Community Services Commission.

BE IT FURTHER RESOLVED, that this resolution rescinds and replaces resolutions 2004-096 and 2017-179.

****

The foregoing Resolution 2021-013 was passed and adopted by the Tracy City Council on the 2nd of February, 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

Naming Public Buildings, Parks and Recreation Facilities
Policy Number: D-2
Amended by resolution Date: 2/2/21

PURPOSE:

The purpose of this policy is to establish a set of standard procedures and guidelines for the naming of Public Buildings, Parks and Recreation Facilities.

DEFINITIONS:

1. "Public Buildings" are City-owned facilities that house employees or are otherwise used to conduct City business. Buildings may include, but are not limited to, the Civic Center, City Council Chambers, and Police facility. This also includes "Support Facilities" that are City-owned facilities that are used to support field operations. Support facilities may include, but are not limited to, the corporation yard and pump stations.

2. "Parks & Recreation Facilities" are all City parks, community buildings and grounds, athletic facilities, open space areas and other grounds and facilities owned or operated by the City for park, recreation or open space purposes.

POLICY:

Consideration for Names:

1. When named for an individual family or person, strong consideration should be given to:
    a. The level of involvement and commitment to the Tracy community over a span of years that are sufficient for accomplishments and contributions to have taken place;
    b. Individuals or families who have been involved in many facets of the community such as through service clubs, civic organizations, school community, multi-cultural events and organizations, elected/appointed positions, military service, church community and non-profit groups; the nature of their involvement should be beyond that done in the normal course of their employment (i.e., voluntary);
    c. The local significance and relationship of this individual or family to the City of Tracy, or to the parks and recreation systems or programs.

2. Public building, park and facility names should reflect both the current and past heritage and historical significance of the community that is now serviced. Strong consideration should be given to:
    a. Maintaining names that represent the current and past cultural diversity of the community.
    b. Any relevant California history that is part of the Tracy community, such as the period covered by the Spanish land grants, Native American tribal history, etc.

3. Park names should reflect the geographical significance of the park site's topography or other natural amenities that exist in or near the park property. Strong consideration should be given to:
    a. Vistas and view corridors.
    b. Native plants or trees
    c. Adjacencies to creeks, streams, open space, hills, etc.

4. Public building, park and facility names should incorporate the functionality of the building, park or facility by simply stating its purpose without further description (for example the "John Smith Community Center"), especially, when a specialized facility may be a part of the park such as sports fields, etc. Special features for the park should be considered in the park name.

5. Consideration should also be given to public building, park and facility names that reflect the geographic location or adjacencies to other City facilities or schools in order to avoid confusion about the geographic location of the building.

6. If a public building, park or facility improvement is acquired or constructed by means of a substantial gift, financial contribution or financial donation by an individual, family or corporation, consideration should be given to recognizing the contribution by incorporating the benefactor's name into the facility name.

7. Rooms within public buildings may be named for individuals who have made exceptional contributions to the community such as:
    a. The individual must have made a significant contribution to the community which resulted in the improved well-being of the citizens of Tracy.
    b. The individual must have been involved in Tracy community affairs over a span of years that are sufficient for accomplishments and contributions to have taken place.
    c. Individuals or families who have been involved in many facets of the community such as through service clubs, civic organizations, school community, multicultural events and organizations, elected/appointed positions, military service, church community and non-profit groups; the nature of their involvement should be beyond that done in the normal course of their employment (i.e., voluntary).

8. If a public building that has previously been named is proposed to have its function be moved, or is proposed for relocation, or demolition, or is destroyed through a natural disaster or other act, the City Council shall be provided an opportunity to name the replacement building.

PROCEDURES:

Parks and Recreation Facilities:

1. The Parks and Community Services Commission shall hold a public meeting that allows for community input and will follow a process for naming parks and recreational facilities that includes:

a. The Parks and Recreation Director shall receive a naming request from a developer, resident or other interested groups for a new park or new recreational facility.
b. Staff will conduct a public solicitation of names (Example: social media & newspapers) for 30 days and submit all names to the Commission for review.
c. The Commission shall schedule a regular or special meetings to screen, review, evaluate and prioritize the requests submitted by residents and other interested groups such as developers, the West Side Pioneers, Chamber of Commerce, etc.
d. The Commission shall forward the top three names (In priority order) to City Council for final approval.

2. Depending on the special nature, size or location of a park, the Commission may also consider the following ideas for park naming:
    a. Development of a community-based naming process such as a contest.
    b. Receive input from an adjacent homeowner's association; receive input from future facility user group as identified through design process.

Public Buildings

1. The City Council will form a sub-committee to review and evaluate requests for naming public buildings from residents, interested groups and staff.

2. The sub-committee will bring forth screened, evaluated and recommended selections for authorization by the full City Council at a regularly scheduled Council meeting.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING THE RECOMMENDATION FROM THE PARKS AND COMMUNITY SERVICES COMMISSION AND SELECT TWO (2) NAMES FOR THE TWO (2) TRACY HILLS PHASE 2 NEIGHBORHOOD PARKS 1 AND 4.

WHEREAS, the City Council approved the new policy for Naming Public Building, Parks, and Facilities on February 2, 2021; and

WHEREAS, the naming of a City Park is an important reflection of the City's partnership with, and recognition of individuals, community-based organizations, or points of interest to the Tracy community; and

WHEREAS, proposed names were solicited through an application process announced through the local press, social media and the City website; and

WHEREAS, forty-six (46) applications were submitted with a total of thirteen (13) names submitted and considered through the guidelines of the Park Naming Policy; and

WHEREAS, the Parks and Community Services Commission met on June 6, 2024, and prioritized the top three (3) names for consideration at the January 21, 2025, City Council meeting; now therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby finds and determines that the foregoing recitals are true and correct; and be it

FURTHER RESOLVED: That the City Council considers the following names and selects two (2) as the final names for the two (2) Tracy Hills Phase 2 neighborhood parks.

Neighborhood Park #1 Name: _____

Neighborhood Park #4 Name: _____

* * * * * * * * * * * * *

The approval of these park names is not a project subject to review under the California Environmental Quality Act under Public Resources Code section 21065 and CEQA Guidelines section 15278, subdivisions (b) (2 & 5).

The foregoing Resolution 2025- _____was adopted by the Tracy City Council on the 21st day of January 2025, by the following vote:

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

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

REVIEW THE TOP THREE (3) NAMES RECOMMENDED BY THE PARKS AND COMMUNITY SERVICES COMMISSION AND SELECT THE TOP NAMES FOR THE NAMES OF THE NEW TRACY HILLS NEIGHBORHOOD PARKS 1 & 4

January 21, 2025

OVERVIEW

- BACKGROUND
- THE PARKS
- NOMINATIONS
- STAFF RECOMMENDATIONS & NEXT STEPS
- DISCUSSION

TRACY

Think Inside the Triangle™

BACKGROUND

- June 1, 2023
  - Parks Commission approved the Tracy Hills Phase 2 Neighborhood Parks 1 and 4 Conceptual Master Plans
- November 14, 2023
  - Developer submitted a request to initiate the Park Naming Process
- March 25, 2024
  - Parks & Rec initiated Park Naming Process
    - 46 applications received with a total of 13 recommended names
- June 6, 2024
  - Parks Commission will review and prioritize the top three (3) names for recommendation to City Council.

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NEIGHBORHOOD PARK 1

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NEIGHBORHOOD PARK 4

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List of Park Names Received

- Steve Abercrombie Park
- Tracy Breakfast Lion Club Park
- K9 Duke Memorial Park
- Fisk Family Park
- Brent Ives (Brent H. Ives) Park
- Mayor Brent Ives Park
- Emmett Lee Park
- Sam Matthews Park
- Robert Rickman Park
- Rotary Park
- Daniel Ray Schack Park
- John J. Serpa
- John D. Treantos

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Top Three (3) Names Recommended by Parks & Community Services Commission

*In priority order

1st Recommendation:
DANIEL RAY SCHACK PARK

2nd Recommendation:
SAM MATTHEWS PARK

3rd Recommendation:
STEVE ABERCROMBIE PARK

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January 21, 2025

Agenda Item 3.B

RECOMMENDATION

Staff recommends that City Council receive an informational update on a potential ordinance affecting mobile food vendors and provide direction to staff.

EXECUTIVE SUMMARY

This agenda item introduces the topic of mobile food vendor (food truck, etc.) regulations in the City of Tracy. Mobile food vendors are currently regulated by the Tracy Municipal Code but are heavily restricted in terms of location and operation. A revised mobile food vendor program would allow for the expansion of this business type with corresponding operational and site requirements. This item is in response to a City Council request from October 18, 2022.

BACKGROUND AND LEGISLATIVE HISTORY

On November 7, 2017, the City Council approved the City of Tracy's current regulations regarding mobile food vendors. These regulations are located in Tracy Municipal Code (TMC) Section 10.08.3193 and are as follows:

- Mobile food vendors may only operate in industrial zones.
- Mobile food vendors may only operate on occupied private property and may not operate on vacant parcels, in the public right-of-way, or on City-owned property.
- Mobile food vendors may operate up to three hours at a single location in a 24-hour period.
- Mobile food vendors may operate in any zone if part of a temporary use permits, special event permit, facility permit, or peddlers/vendors license.
- A permit is not required, however the operator must have written authorization from the property owner where the mobile food vendor is operating.
- "Mobile Food Vendor" is defined as any vehicle, as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, prepackaged, or unprepared food or foodstuffs of any kind that parks at one or more locations within the City. A mobile food vendor shall also include any trailer, wagon or cart equipped and used as described in this definition and pulled by a vehicle.

On July 6, 2021, the City Council amended the Cordes Ranch Specific Plan to regulate mobile food vendors within the Plan area as follows:

- Mobile food vendors may operate anywhere within the Specific Plan area, including non-industrial zones.
- Mobile food vendors may operate up to twelve hours at a single location in a 24-hour period.

On October 18, 2022, the City Council directed staff to revisit the Citywide regulations regarding mobile food vendors. Following this meeting, Planning staff researched mobile food vendor regulations in other cities, conducted a community survey, met with the business community, and ultimately prepared a draft ordinance for consideration by the Planning Commission.

The community survey found that most respondents were supportive or highly supportive of less

regulation and more opportunity for mobile food vendors in the City of Tracy. The results of the survey are provided in Attachment C.

On February 14, 2024, the Planning Commission considered a draft ordinance that would amend the City's regulations for mobile food vendors. The draft ordinance included the following major provisions:

- Mobile food vendors could operate in industrial, commercial, and office zones, except for certain portions of the Central Business District Zone.
- Mobile food vendors could operate at the same location for up to 12 hours in a 24-hour period.
- There would be a limit of one mobile food vendor per parcel.
- A Mobile Food Vendor Permit would be required for individual mobile food vendors.
- Multiple mobile food vendors could permanently or periodically locate on a single parcel ("food truck court") with approval of a Development Review Permit.

At the February 14, 2024 public hearing, the Planning Commission considered the draft ordinance and public testimony and recommended that the City Council adopt the draft ordinance, albeit with significant amendments. Those recommendations are as follows:

1. The Central Business District Zone (Downtown) should not be excluded.
2. The Mobile Food Vendor Permit should not be site-specific and would instead allow permitted vendors to travel to multiple sites under a standard set of operational regulations.
3. Multiple mobile food vendors should be able to occupy a single parcel.
4. Smaller food truck courts should be able to operate without a Development Review Permit.
5. There should be no Citywide limit on Mobile Food Vendor Permits.
6. Any future Mobile Food Vendor Permit fee should be lower for Tracy residents.
7. The new ordinance should operate as a pilot program for up to two years before adoption of an ordinance.

The complete agenda and minutes for the February 14, 2024 Planning Commission meeting are available at: https://www.cityoftracy.org/government/boards-and-commissions/planning-commission

On September 17, 2024, staff held a public workshop at the Tracy Transit Station to present information and invite additional public comment. Approximately 15 people attended the meeting, representing the community and business interests.

ANALYSIS

The regulation of mobile food vendors is necessary to have a fair, predictable, and orderly system. Mobile food vendors are far more common and aligned with mainstream food culture than they were in the past. Absent a competent program, mobile food vendors will likely continue to operate outside of the regulations, though subject to Code Enforcement.

The arguments in favor of mobile food vendors recognize the additional economy and revenue that an expanded mobile food vendor program would have. Mobile food vending trucks offer a lower barrier of entry for aspiring cooks and create additional opportunity for small business growth. In addition, mobile food vendors serve as a convenience to many who work or live in areas with limited restaurant access. Finally, other cities have successfully introduced robust

mobile food vendor programs with good success.

The arguments against expanding the mobile food vendor program have primarily been from the operators of restaurants housed in permanent buildings who view the possible competitive advantages that a program might offer to mobile food vendors. The operational costs of a mobile food vendor are generally less than a restaurant, though the two business types likely serve different markets. Please note that the City does not ordinarily promote policies that primarily serve to discourage business competition or preserve existing business types. Rather, the City's existing policies promote general economic development and growth across all industries and business types.

In addition, an expanded program would require corresponding resources to ensure that the provisions of the program are met by the individual mobile food vendors or permitted sites. The basic start-up cost of this program may be captured through a permit fee, but the ongoing cost of enforcement may require additional unidentified funding or draw from existing code enforcement resources.

The City Council should be aware that the February 14, 2024 Planning Commission meeting fell on Valentine's Day, which is a particularly busy day for restaurant operators. As a result, attendance and participation by restaurant operators was minimal. This situation was relayed to staff and led to the hosting of the September 17, 2024 workshop with specific outreach to the restaurant community. The workshop was also not heavily attended by restaurant operators and the minimal input was inconclusive.

The Planning Commission specifically recommended that the program be open rather than site-specific, allowing a permitted mobile food vendor to work throughout the community and not be tied to one site. There is a trade off between allowing an open program, as suggested, and a site-specific program. An open program would allow a permitted mobile food vendor to operate at any site as long as they continue to meet their operational conditions (clean up trash, limit signs, etc.). A site-specific program would permit a single site for use by a mobile food vendor under a series of standard site-specific and general operational conditions. The individual mobile food vendor could change at the discretion of the property owner. The open program may lead to additional conflict because some sites may not have adequate space, limited parking, or conflicts with existing businesses or neighbors. It would, however, create additional opportunities for mobile food vendors. Staff recommends a site-specific approach, as described in the Draft Ordinance presented to the Planning Commission on February 14, 2024.

Either program would require the written authorization of the property owner and standard operational conditions requiring the site to be operated and maintained in a clean and safe manner. Issues such as generators, trash service, tables and chairs, and signs would be addressed in these standard conditions.

The City Council is asked to provide input and direction on a future ordinance amending the City's mobile food vendor regulations. The primary areas of discussion and needed direction include:

- Should we encourage the growth of mobile food vendors in the City of Tracy?
- Should the time limit increase from 3 hours to 12 hours per day at a single location?
- Should mobile food vendors be permitted in the commercial and office zones, in addition to the industrial zones?
- Should mobile food vendors be permitted within the Central Business District Zone?

- Should there be greater restrictions? Should they be prohibited?
- Should the Mobile Food Vendor Permit be site-specific or should a permit holder be allowed to travel without restriction (open program)?
- Should there be a Citywide limit on Mobile Food Vendor Permits?
- Should there be a limit on mobile food vendors at a single site?
- What other considerations should a future ordinance address?

With the direction from the City Council, staff will draft a final ordinance for consideration and introduction at a future meeting. In addition, a minor amendment to the Citywide Design Goals and Standards may be proposed to guide the development of Food Truck Courts. A fee may also be proposed for the Mobile Food Vendor Permit application and administration.

CEQA DETERMINATION

The proposed ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that the ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

FISCAL IMPACT

As a discussion item without formal action, this discussion will have no fiscal impact on the City of Tracy. Expansion of the mobile food vendor program would likely create new revenues from sales and business tax. A future Mobile Food Vendor Permit fee would be established solely to cover the cost of administering the program.

STRATEGIC PRIORITY

This item supports the Economic Development strategic priority by supporting business attraction, expansion, and retention. By expanding the mobile food vendor program, the City would be promoting attracting new mobile food vendor businesses and the potential expansion of existing mobile food vendors.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council receive an informational report on mobile food vendors and provide direction to staff to inform a future ordinance amending the mobile food vendor regulations.

Prepared By: Forrest Ebbs, Director of Community and Economic Development
Scott Claar, Planning Manager
Jorge Barrera, Economic Development Manager

Reviewed by: Sara Castro, Director of Finance
Matthew Summers, Interim Assistant City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Tracy Municipal Code Section 10.08.3193 (Existing)
Attachment B – Draft Ordinance presented to Planning Commission on 2/14/2024
Attachment C – Minutes from the 2/14/2024 PC Meeting with submitted comments
Attachment D – Community Survey Results
Attachment E – Maps of Commercial Zones, Office Zones, and Central Business District

10.08.3193 Mobile Food Vendors.

(a) Purpose. The purpose of this section is to preserve the health and welfare of the City and its residents by establishing regulations pertaining to mobile food vendors while:

(1) Providing flexibility for owners of property in industrial zones to allow alternative, nearby eating opportunities for employees; and

(2) Avoiding unfair competition for permanent restaurants inside buildings which have significantly higher capital and operational costs than mobile food vendors.

(b) Definition. "Mobile Food Vendor" means any vehicle, as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, prepackaged, or unprepared food or foodstuffs of any kind that parks at one or more locations within the City. A mobile food vendor shall also include any trailer, wagon or cart equipped and used as described in this definition and pulled by a vehicle.

(c) Exemptions. The following are exempt from the requirements of this section, but must satisfy all other applicable permit requirements (for example, City business license, San Joaquin County Environmental Health Department permit, etc.): an event authorized by a City facility permit (TMC Ch. 4.16), special event permit (TMC Ch. 4.40), temporary use permit (TMC Ch. 10.08), or a peddler or vendor permit (TMC Sec 3.08.460).

(d) Regulations for mobile food vendors. Unless otherwise exempt, the following regulations shall apply to all mobile food vendors:

(1) All mobile food vendors shall obtain a valid business license from the City and applicable permit(s) from the San Joaquin County Environmental Health Department.

(2) All mobile food vendors shall comply with the California Vehicle Code.

(3) Mobile food vendors are allowed to operate only in industrial zones of the City (Light Industrial Zone, Heavy Industrial Zone, industrial Planned Unit Development zones, and industrial designations within City-approved specific plans).

(4) Mobile food vendors shall only operate on private property (outside of the public right-of-way or any other City-owned property), as an accessory use on a site where at least one business within a building is in operation, and shall have written authorization from the property owner upon which the mobile food vendor is operating. A mobile food vendor shall demonstrate written property owner authorization, as required above, to a City officer upon request.

(5) A mobile food vendor's operations and any related activity shall not occur within any required landscape area.

(6) A mobile food vendor's operation (not including set up and take down) shall be limited to three (3) hours at a single location in a 24-hour period. For the purposes of this section, a "single location" shall mean a different location within a 500-foot radius of the original location.

(7) No overnight parking or storage of vendor vehicles or apparatus shall be permitted.

(8) A mobile food vendor shall have adequate lighting to ensure reasonable visibility either on the vehicle or at the location of the vehicle during business hours.

(9) Mobile food vendors shall not operate in or impede any fire lane, no-parking zone, or accessible route as required by the California Building Code, including but not limited

to impeding on- or off-site vehicle circulation or obstructing the view of pedestrians by motorists.

(10) At the conclusion of each day's operation, the mobile food vendor site shall be restored to its condition prior to vendor's operation, free of litter and debris, canopies, or other furniture or improvements.

(11) No amplified public address system, amplified music, or entertainment is allowed as part of a mobile food vendor operation.

(12) No signs associated with a mobile food vendor are allowed in the public right-of-way.

(Ord. No. 1245, § 1, 11-7-2017)

Attachment B

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE NO. _____

AN ORDINANCE 1) AMENDING SECTION 10.08.3193 OF THE TRACY MUNICIPAL CODE TO ESTABLISH REGULATIONS ALLOWING MOBILE FOOD VENDORS TO OPERATE IN THE COMMERCIAL AND OFFICE ZONES (EXCLUDING CERTAIN PORTIONS OF THE CENTRAL BUSINESS DISTRICT ZONE), EXTENDING THE MAXIMUM NUMBER OF HOURS THAT A MOBILE FOOD VENDOR MAY OPERATE AT A SINGLE LOCATION PER DAY FROM THREE HOURS TO TWELVE HOURS, ALLOWING A MAXIMUM OF ONE MOBILE FOOD VENDOR PER PARCEL IN THE COMMERCIAL AND OFFICE ZONES WITH APPROVAL OF A MOBILE FOOD VENDOR PERMIT, AND ALLOWING MULTIPLE MOBILE FOOD VENDORS TO PERMANENTLY OR PERIODICALLY LOCATE ON A PARCEL, SUCH AS A FOOD TRUCK COURT, WITH APPROVAL OF A DEVELOPMENT REVIEW PERMIT; AND 2) DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3).

WHEREAS, on November 7, 2017, the City Council adopted an ordinance adding Section 10.08.3193 of the Tracy Municipal Code to establish regulations allowing mobile food vendors to operate in the industrial zones; and

WHEREAS, Tracy Municipal Code Section 10.08.3193, Mobile Food Vendors, permits mobile food vendors to operate in the industrial zones but excludes them from all other zones, except as allowed by a temporary use permit, special event permit, facility permit, or peddlers/vendors license; and

WHEREAS, on October 18, 2022, the City Council requested an agenda item to revisit the regulations regarding mobile food vendors; and

WHEREAS, over the past year, staff researched the regulations regarding mobile food vendors in nearby cities, conducted a community survey, held outreach meetings with members of the business community, and prepared a draft amendment to the Mobile Food Vendors Ordinance (Section 10.08.3193 of the Tracy Municipal Code) for consideration by the Planning Commission and the City Council; and

WHEREAS, the community survey was available for participation from September 8, 2023 to September 30, 2023, and received 990 responses; and

WHEREAS, the community survey results indicate that the community has a strong desire for more food trucks in the commercial areas; and

WHEREAS, during meetings with members of the Tracy Chamber of Commerce, including many brick-and-mortar restaurant owners, the brick-and-mortar restaurant owners raised concerns that mobile food vendors cause unfair competition for brick-and-mortar restaurants which have higher capital and operational costs than mobile food vendors, and also expressed opposition to mobile food vendors in the Downtown (Central Business District Zone) because it could detract from the character of Downtown; and

WHEREAS, during subsequent meetings with additional members of the Tracy Chamber of Commerce, which included mobile food vendors who currently operate in Tracy city limits, the mobile food vendors explained that they also have substantial expenses and permit requirements, and that their businesses serve a different clientele from the brick-and-mortar restaurants, with the mobile food vendor's clientele typically being a customer who desires a quick grab-and-go food item rather than a sit-down dining experience inside a restaurant; and

WHEREAS, in an effort to balance opposing view-points of the brick-and-mortar restaurants and the mobile food vendors, as well as respond to the community's desire for more mobile food vendors in the commercial areas, the proposed ordinance would amend Tracy Municipal Code Section 10.08.3193 to establish regulations allowing mobile food vendors to operate in the commercial and office zones (excluding certain portions of the Central Business District Zone), extending the maximum number of hours that a mobile food vendor may operate at a single location per day from three hours to twelve hours, allowing a maximum of one mobile food vendor per parcel in the commercial and office zones with approval of a mobile food vendor permit, and allowing multiple mobile food vendors to permanently or periodically locate on a parcel, such as a food truck court, with approval of a Development Review Permit; and

WHEREAS, on February 14, 2024, the Planning Commission conducted a public hearing regarding the proposed amendment to Section 10.08.3193 of the Tracy Municipal Code; and

WHEREAS, by _____ vote, the Planning Commission recommended _____ of the proposed ordinance; and

WHEREAS, the Planning Commission's recommendation was based upon a determination that the proposed Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(B)(3) pertaining to activities that do not have the potential for causing a significant effect on the environment; and

WHEREAS, on _____, 2025, the City Council conducted a public hearing regarding the proposed amendment to Section 10.08.3193 of the Tracy Municipal Code and considered the Planning Commission's recommendation to _____ such amendment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals/Findings. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2. Amendment of Section 10.08.3193. Section 10.08.3193, Mobile Food Vendors, of the Tracy Municipal Code is hereby amended to read as follows (with additions underlined, and deletions in ~~strikethrough~~):

10.08.3193 Mobile Food Vendors.

(a) Purpose. The purpose of this section is to preserve the health and welfare of the City and its residents by establishing regulations pertaining to mobile food vendors while:

(1) Providing flexibility for owners of property in office and industrial zones to allow alternative, nearby eating opportunities for employees, and reduce vehicular traffic; ~~and~~

~~(2) Avoiding unfair competition for permanent restaurants inside buildings which have significantly higher capital and operational costs than mobile food vendors;~~

~~(3)~~(2)Promoting entrepreneurism and small business start-ups;

~~(4)~~(3)Providing opportunities to increase activity and interest in the commercial zones; and

~~(5)~~(4)Preserving the character of the Central Business District Zone by not allowing mobile food vendors adjacent to portions of Central Avenue, 10th Street, 7th Street, and 6th Street.

(b) Definition. "Mobile Food Vendor" means any vehicle, as defined in Section 670 of the California Vehicle Code, which is equipped and used for retail sales of prepared, prepackaged, or unprepared food or foodstuffs of any kind that parks at one or more locations within the City. A mobile food vendor shall also include any trailer, wagon or cart equipped and used as described in this definition and pulled by a vehicle.

(c) Exemptions. The following are exempt from the requirements of this section, but must satisfy all other applicable permit requirements (for example, City business license, San Joaquin County Environmental Health Department permit, etc.): an event authorized by a City facility permit (TMC Ch. 4.16), special event permit (TMC Ch. 4.40), temporary use permit (TMC Ch. 10.08), or a peddler or vendor permit (TMC Sec 3.08.460).

(d) Regulations for mobile food vendors. Unless otherwise exempt, the following regulations shall apply to all mobile food vendors:

(1) All mobile food vendors shall obtain a valid business license from the City and applicable permit(s) from the San Joaquin County Environmental Health Department.

(2) All mobile food vendors shall comply with the California Vehicle Code.

(3) Mobile food vendors are allowed to operate only in the commercial, office, and industrial zones of the City, ~~(Light Industrial Zone, Heavy Industrial Zone~~ including the commercial, office, and industrial Planned Unit Development zones, and the commercial, office, and industrial designations within City-approved specific plans~~)~~. An exception in the Central Business District (CBD) Zone is that there shall be no mobile food vendors allowed on any lot with frontage on the following:

(i) Central Avenue between 11th Street and 6th Street;

(ii) 10th Street between A Street and Central Avenue;

(iii) 7th Street between C Street and Central Avenue; or

(iv) 6th Street between C Street and D Street.

(4) Mobile food vendors shall only operate on private property (outside of the public right-of-way or any other City-owned property), as an accessory use on a site where at least one business within a building is in operation, except as approved by a development review permit, and shall have written authorization from the property owner upon which the mobile food vendor is operating. A mobile food vendor shall demonstrate written property owner authorization, as required above, to a City officer upon request.

(5) A mobile food vendor's operation~~s~~ and any related activity shall not occur within any required landscape area and must be located on a surface paved to City standards.

(6) A mobile food vendor's operation ~~(not including set up and take down)~~ shall be limited to ~~three (3)~~ twelve (12) hours at a single location in a 24-hour period unless the mobile food vendor location has been approved by a development review permit. For the purposes of this section, a "single location" shall mean a different location within a 500-foot radius of the original location.

(7) No overnight parking or storage of vendor vehicles or apparatus shall be permitted, except as approved by a development review permit.

(8) A mobile food vendor shall have adequate lighting to ensure reasonable visibility either on the vehicle or at the location of the vehicle during business hours. The lighting shall be directed downward onto the parking surface and away from the public right-of-way and adjacent properties.

(9) Mobile food vendors shall not operate in or impede any fire lane, no-parking zone, or accessible route as required by the California Building Code, including but not limited to impeding on- or off-site vehicle circulation or obstructing the view of pedestrians by motorists.

(10) At the conclusion of each day's operation, the mobile food vendor site shall be restored to its condition prior to vendor's operation, free of litter and debris, canopies, or other furniture or improvements, except as approved by a development review permit.

(11) No amplified public address system, amplified music, or entertainment is allowed as part of a mobile food vendor operation, except as otherwise allowed by a City permit.

(12) No signs associated with a mobile food vendor are allowed in the public right-of-way.

(13) A mobile food vendor's operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m. daily, unless located in an industrial zone and greater than 200 feet from a residential zone.

(14) A maximum of one mobile food vendor shall be located on a parcel in any commercial or office zone, except as approved by a development review permit.

(15) A mobile food vendor permit is required for a mobile food vendor to locate in any commercial or office zone, except for a mobile food vendor location approved by a development review permit. The application process and fee for a mobile food vendor permit shall be the same as for a temporary use permit. Approval of a mobile food vendor permit shall be based on compliance with all requirements of this section. A separate application is required for each separate location applied for by a mobile food vendor. A mobile food vendor permit shall expire 12 months from date of issuance and may be renewed annually. Any request for renewal or amendment to a mobile food vendor permit shall be subject to the same requirements and process as a new application. A mobile food vendor permit shall be revoked for noncompliance with any requirements of this section, City regulations, or State law.

(16) A development review permit may be approved for a mobile food vendor location featuring multiple mobile food vendors on the same parcel or a combination of one or more mobile food vendors and one or more food vending structures, such as a food kiosk or shipping container restaurant. In such cases, mobile food vendors or food vending structures may permanently or periodically occupy an approved location. An approved location shall include site improvements and amenities consistent with the City Design Goals and Standards for mobile food vendors. The location of any mobile food vendor's operation and related improvements, which has been approved by a development review permit, shall not encroach into any portion of a parking area that is necessary to satisfy the minimum off-street parking requirements for an existing use on the same parcel. The minimum number of required off-street parking spaces for the mobile food vendor location shall be determined by the approval body of the development review permit.

(Ord. No. 1245, § 1, 11-7-2017)

SECTION 3. CEQA Determination. The City Council finds that this Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(B)(3) pertaining to activities that do not have the potential for causing a significant effect on the environment.

SECTION 4. 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 not affect the validity of the remaining portions of the Chapter. 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 5. Effective Date. This ordinance shall become effective upon the thirtieth (30^{th}) day after final adoption.

SECTION 6. Publication. The City Clerk is directed to publish this ordinance in a manner required by law.

SECTION 7. Codification. This Ordinance shall be codified in the Tracy Municipal Code.

* * * * * * * * * * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the ____ day of _____ 2025, and finally adopted on the ___ day of ____, 2025, by the following vote:

AYES –
NOES –
ABSENT –
ABSTENTION –

_____
DAN ARRIOLA
Mayor of the City of Tracy, California

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

Date of Attestation: _____

NOTICE AND DIGEST

AN ORDINANCE AMENDING SECTION 10.08.3193 OF THE TRACY MUNICIPAL CODE TO ESTABLISH REGULATIONS ALLOWING MOBILE FOOD VENDORS TO OPERATE IN THE COMMERCIAL AND OFFICE ZONES (EXCLUDING CERTAIN PORTIONS OF THE CENTRAL BUSINESS DISTRICT ZONE), EXTENDING THE MAXIMUM NUMBER OF HOURS THAT A MOBILE FOOD VENDOR MAY OPERATE AT A SINGLE LOCATION PER DAY FROM THREE HOURS TO TWELVE HOURS, ALLOWING A MAXIMUM OF ONE MOBILE FOOD VENDOR PER PARCEL IN THE COMMERCIAL AND OFFICE ZONES WITH APPROVAL OF A MOBILE FOOD VENDOR PERMIT, AND ALLOWING MULTIPLE MOBILE FOOD VENDORS TO PERMANENTLY OR PERIODICALLY LOCATE ON A PARCEL, SUCH AS A FOOD TRUCK COURT, WITH APPROVAL OF A DEVELOPMENT REVIEW PERMIT

The Ordinance amends Tracy Municipal Code Section 10.08.3193 to establish regulations allowing mobile food vendors to operate in the commercial and office zones, excluding certain portions of the Central Business District Zone. The Ordinance establishes that a mobile food vendor permit is required for a mobile food vendor to locate in any commercial or office zone, except for a mobile food vendor location approved by a development review permit. The Ordinance extends the maximum number of hours that a mobile food vendor may operate at a single location within a 24-hour period from three hours to twelve hours. The Ordinance requires that a mobile food vendor's operation shall be limited to the hours between 7:00 a.m. and 10:00 p.m. daily, unless located in an industrial zone and greater than 200 feet from a residential zone. The Ordinance sets a limit of one mobile food vendor per parcel in the commercial and office zones, except as approved by a development review permit. The Ordinance allows multiple mobile food vendors or a combination of one or more mobile food vendors and one or more food vending structures, such as a food kiosk or shipping container restaurant, to be permanently or periodically located on a parcel with approval of a development review permit.

MINUTES
TRACY CITY PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 14, 2024, 7:00 P.M.
CITY OF TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA

CALL TO ORDER

Vice Chair Atwal called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Vice Chair Atwal led the pledge of allegiance.

ROLL CALL

Roll Call found Commissioner English, Commissioner Penning, Vice Chair Atwal and Chair Orcutt present via Webex. Commissioner Boakye-Boateng was not present at roll call but arrived shortly after. Also present: Karin Schnaider, Assistant City Manager/Interim Development Services Director; Jeffrey Crosswhite, Assistant City Attorney; Scott Claar, Senior Planner; and Miranda Aguilar, Administrative Assistant.

MINUTES

Vice Chair Atwal introduced the Regular Meeting Minutes from the January 24, 2024 Planning Commission Regular Meeting.

ACTION: It was moved by Commissioner English and seconded by Commissioner Penning to approve the January 24, 2024 Planning Commission Regular Meeting Minutes. A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner English, and Commissioner Penning in favor. Commissioner Boakye-Boateng Absent at the time of Voice Vote. Passed and so ordered; 4-0-1-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA

None.

ITEMS FROM THE AUDIENCE

None.

1. NEW BUSINESS

A. STAFF RECOMMENDS THAT THE PLANNING COMMISSION: (1) DISCUSS THE PROVISIONS AND POLICY AIMS OF A PROPOSED DRAFT ORDINANCE AMENDING SECTION 10.08.3193 OF THE TRACY MUNICIPAL CODE EXPANDING THE RIGHT OF MOBILE FOOD VENDORS TO OPERATE IN THE COMMERCIAL AND OFFICE ZONES (EXCLUDING CERTAIN PORTIONS OF THE CENTRAL BUSINESS DISTRICT ZONE) IN ADDITION TO INDUSTRIAL ZONES; AND (2) DISCUSS THE PROVISIONS AND POLICY AIMS OF CORRESPONDING PROPOSED AMENDMENT TO PAGE 3-14 OF THE CITY

DESIGN GOALS AND STANDARDS TO ADD A NEW SECTION FOR MOBILE FOOD VENDORS.

Scott Claar, Senior Planner, presented the staff report and addressed questions from the Commission.

Vice Chair Atwal opened the Public Hearing at 7:50 p.m.

Pilar Martinez, Tracy Resident, addressed the Commission and requested that the permit for the vendors be extended to12 hours instead of 3 and months instead of just one and the monthly permit be extended to 12 months.

Leticia Melendez, Restaurant Owner, addressed the Commission with questions regarding limits to food trucks and types of food trucks allowed and also inquired about buffers between businesses and where the trucks will be allowed.

Ana Magana, Food Truck Owner, addressed the Commission with comments regarding costs for vendors and stated customers tend to go to trucks when wanting something quick to go versus a dine-in restaurant.

Octavio Castaneda, Tracy Resident and Business Owner, addressed the Commission regarding the $1200 fee for a monthly permit being too high for vendors and also stated that food truck expenses are very high as well. Octavio also commented on the safety of the trucks and where some of them are located.

Jessica Magana, Tracy Resident and Business Owner, addressed the Commission with the help of Maria Valenzuela, Tracy Chamber of Commerce CEO, to interpret from Spanish to English. Jessica is interested in running a food truck business in the City of Tracy with the correct permits and is willing to comply with rules and requirements. Jessica is also in favor of the monthly permit being extended for a year.

Maria Valenzuela, Tracy Chamber of Commerce CEO, addressed the Commission, thanked City Staff and hopes to have a community where businesses can thrive.

Gabriela Machuca, Business Owner, addressed the Commission in support of a new food truck ordinance. Gabriela also mentioned that restaurant capital costs are not always higher than those for food truck businesses. Gabriela also mentioned some locations that may benefit from allowing food trucks and does not agree with limiting one truck per parcel.

Andrew Christensen, Tracy resident via WebEx, addressed the Commission believed there are many parking lot locations that are under-utilized and are places a food truck court may work which could bring business to downtown.

Marcus Medina, via WebEx, addressed the Commission supports changing the mobile ordinance but believes we need to make sure there are buffers between restaurants and intersections for safety reasons. Marcus also believes the City of Tracy should start with a limit on mobile vendors.

Jorge Varga, Small Business Owner, addressed the Commission with the help of Maria Valenzuela, Tracy Chamber of Commerce CEO, to interpret from Spanish to English. Jorge stated that mobile vendors are not necessarily in competition with the restaurants, food trucks are considered fast food and are designed for the customer that does not have time to sit down. People such as truck drivers, paramedics, and landscapers are the primary customers for food trucks.

Pilar Martinez, Tracy Resident, addressed the Commission and made some clarifications on some comments.

Seeing as no one else came forward Vice Chair Atwal closed the Public Hearing at 8:43 p.m.

Commission discussion continued.

Scott Claar, Senior Planner, addressed questions from the Commission.

Jeffrey Crosswhite, Assistant City Attorney, addressed questions from the Commission.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, addressed questions from the Commission.

Vice Chair Atwal called for a recess at 10:31 p.m. and all Commissioners agreed.

Vice Chair Atwal reconvened the meeting at 10:37 p.m.

Commission discussion continued.

Commission provided some suggestions to Staff to bring to City Council.

2. ITEMS FROM THE AUDIENCE

None.

3. DIRECTOR'S REPORT

Scott Claar, Senior Planner, advised Commission that the Planning Commissioner Academy is sold out and Staff is looking for another opportunity to enroll the Commissioners.

4. ITEMS FROM THE COMMISSION

Commissioner English wanted to confirm the next Planning Commission Meeting on the 28th of February.

Commissioner Boakye-Boateng thanked staff for all work.

Vice Chair Atwal requested to have Staff work on guidelines and future policies when taking surveys for the City so that they are more inclusive. Vice Chair Atwal would also like to request improvement on research policies for projects and comparing similar size cities to the City of Tracy. Vice Chair Atwal would also like Staff to bring to Commission and Council the approach to surveying the community so that the Commission and Council can give comments on what should be included in the survey.

Scott Claar, Senior Planner, answered questions from the Commission.

Chair Orcutt is in agreement with Vice Chair Atwal regarding the policies but stated Staff can be under time constraints and may not have time to come to Commission with every survey they would like to do.

Karin Schnaider, Assistant City Manager/Interim Development Services Director, addressed questions from the Commission.

Commissioner Boakye-Boateng clarified Commissioner Atwal's request for the Planning Commission to be notified when the City Council adopts a policy update or change.

Vice Chair Atwal is requesting that if items are brought up in Planning Commission and are then brought to City Council, that the Planning Commission is notified of those items.

5. ADJOURNMENT

ACTION: It was moved by Commissioner Boakye-Boateng and seconded by Vice Chair Atwal to adjourn.

A voice vote found Chair Orcutt, Vice Chair Atwal, Commissioner Boakye-Boateng, in favor. Commissioner English and Commissioner Penning absent. Passed and so ordered; 3-0-2-0.

Time: 11:20 p.m.

CHAIR

Scott Claar

STAFF LIAISON

Public Comment -- Recieved 02 14 24
RE: Item 1.A - Mobile Food Vendors Ordinance
ZA23-0002

From: [redacted]
To: Miranda Aguilar
Subject: Fw: 02 14 24 Planning Commission Public Hearing Notice - Interested Parties
Date: Wednesday, February 14, 2024 12:54:41 PM
Attachments: 02 14 24 PC PH - Amendment to Mobile Food Vendors Ordinance - For Website.pdf
Comments Mobile Food Ordinance.pdf

> **Caution:** This is an external email. Please take care when clicking links or opening attachments.

Hello Miranda Aguilar,
I have attached a letter I would like to submit to the planning commissioners , my comments regarding the mobile food ordinance.
If this is not the correct place to send my comments can you please tell me the correct email
thank you
Gabriela Rodriguez Machuca

----- Forwarded Message -----
From: Miranda Aguilar <miranda.aguilar@cityoftracy.org>
Cc: Planning Admin <planningadmin@cityoftracy.org>; Scott Claar <scott.claar@cityoftracy.org>
Sent: Friday, February 2, 2024 at 01:38:41 PM PST
Subject: 02 14 24 Planning Commission Public Hearing Notice - Interested Parties

Hello,

Please see the attached Planning Commission Public Hearing Notice published this week. You can also access them via our website using the link below:

Public Notices | City of Tracy, CA

Thank you

Miranda Aguilar | City of Tracy

Administrative Assistant

Development Services – Planning Division

333 Civic Center Plaza | Tracy, CA 95376

Office: (209) 831.6421 | Miranda.Aguilar@cityoftracy.org

TRACY
Think Inside the Triangle

Mobile Food Ordinance
Comments/Questions/Suggestions

On October 18, 2022 I was the one who asked the City Council to request Staff to amend or create a whole new ordinance because the way it is written made it extremely difficult to do business in Tracy as a mobile food vendor.
I stated then that we had been a brick n mortar the last 30 years and due to Covid we had to pivot a mobile food truck and then we transitioned into a permanent location on a private commercial property in Downtown Tracy. Our project took a different long process however I am still passionate about making changes to the mobile food ordinance because we have future endeavors we would like to see flourish.
At the time I also stated that in the last few years the City of Tracy Events as well as the Downtown TCCA Events have all hosted food trucks or mobile food vendors and the food trucks have enhanced their events. Since those events are under an event umbrella there are no obstacles for the food trucks.
But the moment those food trucks want/need to set up independently then there are lots of hurdles and Red tape.
I said then it was unfair to expect/want /need mobile food vendors for all their events and then to not allow those businesses to operate in Tracy on a daily business.

So it has been a long awaited report.Its roughly 63 pages of information and yet I still feel that it is written in a way that continues to make being a mobile food vendor in Tracy very difficult.
My intention was then and continues today to fulfill some of the Tracy Community pleas for more food varieties with more availability.
The request to change the ordinance was not brought up to instigate a "war" between Brick n mortar food places and mobile food vendors/food trucks. And yet there has been quite some tension created.
I believe that the City Staff needs to show that ALL businesses bring value to the Tracy Community. And it's up to the City Staff, Planning Commission and City Council to find a balance that works for the Tracy Community and not just one segment of businesses.

The 990 survey responses demonstrate the Tracy Community supports the idea of food trucks in different locations not just during events.

Questions / Comments/ Suggestions

1. Will the light industrial area continue as currently : No mobile food permit required ?
2. Why is the City Of Tracy suggesting the mobile food vendor permit process and fee be the same as the current TUP. The cost would be $1255. Just for the vendor permit.That is way too much. And then they want to charge the fee for each separate location: (Example if a food truck wants to sell lunch at a gas station A but then wants to sell dinner at the Home Depot lot this language would require them to have two different vendor permits each at $1255. That's too much) Manteca charges $200. And Lathrop charges $254.

3. While making an analysis and comparing to other Cities at the end of the day we need to make choices that work best for our Tracy Community.
4. **<u>Allow food trucks in Downtown Tracy:</u> Just look at the responses from the survey.**
   Page 7 of the survey "I would like more food trucks in Downtown on private property."
   449 + 210 = 659 said YES. 155 were neutral s thats 814 out 990 responses
   Page 14 of survey :" To what extent would you like food trucks allowed in Downtown
   608 said permanent. 152 said 6 m months at a time. 98 said 30 days, that's 858 YES.
   *** In the report that talks about 'Background"meetings that were held at Tracy transit station hosted by Chamber and City: well it was mainly only food businesses present.
   And it's my understanding that TCCA (Tracy City Center) was invited to participate however they only invited their food businesses. I was present at this meeting. I have business neighbors in Downtown that confirmed they were not invited to these meetings.

   Downtown Tracy is more than just food ,beverage & spirits.
   DowntownTracy is full of businesses that provide services and retail : you have Bankers, Barbers, Beauty Specialists,Lawyers,Boutique owners,Realtors, Tattoo Artist,Yoga Instructors, Karate Instructors,Dance teachers ,Florists..and more...
   Their businesses matter. Their opinions matter.
   All of their businesses could benefit from more foot traffic during all 7 days of the week as well as longer hours throughout the day. Yet their input is not reflected in this report.
   The Restaurants and beverage spots Downtown are awesome. But because they are all independent they have to tailor their business hours to fit their needs. Some are only open for dinner 5-9. Others are open only for breakfast 8-2. Many are closed on Sundays/Mondays.
   Read the survey and the comments.
   Under FEEDBACK from the Business Community it mentions that Brick n mortar restaurants have a higher capital costs : In my observation I feel that is not accurate.. I can name 5 restaurants in Downtown that moved into existing food facilities therefore their capital investment is not as high as those who built out from scratch.
   I can also name 3 restaurants that built out their spaces however I also know that their property owners/landlords contributed to T. I. (tenant improvement) which means those business owners either got a subsidy like dollars matched for dollars invested or possibly FREE rent sometimes up to a year.
   I know this because at one time we looked at those spaces and looked at their leasing material.
   I bring this up to simply show that the comments of higher capital is disingenuous.

5. Suggest the commission ask for a separate draft ordinance for consideration for curb only, designate a few spots : Pilot program.
   Some ideas of spots to consider in Downtown:
   9th street between Central and A Street adjacent to the curb on street
   On A street between 9th and 10th adjacent to the curb on the street.
   Along 6th street, either side of Central Ave.

These areas would be near parking and would allow customers to purchase food and still be close enough to walk around Downtown exploring.

6. Allow at the curb parking at Parks: You could designate a few parks.
   Read the survey comments . Folks are asking for food truck options in South Tracy.
   Tracy Hills, Ellis, Edgewood those could all benefit from food trucks.
   We have participated/parked at the curb at several parks. The customers enjoy their own neighborhoods.
7. Allow more than 1 food vendor per parcel. Allow more than 1 food truck in one private property without requiring a development review.(The development review is $10,400.and would not be needed in this instance)
   This would be when a few trucks come together for a period of 3-4 hours and are set up to be a grab and go. Not a permanent set up. Families enjoy making one stop but having a few options to choose from.

*** If you look at the last pages of report
Wheras: The community survey results indicate that the community has a strong desire for more food trucks in the commercial areas....
That is not a complete statement they left out that the Community has a strong desire for Downtown locations as well.

Respectfully
Gabriela Rodriguez Machuca / Johnny's Diner aka MachucasKitchen 22 E. 9th Street

From: Karin Schnaider
To: Miranda Aguilar
Cc: Scott Claar; Gina Peace
Subject: FW: 02-14-2024: Tracy City Planning Commission Meeting (clarification on some items)
Date: Thursday, February 29, 2024 3:32:50 PM

Hi Miranda

This email should be attached to the meeting minutes for the 2/14/2024 Planning Commission meeting. Thank you

Thank You,

Karin Schnaider
Assistant City Manager
City of Tracy

From: gurtej atwal [redacted]
Sent: Thursday, February 15, 2024 12:08 PM
To: Joe [redacted] ORCUTT, JOSEPH R Col USAF PACAF PACAF/A4MA [redacted] Scott Claar <Scott.Claar@cityoftracy.org>; Karin Schnaider <Karin.Schnaider@cityoftracy.org>
Cc: Jeffrey Crosswhite <Jeffrey.Crosswhite@cityoftracy.org>
Subject: 02-14-2024: Tracy City Planning Commission Meeting (clarification on some items)

Caution: This is an external email. Please take care when clicking links or opening attachments.

Hello Planning Commission Chair Joe, Engineering and Development Services Scott and Assistant City Manager Karin,

(Adding City Attorney to the email: So, to help follow the protocol. If the Attorney thinks this email should be entered into meeting minutes, I am ok. If he thinks it can be internal discussion without any action, that's acceptable as well.)

I want to request your kindly disregard my request made in items from the commission in the meeting yesterday. I will make sure to state that in the next meeting in the items to the commission. Let's close that for now. I rethought about it; you all are aware of the perspective that I shared and are better judge how to approach it better in this scenario and future such scenarios.

I apologize to the City Manage and Staff for emphasizing on the scenario/survey. I will make sure to apologize in the next meetings for the items to the commission. Will do better next time. Maybe I was not able to clarify my intent, though I continue learning; and always try my best to improve.

One point I want to address:

a) The Chair asked in the meeting, if surveys contain individual responses and is there a scenario, where one individual can submit multiple survey responses.

b) Staff's response was, only one person can take the survey for one time.

But based on my research and discussing with stakeholders: (I was not 100% confident so wanted to do a bit more research; before sharing with you)

a) In this survey, one individual can do multiple attempts, from different devices, computers, using multiple browsers, closing/clearing cookies of one browser and using it again and again.

b) Anyone outside of the City across the US can be asked by one stakeholder to use the survey. As most internet users use VPN; there's no mechanism to block a response from someone who doesn't reside in the city.

Request for your consideration:

a) Kindly confirm with the City IT team if the above analysis that I shared is factual. Or they have made a foolproof system in the survey to make sure only one citizen responds once.

b) If City IT agrees with the above finding; I propose 2 options:

1. Staff should not present survey slides to the council. As in the Agenda item 38 Slides out of 42 Slides are focused on Survey. As it is not the reflection of the majority of stakeholders; and there are chances one stakeholder could have influenced the survey.

2. If the City wants to move forward with sharing the survey slides with Council. That's 100% acceptable. In that case, kindly put a wording in the agenda that should clarify that one citizen can submit more than one response in this survey.

Basis of my Analysis:

I work very closely with Surveys and Research in education and work projects. So I have a bit of idea how they work. I possess an MBA from CSU Hayward. I am currently pursuing a Master of Science in Transportation Management from SJSU; coincidently I am taking a course at this point MTM-203 Transportation Marketing and Communication Management. That focuses on public sector Surveys and Researches. Some additional certifications that I have gained through my learning allows me to see from a different perspective. Though my perspective should not always be right; it can allow me to brainstorm better.

1. Bachelor of Engineering: Electronics and Telecommunications
2. Master of Engineering: Electrical Engineering
3. MBA Major in Finance | California State University Hayward | CSU East Bay
4. Active Student | Master of Science in Transportation Management | San Jose State University
5. Took American Institute of Certified Planners, AICP certification test
6. Member American Planning Association (APA)
7. Certification: Data Analysis: Forecasting | Course length: 3 hours

Skills Covered: Gained a comprehensive understanding of planning theory, history, and ethics, deepened my knowledge of California's specific planning context, strengthened my

skills in planning analysis and research, enhanced my ability to think critically and solve problems, learned effective collaboration and conflict resolution techniques, gained exposure to diverse planning perspectives and approaches, can contribute to the advancement of planning practice in City of Tracy.

8. Certification: Project Management Professionals (PMP) certification

9. Certification: Management: Top Tips

10. Certification: Project Management Foundations

11. Certification: Project Management Simplified

12. Certification: Microsoft Project Step by Step

13. Certification: Business Collaboration in the Modern Workplace

14. Certification: Solving Business Problems

Skills Covered: Project management processes, initiation, planning, executing, monitoring, controlling, closing and their associated processes within each group. Familiarized myself with the key inputs, tools, techniques, and outputs of each process of effectively managing projects. Leant professional and social aspects, leadership and team management, ethics, and professional conduct.

15. Certification: Lean Six Sigma White Belt

16. Certification: Lean Six Sigma Yellow Belt

17. Certification: Lean Six Sigma Green Belt

18. Certification: Lean Six Sigma Black Belt

Skills Covered: Acquired knowledge and skills across two key areas: Lean principles and Six Sigma methodology. Learned principles for identifying and eliminating waste, process improvement, customer focus, learned about voice of customer (VOC) technique and how to translate customer needs into actionable insights, teamwork, and collaboration, understood the importance of teamwork and collaboration in process improvement initiatives, Learnt DMAIC cycle, mastered the Define, Measure, Analyze, Improve and Control cycle, the core framework for Six Sigma Projects. Leant Statistical tools and analysis, learnt statistical tools like histograms, pareto charts, control charts, and hypothesis testing for data analysis and problem identification, Project Management, understood project management principles like scope definition, risk assessment, resource allocation, and project documentation, Measurement and performance metrics, learnt how to measure process performance using various metric like defects per million opportunities (DPMO) and sigma level, Specific tools and techniques, learnt specific tools like Design of Experiments (DOE) and Failure Mode and Effects Analysis (FMEA), learnt Industry-specific applications, learnt Soft skills, effective communication, problem-solving, and leadership skills.

19. Certification: Cisco Certified Network Associate certification (CCNA)

20. Certification: Cisco Certified Specialist – Security Core

21. Certification: Certified on Ethernet and TCP/IP Fundamentals

22. Certification: Certified on Advanced IPv4 Networks/Protocols

Skills Covered: Learned a strong foundation in networking fundamentals and advanced security principles.

Knowledge Sharing:

I can always share my learning with City staff if they would like, on future surveys or research. As well I can be a bridge b/w Cal State East Bay professors and SJSU professors and industry experts who do this day in and day out. Also, I can always assist and arrange any kind of free of cost zoom sessions for staff on this topic from industry experts.

Just sharing this with you all; though I duly understand, and respect, the City has its own resources to work through these things. But as part of the team, I wanted to share my perspective. Not just questioning about the process; but always willing to participate in improvement, learning.

Kindly review the above and let me know for clarification on any topic.

Best Regards

Gurtej Atwal

Attachment D

Food Truck Survey Results

Development Services Department

990 Results Collected

Collection Dates: September 8th – September 30th

Food Truck Survey

- Bilingual Community Survey
  - English and Spanish

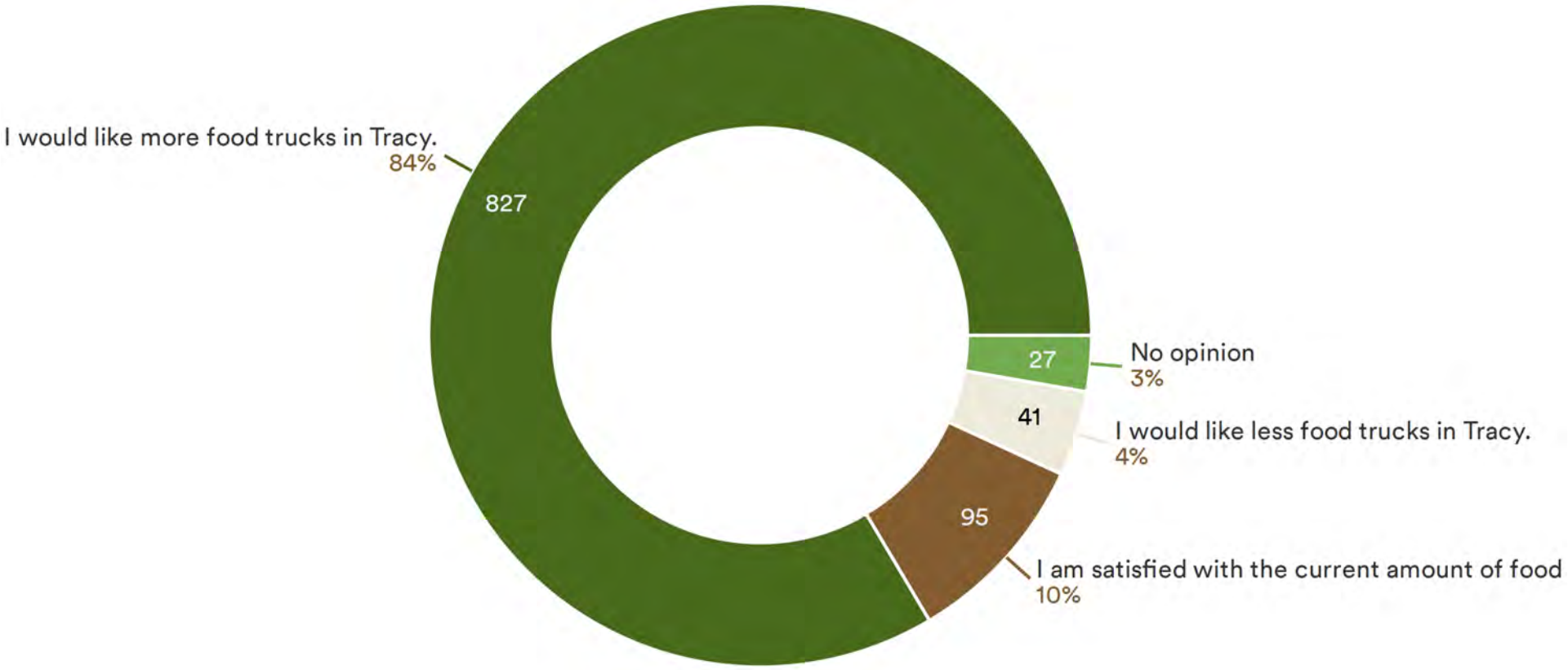
- Open from September 8th – September 30th

- Posted on City Website, Social Media Platforms
  - Facebook, Twitter, Instagram, etc.

- 990 Survey Submissions

Please select the option that best describes your opinion on the amount of food trucks in Tracy.

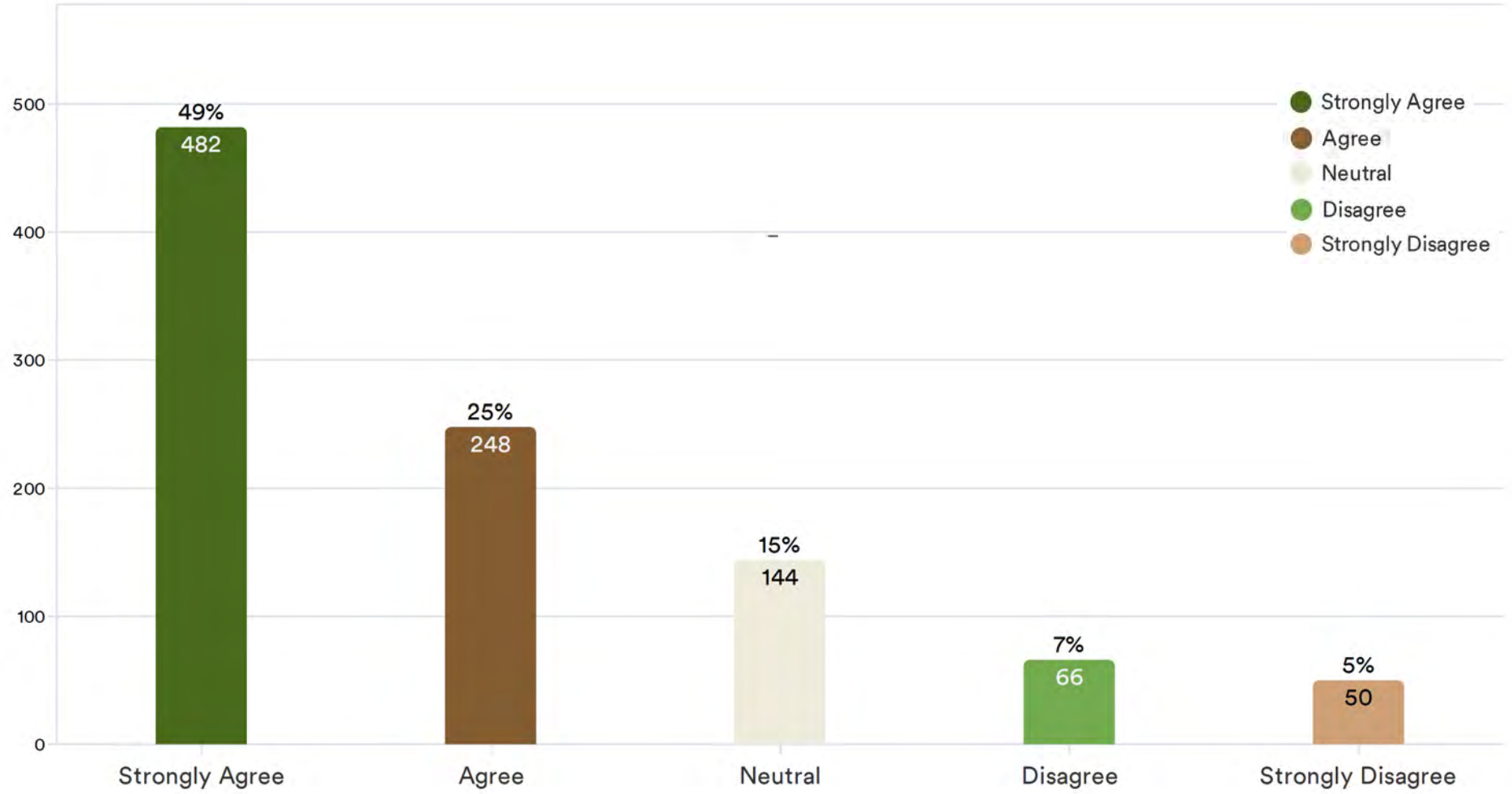
990 Responses



Think Inside the Triangle℠

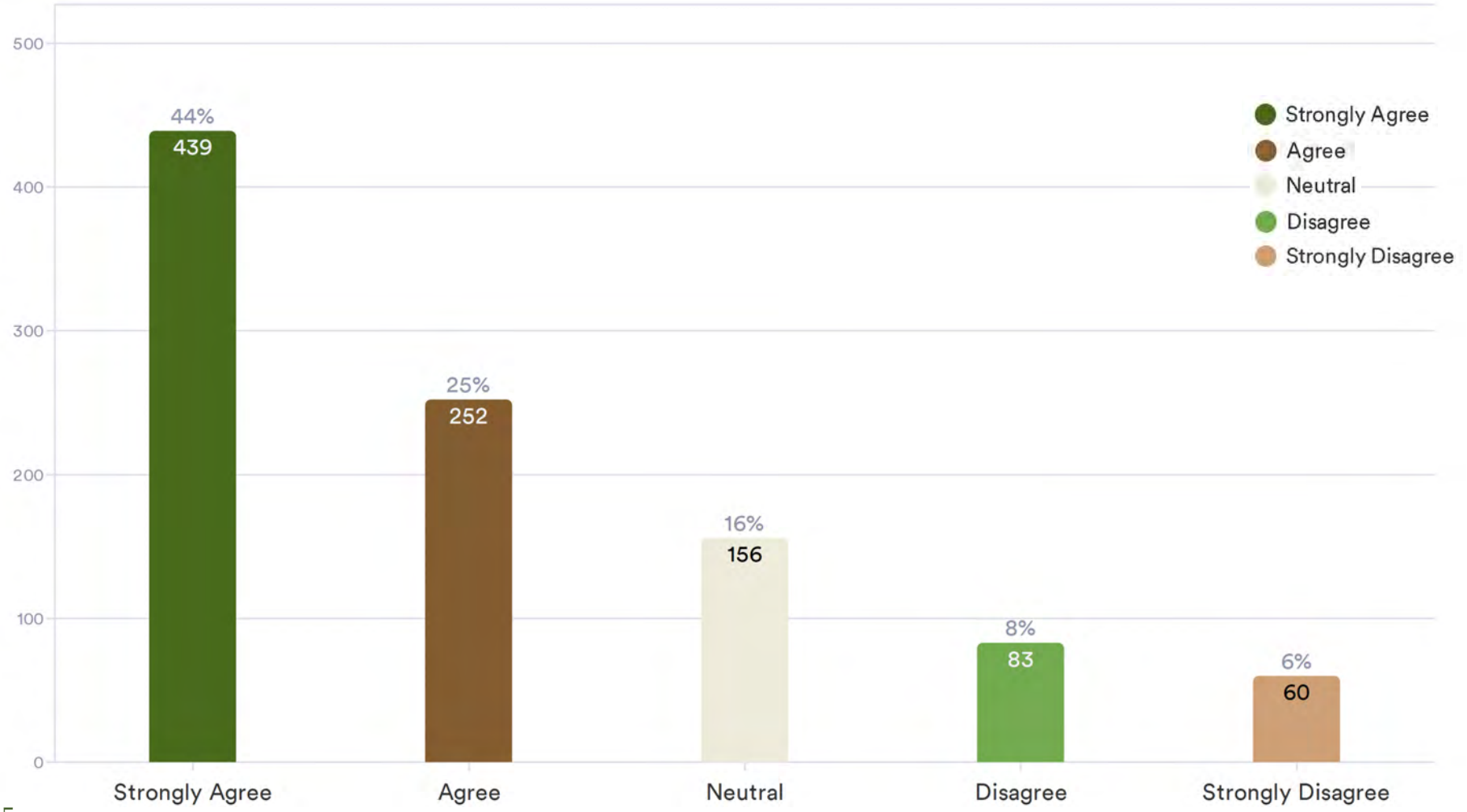
I would like more food trucks in the large commercial shopping areas, such as around West Valley Mall, Home Depot, Wal-Mart, and Costco.
(on private property with property owner permission)

990 Responses



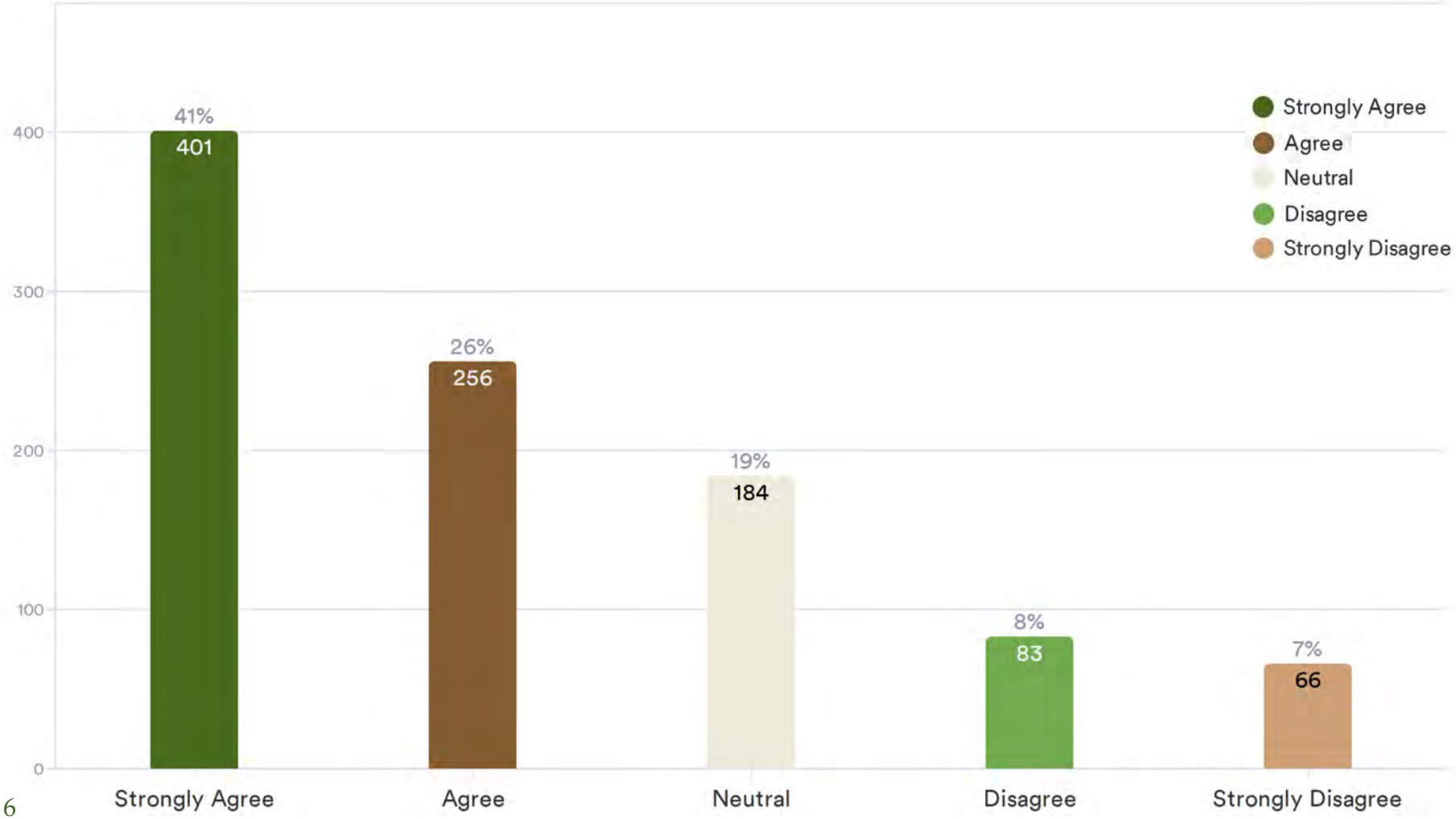
I would like more food trucks in community shopping center areas, such as around supermarkets and pharmacies.
(on private property with property owner permission)

990 Responses



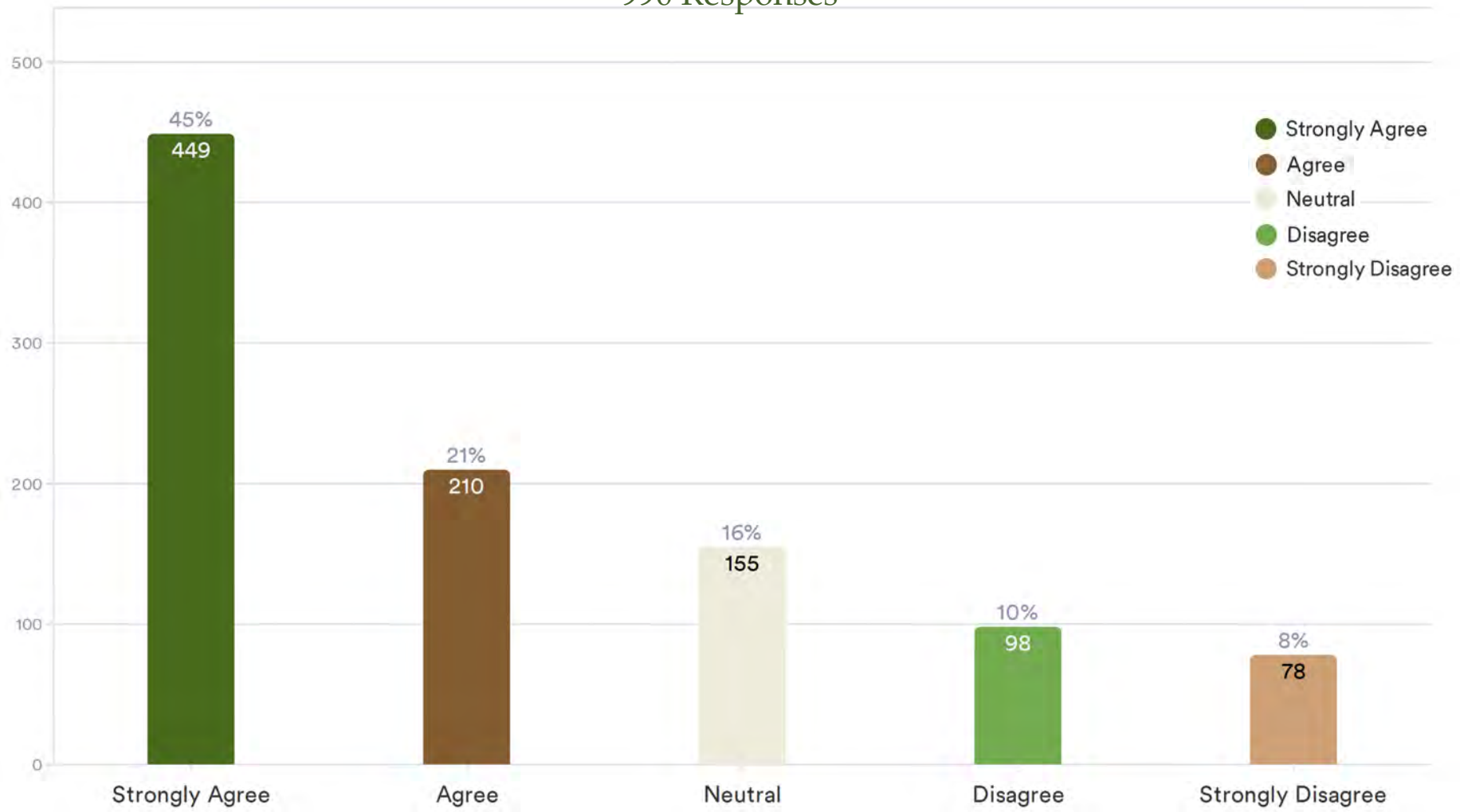
I would like more food trucks along commercial corridors, such as mixed with commercial development along 11th Street or Grant Line Road. *(on private property with property owner permission)*

990 Responses



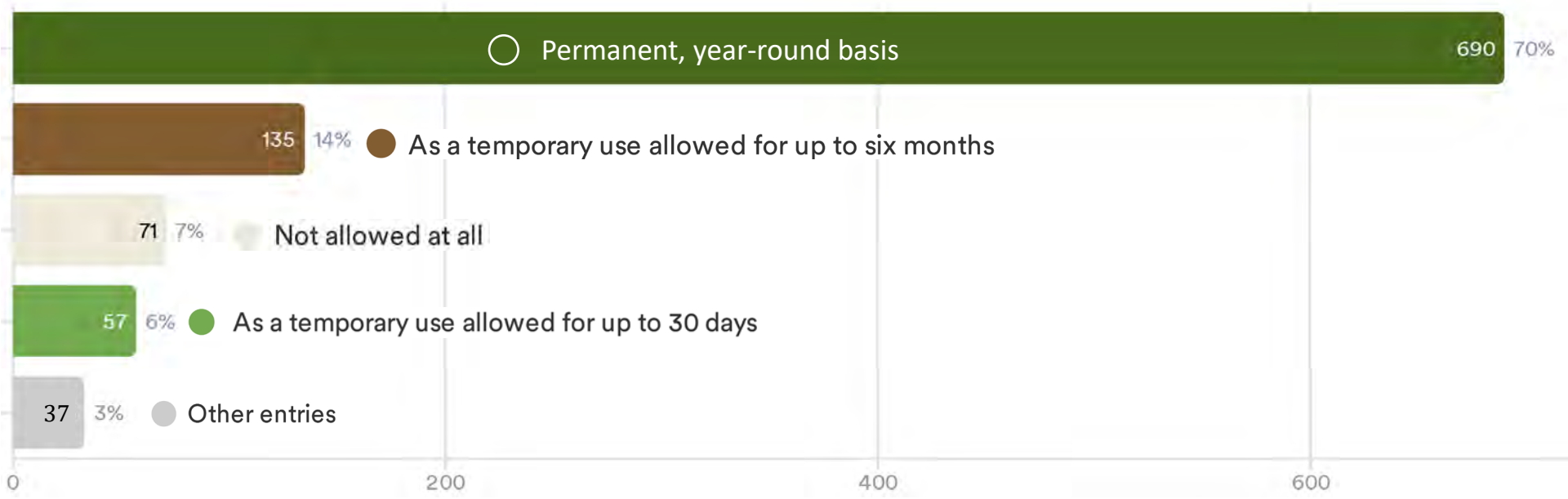
I would like more food trucks in the Downtown area.
(on private property with property owner permission)

990 Responses



To what extent would you like food trucks allowed in the large commercial shopping areas, such as around West Valley Mall, Home Depot, Wal-Mart, and Costco.
(on private property with property owner permission)

990 Responses



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To what extent would you like food trucks allowed in the large commercial shopping areas, such as around West Valley Mall, Home Depot, Wal-Mart, and Costco. *(on private property with property owner permission)*

Continued…

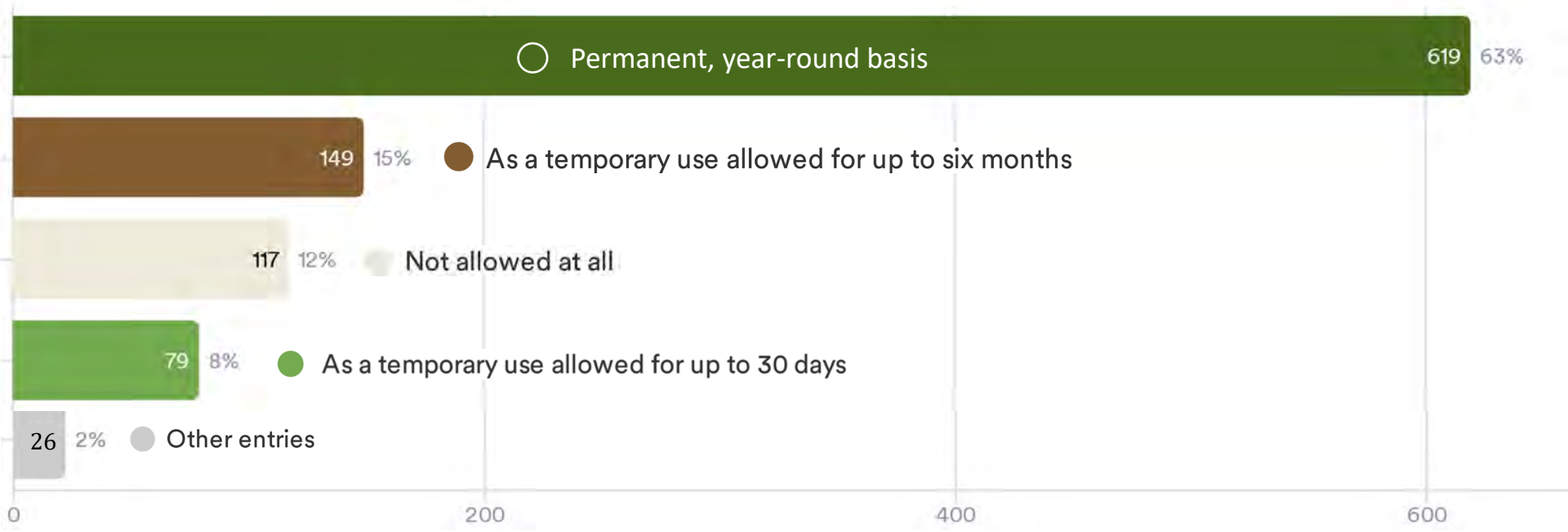
49 Responses – 941 Blank/Empty

If "other", please specify below.

1.	6 months would be good to allow a rotation of different trucks and foods
2.	6th has nothing from 6th and central yo 6th and Tracy blvd put them ther
3.	Allow food trucks for the small pumpkin patches, circus, fair, Xmas trees and other events
4.	Area similar to what they have in Lathrop would be nice
5.	As long as they can stay
6.	By old orchard supply by cvs on 11th street
7.	chose to open their business and pay rent.rent for their location. They also chose the size of store they wanted. Not fair that these food trucks can just come in and sell. Also, the restaurants
8.	City should allow and promote monthly "foodie land" type of event in areas away from fast food and restaurants
9.	Consider opening something like Spark Social
10.	Consider rotating areas.
11.	Day use as well
12.	En lugares donde no alla tanta gente (*English Translation: In areas where there are not a lot of people*)
13.	Favor of the mall
14.	Food trucks in the old Tracy outlets on Pescadero
15.	I love what they do in Lathrop along I5
16.	I think this is a great opportunity. And I'm not sure how to answer this question. Because I would like there to be opportunities for new trucks to come in. So saying permanent makes me feel like that? Limits that if we run out of space.
17.	I think we should have a food truck "park,"like Lathrop does.
18.	I would prefer downtown JC Penny old building with food stations and dining in the upper floor
19.	I'd like a food court like area where all the trucks.
20.	If permanent, would like for them to provide seating.
21.	Just not costco or walmarts parking lots
22.	Mall parking lot is the best location
23.	Malls as downtown in congested and food trucks attract traffic leading to more congestion.
24.	Modesto has a designated grub hub of food trucks. So does Lathrop. It's a great idea
25.	Neutral
26.	Not only food trucks veggies vendors will make ease for Tracy hills residents+ Indian food trucks
27.	off the freeway away from congested areas
28.	Permanent food truck areas in the warehouse areas
29.	Permanent Must hold a permit and health food certificate
30.	Permanent or temporary on annual contracts
31.	Permanent unless bringing new truck offering new food
32.	Preferably Our Punjabi Food Just Like CHIPOTLE TIP
33.	Provides more options for a limited variety of the same foods we already serve in tracy.
34.	Que la ciudad les de un lugar para ponerlos como en lathrop afuera de la ciudad (*English Translation: That the city gives them a space to put them like Lathrop does outside of the city*)
35.	raleys area and ellis area and Tracy hills
36.	Temporary permits will allow change. You don't want a truck that is semi-permanent in one spot.
37.	The liberty to move to where business will work better with them
38.	They should be allowed to park anywhere on private property with permission
39.	To see how it works out. If ok then can go for a year
40.	Too busy if an area
41.	Too congested in that area already.
42.	Wanted on CorralHollowRoad or at TracyHills
43.	We need dining in southeast Tracy, the mall area is too crowded already.
44.	We need more food choices in south Tracy where there aren't as many restaurants.
45.	We should even have a food truck event monthly at least!
46.	We should have a designated area for food trucks with shade and tables not just randomly spread out throughout the city
47.	We want them on the South side of town where we have less restaurants, near Tracy Hills, Ellis, etc.
48.	Whatever the property owner agrees to. It should be between the two entities.
49.	Why not help the brick and mortar resturants instead?

To what extent would you like food trucks allowed in community shopping center areas, such as around supermarkets and pharmacies. *(on private property with property owner permission)*

990 Responses



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To what extent would you like food trucks allowed in community shopping center areas, such as around supermarkets and pharmacies.

(on private property with property owner permission)

Continued…

16 Responses – 974 Blank/Empty

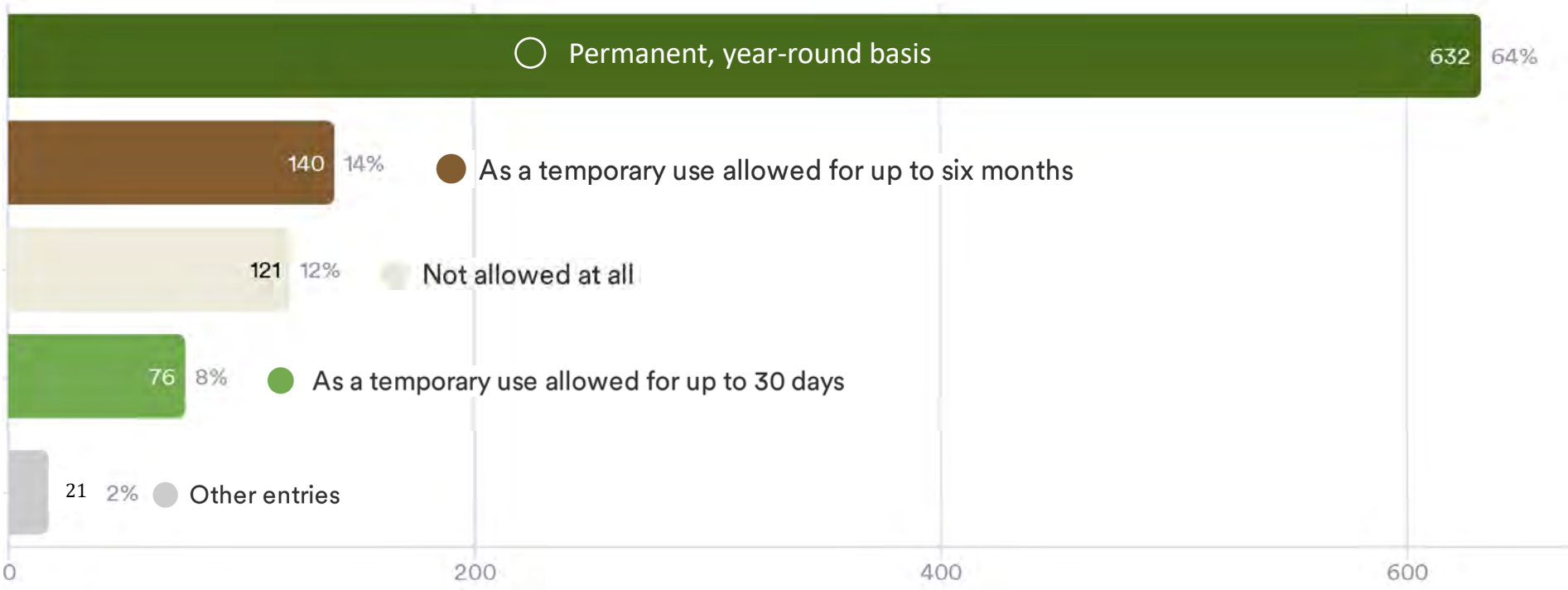
If "other", please specify below.	
1.	Also the food trucks should be count with health department permits
2.	Bad idea
3.	Designar área específica para todos los camiones de comida *(English Translation: Designate a specific area for all the food trucks.)*
4.	Food trucks in the old Tracy outlets on Pescadero
5.	I feel there should be a designated area for ALL food trucks in town. They can open at any time but would always be in the same location.
6.	Neutral
7.	Only in the areas specified in the photos. This would allow for the ample parking and still provide access for the current tenants to operate businesses
8.	Punjabi Food Like CHIPOTLE Box
9.	Rotate different trucks every 6 months
10.	See previous answer
11.	Special event
12.	The city of Tracy looks no good with to many trucks , already we have to much trucks
13.	Wanted food trucks on CorralHollow Road or Tracy Hills
14.	We need them in south Tracy where there aren't as many food choices
15.	Whatever the property owner agrees to. It should be between the two entities.
16.	Year round

TRACY

Think Inside the Triangle℠

To what extent would you like food trucks allowed along commercial corridors, such as mixed with commercial development along 11th Street or Grant Line Road.
(on private property with property owner permission)

990 Responses



TRACY
Think Inside the Triangle™

To what extent would you like food trucks allowed along commercial corridors, such as mixed with commercial development along 11th Street or Grant Line Road.

(on private property with property owner permission)

Continued…

10 Responses – 980 Blank/Empty

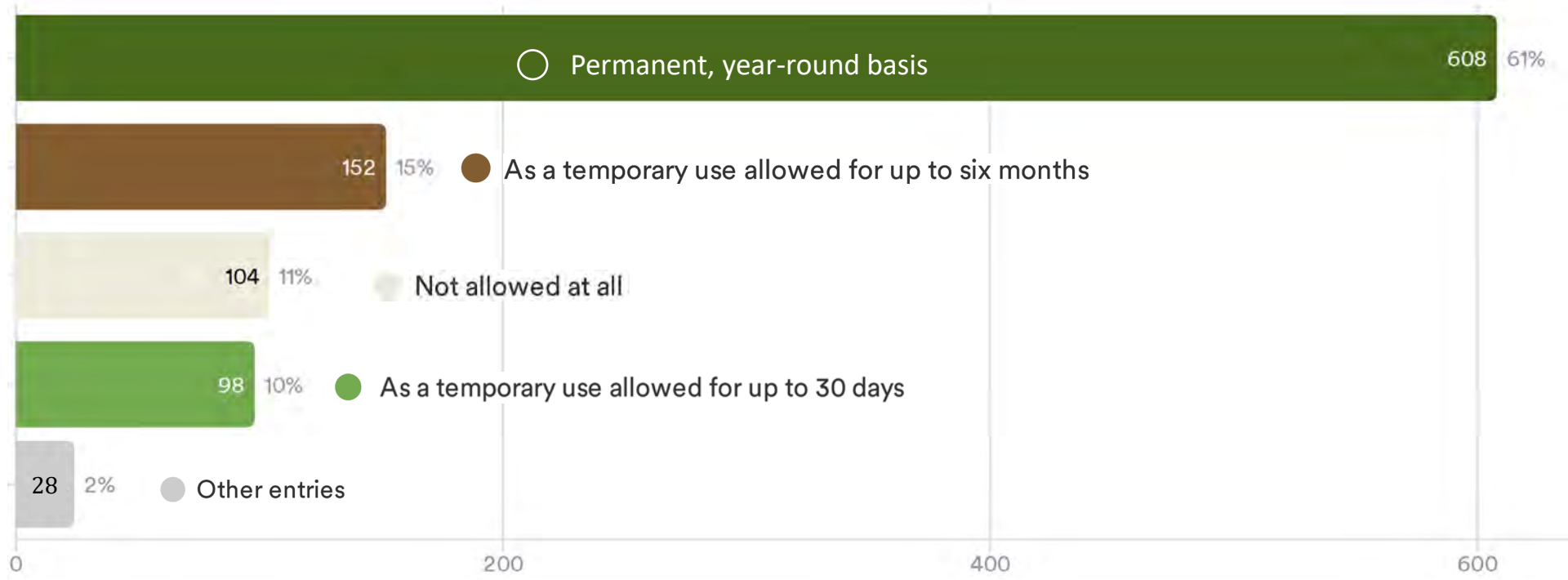
If "other", please specify below.	
1.	As part of special events - food truck night
2.	Don't really prefer that
3.	Food trucks in the old Tracy outlets on Pescadero
4.	I think it would be nice to have a designated food truck area on land somewhere like maybe on 11th street
5.	If there is a dedicated lot along this corridor, that could make sense. See example in Lathrop by I-5.
6.	Neutral
7.	Wanted food trucks on CorralHollow Road or Tracy Hills
8.	Whatever the property owner agrees to. It should be between the two entities.
9.	Will allow
10.	Ya hay camiones de comida no considero buena opción autorizar más, es mejor designar área para todos. *(English Translation: There are already food trucks I would not consider a good option to authorize more, it is better to designate an area for them all.)*

TRACY

Think Inside the Triangle™

To what extent would you like food trucks allowed in the Downtown area.
(on private property with property owner permission)

990 Responses



TRACY
Think Inside the Triangle™

To what extent would you like food trucks allowed in the Downtown area. (*on private property with property owner permission)*

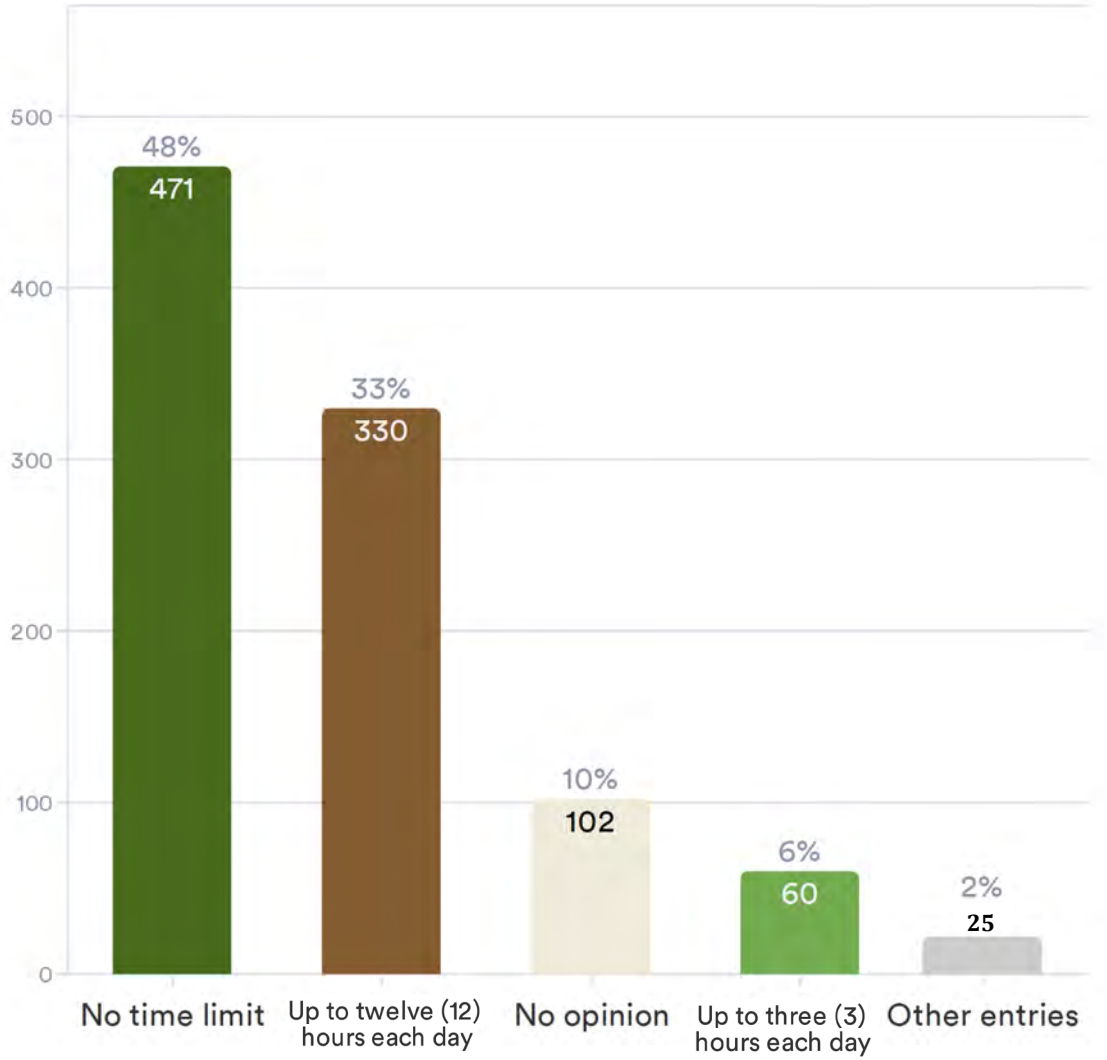
Continued…

20 Responses – 970 Blank/Empty

If "other", please specify below.			
1.	6th street is perfect	11.	Neutral
2.	As long as it's planned and does not create traffic congestion	12.	Not downtown, only restaurants there.
3.	Do not compete with brick & mortar business	13.	Only aloud downtown during events such as the wine stroll.
4.	Downtown events	14.	Or 12 month contracts
5.	Downtown has huge potential and too many empty spaces. This is a good opportunity to bring more people downtown.	15.	Rotate trucks every 30 days in frequently visited areas
		16.	Special event
6.	During events or night time life for dinner	17.	There should be a designated area/empty lot where these food trucks can be allowed to be parked. Just like the area in Lathrop off the freeway.
7.	Events only. Keep our downtown clean and focused on local businesses.		
8.	Food trucks in the old Tracy outlets on Pescadero	18.	This shouldn't be 50 trucks scattered… it should have some areas of aggregation that are well thought and intentional
9.	For special events		
10.	It's too cramped for downtown accommodation. There is not enough ample parking for current business owners or customers	19.	Wanted food trucks on CorralHollow Road or Tracy Hills
		20.	Whatever the property owner agrees to. It should be between the two entities.

How long should a food truck be allowed to stay at a single location within a 24-hour period?
(on private property with property owner permission)

990 Responses



Think Inside the Triangle™

How long should a food truck be allowed to stay at a single location within a 24-hour period?
(on private property with property owner permission)

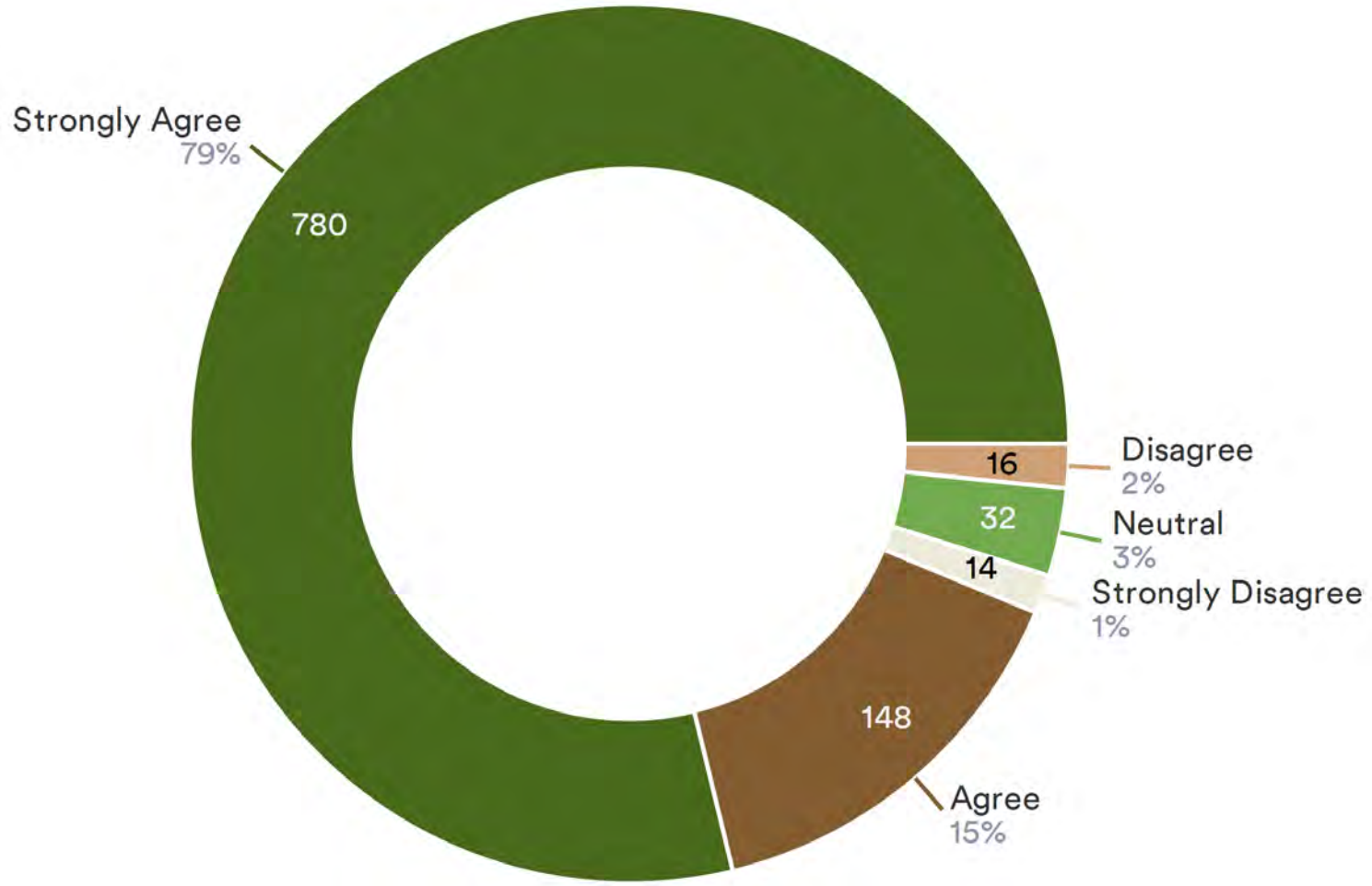
Continued…

20 Responses – 970 Blank/Empty

If "other", please specify below.	
1.	8
2.	10-9:00
3.	6 hours
4.	6-7 hours
5.	8 hour
6.	8 hours
7.	As long as it does not get in the way of other businesses in the shopping center
8.	As long as the area is kept free of trash and homeless encampment than no time limit should be assessed and if violated with trash than permit shall be pulled to have a food truck at location, City shall be responsible for not allowing homeless encampment around businesses.
9.	At least 12 hours but no time limit is better because whats the point of allowing them to be open if they cant be open within the time frame they want
10.	Can any of them stay open later then 10 pm
11.	Estamos pagando mucho tax por la propiedad como para que se mire como en la crows lamding en modesto (*English Translation: We are paying for too much property tax just so it can look like crows landing in modesto.)*
12.	Johnnys diner set up anytime all other added food trucks not at all downtown on a daily
13.	Let business set up their schedules.. why would you regulate that?
14.	Maybe 3-6 hrs/day, depending on if the space has enough parking for food truck business and commercial businesses nearby. i.e. If I go to Home Depot, there needs to be enough parking for the trucks in the lot as well as patrons of the store/businesses nearby.
15.	None
16.	Our current restaurants close early. By the time commuters get to Tracy most are closed or about to close. Same with families with kids in sports….there are little to no restaurants open after games/practices.
17.	Should allow food trucks to post business hours.
18.	should be allowed to operate on evenings and morning
19.	There should be some limit especially for those that are using gas or other non net zero components. Noise and pollution should be considered to encourage and ensure low impact for health, impact on social determinants of health, carbon emissions, etc.
20.	Up to 5 hours

We should allow multiple food trucks to be grouped together, such as food truck courts.

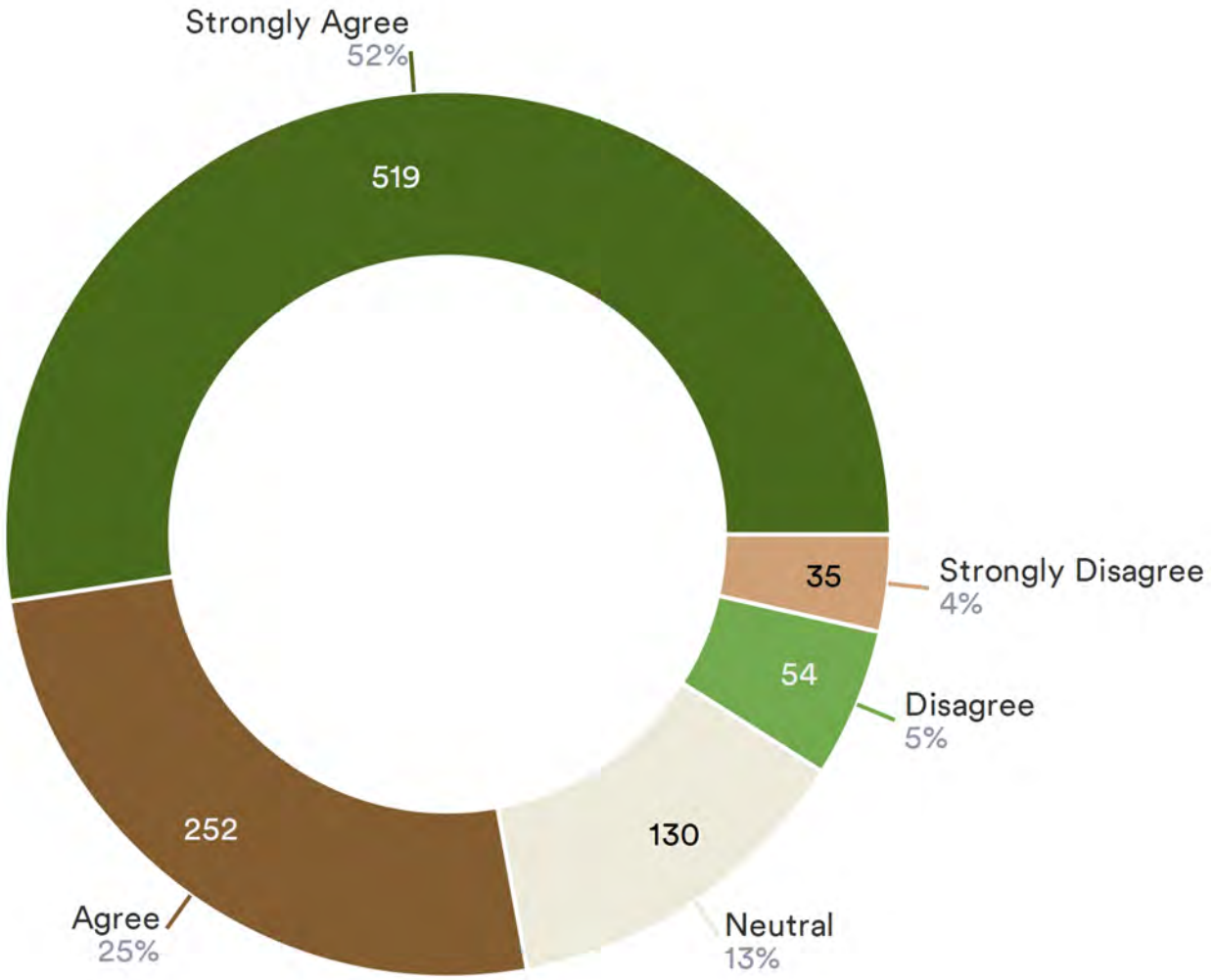
990 Responses



Think Inside the Triangle℠

We should allow individual, stand-alone food trucks.

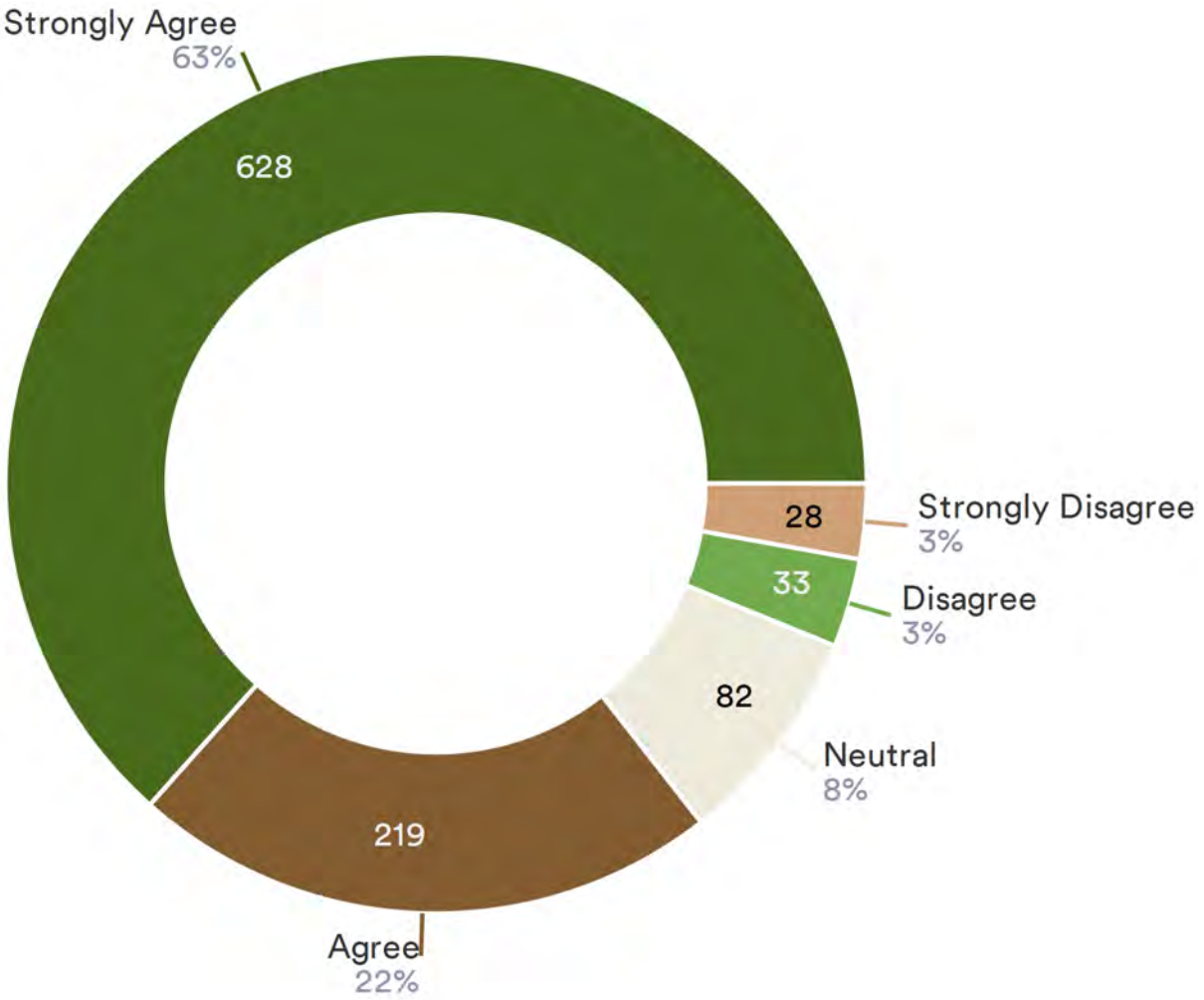
990 Responses



Think Inside the Triangle℠

We should allow a combination of food truck courts and individual, stand-alone food trucks.

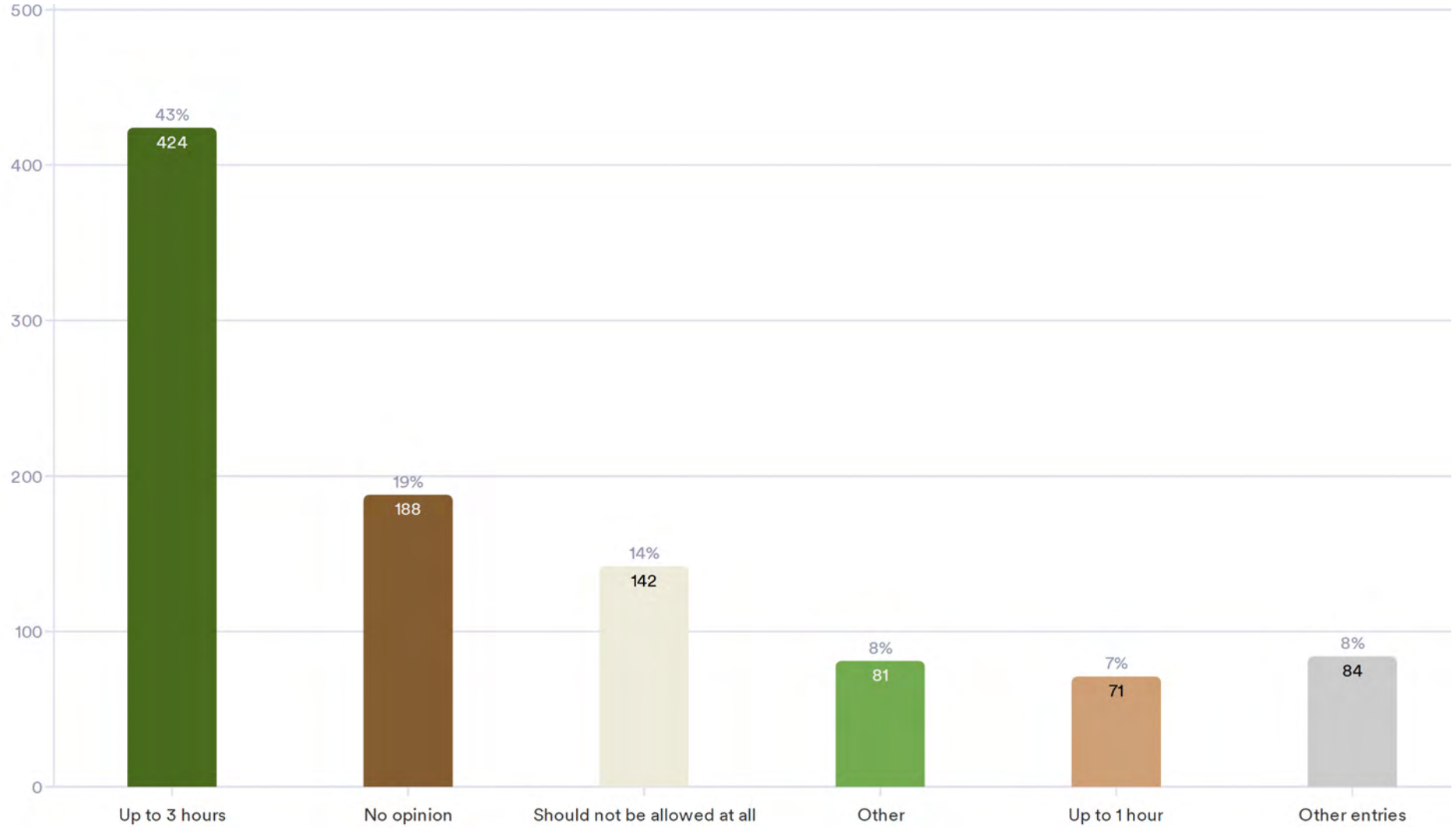
990 Responses



TRACY
Think Inside the Triangle™

How long should a food truck be allowed to park and serve customers in the public right-of-way, such as an on-street parking space in the Downtown area? (Current limit is 10 minutes)

990 Responses



How long should a food truck be allowed to park and serve customers in the public right-of-way, such as an on-street parking space in the Downtown area? (Current limit is 10 minutes)

Continued…

92 Responses – 898 Blank/Empty

If "other", please specify below.

1.	10:200 & 3:00 -8:00
2.	12 hours
3.	12 hours
4.	24/7 to be allowed all day every day late hours of the night too
5.	4 hrs
6.	6 hours
7.	6 hours
8.	6-8 hours
9.	6-8 hours
10.	6-8 hours
11.	72 hour rule same as any other legally registered vehicle in the state of CA.
12.	8 hours
13.	8 hours
14.	8 hrs
15.	Again depending on how the downtown responds
16.	All day
17.	All day
18.	All day
19.	As long as it follows city curfew
20.	As long as possible to build up for traffic and encourage new businesses to open up and contribute to the community!
21.	as long as the costumers keep coming
22.	As long as there not in traffic. It shouldn't matter length of time
23.	As long as they have food
24.	As long as they like
25.	Atleast 8 hours!
26.	Create a good truck plaza like Lathrop
27.	Daily
28.	Depends on location and traffic.
29.	Depends on situation however not blocking parking for customers but in an area where customers can get to them easily and also have right away
30.	Depends on the situation. 10 minutes doesn't seem long enough.
31.	During events and farmers market
32.	During events only
33.	Events only
34.	Farmers market or special events in downtown area already too much happening
35.	For an average amount of time a business is open
36.	For special occasion event. Not a regular basis.
37.	For the duration of the event, like farmer's market or similar. I don't like the idea of them taking up spots unless the whole area is closed for an event.
38.	Full work day 8-10 hours
39.	Have city permits to stay more than 8hrs
40.	How does anyone get food in 10 minutes??
41.	I think the should have a designated area, not utilize an actual parking spot
42.	I think they should be able to stay as along as needed.
43.	If it does not impede or cause more traffic I don't think a time limit is a problem. Although if it does cause more traffic or hurts surrounding businesses it should not be allowed
44.	If it's a space not being used or needed for business no limit
45.	If they are not blocking anything all day is good.
46.	If you place them at a vacant lot, or larger lot like emty lots on 6 street. Another on off 11th next to the old KFC and the large abandoned lot across from that are eye sores - use them as food truck green spaces along with the old family church of praise lot that is an eye store- that all have great walk scores to downtown
47.	In downtown parking areas, I'd like to see them not on the limited street parking because it's tough to park as it is. Lots only. Everywhere else, 3 hours.
48.	Jonny diner set up is fine but NO others in downtown on a daily basis
49.	Keep them out of downtown
50.	Limit by half, this allows communities with inabilities to get to different locations an opportunity still to enjoy cuisine close to home. NO time limit or half of those permanently placed.

How long should a food truck be allowed to park and serve customers in the public right-of-way, such as an on-street parking space in the Downtown area? (Current limit is 10 minutes)

Continued…

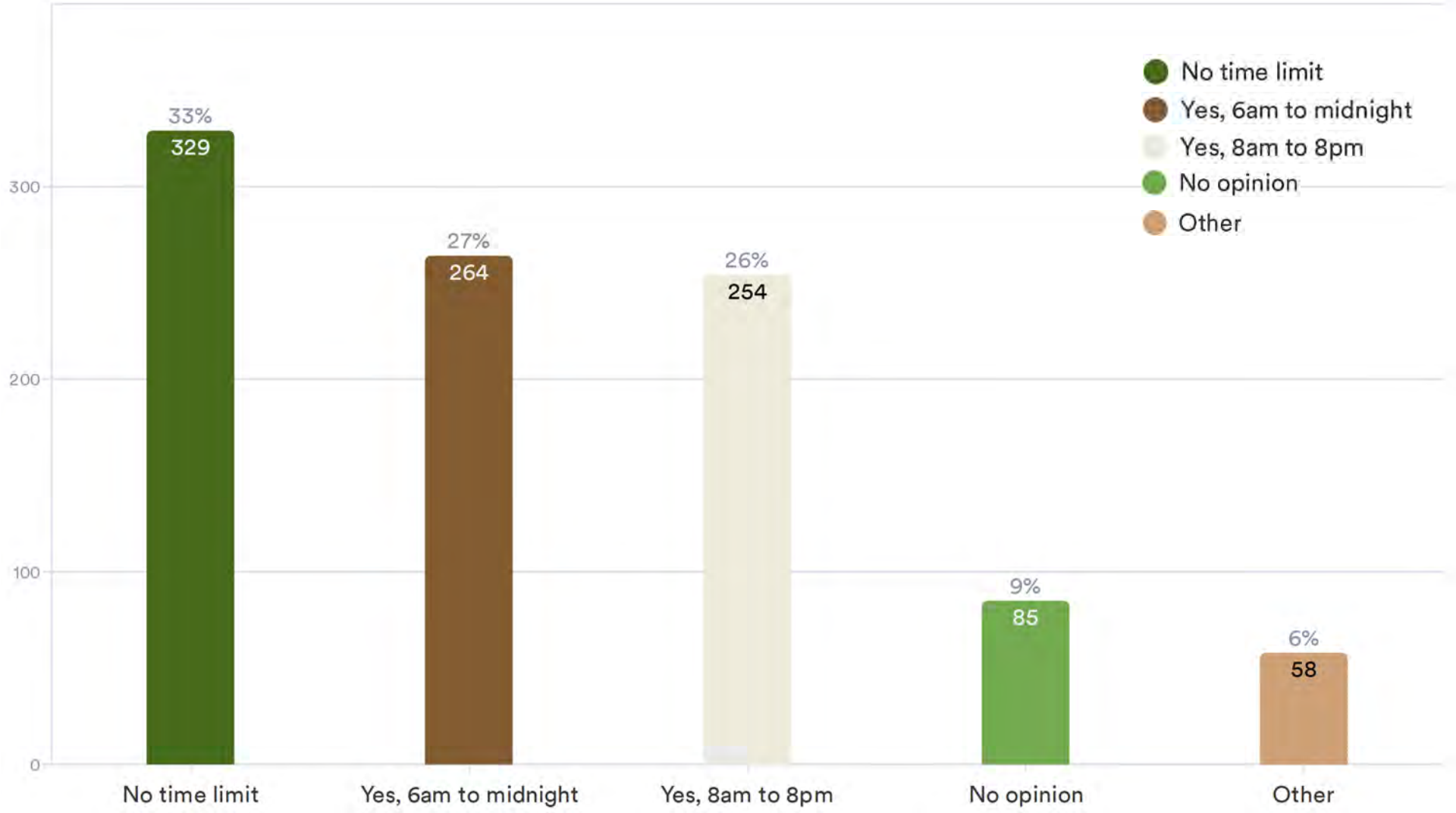
92 Responses – 898 Blank/Empty

If "other", please specify below.

51.	No food trucks downtown that's not fair to the restaurants
52.	No limit
53.	No limit
54.	No limit
55.	No limit !
56.	No limit as long as it doesn't directly impede the daily life of the area
57.	No limit! Tracy needs to move into this time frame and catch up to the rest of the cities around us or you are going to loose good revenue!
58.	No time limit
59.	No time limit
60.	No time limit
61.	No time limit
62.	No time limit
63.	No time limit
64.	No time limit
65.	No time limit
66.	No time limit.
67.	no time limit. Permanent businessess don't have time limit.As long as they have bus. license and health permit. And designate 2 - 3 areas in Downtown (corner of 9th abd B street)near public parking. Area near 6th Transit station parking. And private parking lots with property owner approval
68.	No time restrictions.
69.	Not enough parking to lose to a food truck.
70.	Not in a right of way taking up parking.
71.	On busy days/evenings, it should be not busy main streets downtown to allow for parking
72.	On special nights when streets are closed to driving traffic
73.	Only during lunch hours (11-1), during events, and possibly during designated times on Friday and Saturday nights (7-10pm)
74.	Only during the time of the farmers market
75.	Only for special event
76.	Only special events
77.	Park in an area that wont affect parking for anyone else
78.	Parking is horrible in Downtown already, no need to take up even more parking
79.	Parking should be for customers who actually go to store establishments. Food trucks shouldn't be allowed to take parking spaces.
80.	Should not be allowed down town parking is already shot of space.those spots should be for brick and mortar businesses.
81.	Should not e allowed during normal business hours, unless there is a special event and it serves the greater community while the need is presented.
82.	Sin límite de tiempo *(English translation: Unlimited time)*
83.	Unless supporting an event, then could be longer for event duration
84.	Unlimited
85.	Unlimited time
86.	Until they close for the day
87.	Up to 6 hours
88.	Wanted food trucks on CorralHollow Road or Tracy Hills
89.	What ever it takes to get food to the public in other spaces to serve the public. Once they are available we'll go tho them to get items they offer
90.	whatever makes sense for the city and the business. I don't know if 3 hrs is enough to make sense for the trucks and in which areas.
91.	When they run out of food
92.	Why not set a time every week for like 6 hours? That way, street parking won't be affected daily just for that one day/evening

Regarding both public and private property, should the daily hours of operation for food trucks be limited to certain times of the day?

990 Responses



Regarding both public and private property, should the daily hours of operation for food trucks be limited to certain times of the day?

Continued…

69 Responses – 921 Blank/Empty

If "other", please specify below.

1.	0
2.	10:00 AM to 7:00 PM
3.	10:00-10:00
4.	1000am- 1130 pm
5.	10am -10p
6.	10am to 8pm
7.	10am-10pm
8.	10pm on Fridays and Saturdays, and summer hours
9.	10pm works as an ending time
10.	11 AM to 10 PM
11.	11am - 11pm
12.	11AM TO 11 PM
13.	11am-9pm weekdays, 11am -11pm fri-sat
14.	11pm at the latest
15.	12-9
16.	4-7 pm
17.	5 pm to 8 pm
18.	5pm to 1pm
19.	6 AM-8 PM
20.	6-10
21.	6am-2am
22.	6pm-11:30pm
23.	6pm-9pm
24.	7am to 2pm
25.	8 hours
26.	8am to midnight
27.	8am-8pm is fine for most locations. by the fwy, it could be as early as 6am. again, it has to make sense for the business, for the city and for the location.
28.	Depends on the truck. Some trucks do great during late night hours servicing businesses that open late but kitchens close early
29.	Depends on the type of food 6am to 7 or 8pm
30.	Depends. If there is an event going on. The hours should be similar.
31.	During lunchtime hours, and after work hours in the evening
32.	Evenings
33.	Events only
34.	Food truck courtyard ares in the warehouse area serving 24 hrs. would be helpful
35.	Food trucks shld not be there they sre destroying other people bussiness who pays thousands for rent and all other expenses
36.	For public safety as well as food truck owners.
37.	From lunch until 10 pm
38.	If allowed, only between 1:00 p.m. to 6:00 p.m.
39.	If private property city should stay out of it
40.	It depends on the type of food they have. If it is coffee and pastries , it should there in the morning.
41.	Lunch time and after hours
42.	Na
43.	Need after hours
44.	No deberían estar en medio de la ciudad *(English translation: They should not be in the middle of the city)*
45.	No time limit - open a food hub for food trucks
46.	No time limit but definitely have suggested hours. Do brick n mortars have time limits? s
47.	No time limit. Some of our residents work night shift with no open businesses to eat at.
48.	None maybe it will bring more people downtown especially on Sundays and Mondays
49.	Noon - 6pm
50.	not allow at all

Regarding both public and private property, should the daily hours of operation for food trucks be limited to certain times of the day?

Continued…

69 Responses – 921 Blank/Empty

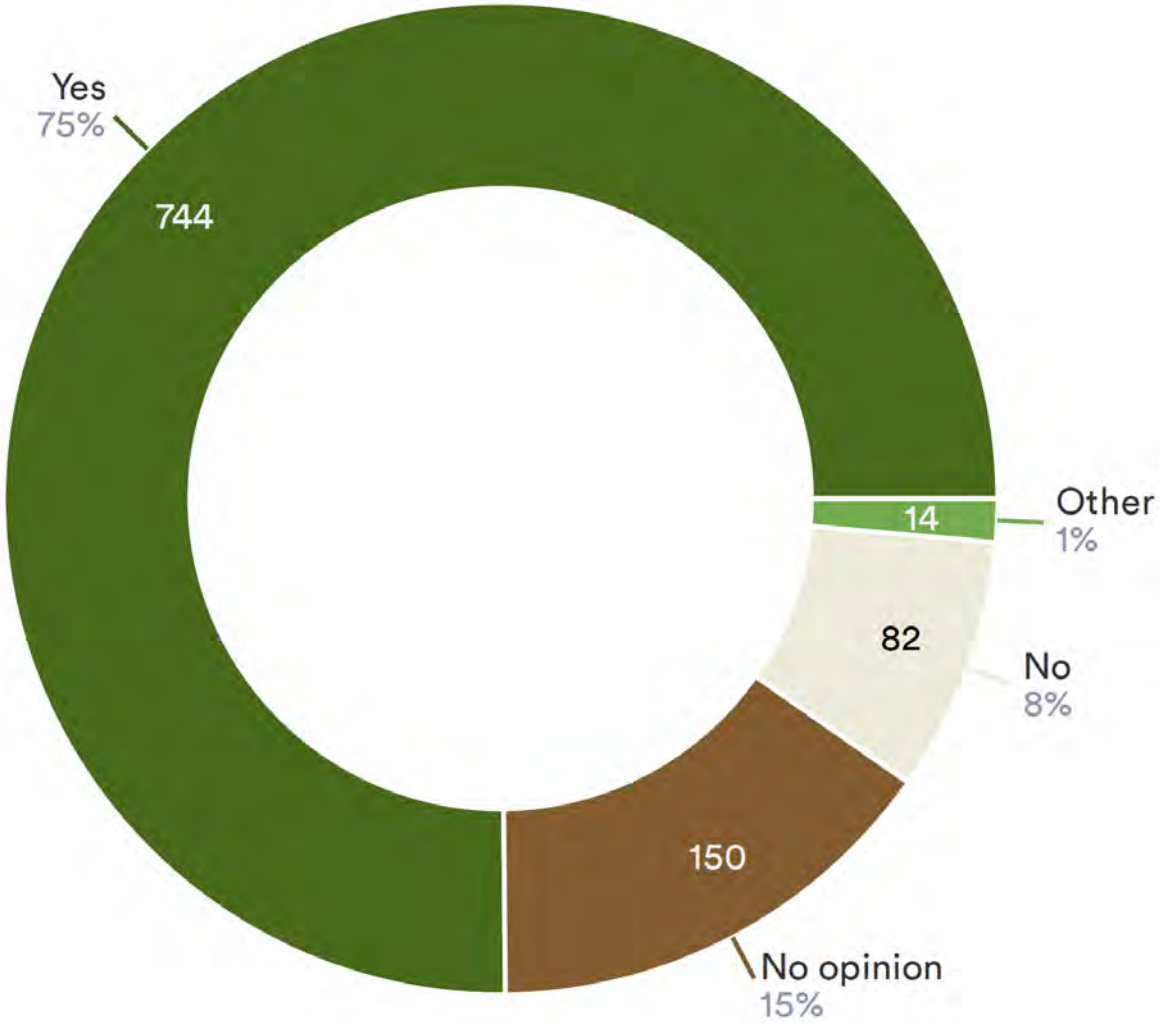
If "other", please specify below.	
51.	Not at all
52.	Not fair to business owners that chose their location and store size and pay rent. These trucks can park anywhere and conduct business. Not fair to business owners.
53.	not sure. What is the demand? Is there enough traffic after 8pm?
54.	Private no limit; public 8-8
55.	Private property owners should have flexibility in when they operate; public right of ways need to be designated and regulated
56.	Should be contained to one location like a food court. Instead of all over the place. Other cities have them all in one area well lite and patrolled feels safer.
57.	Should not be allowed to park and serve from City streets.
58.	Should not be permitted at any hour at all
59.	Solo 6 horas
60.	Up to 8 Mon-Thursday; up to 12 Fri-Sunday
61.	Use single use for business hours. Focus on large food truck groups spaces and things to do in Tracy.
62.	Wanted food trucks on CorralHollow Road or Tracy Hills
63.	We need something open late at night here in Tracy. We only have Denny's and Nations
64.	We need something open past 10 pm
65.	Weekend, Holiday and Event exception to extend the hours to 10 pm or 12 am.
66.	whatever is best for property owners preferably evenings
67.	Yes limited
68.	Yes, 6am to 8pm
69.	You don't limit other businesses.

TRACY

Think Inside the Triangle™

Should food trucks be allowed to operate during any time in the industrial areas?

990 Responses



TRACY
Think Inside the Triangle™

Should food trucks be allowed to operate during any time in the industrial areas?

Continued…

27 Responses – 963 Blank/Empty

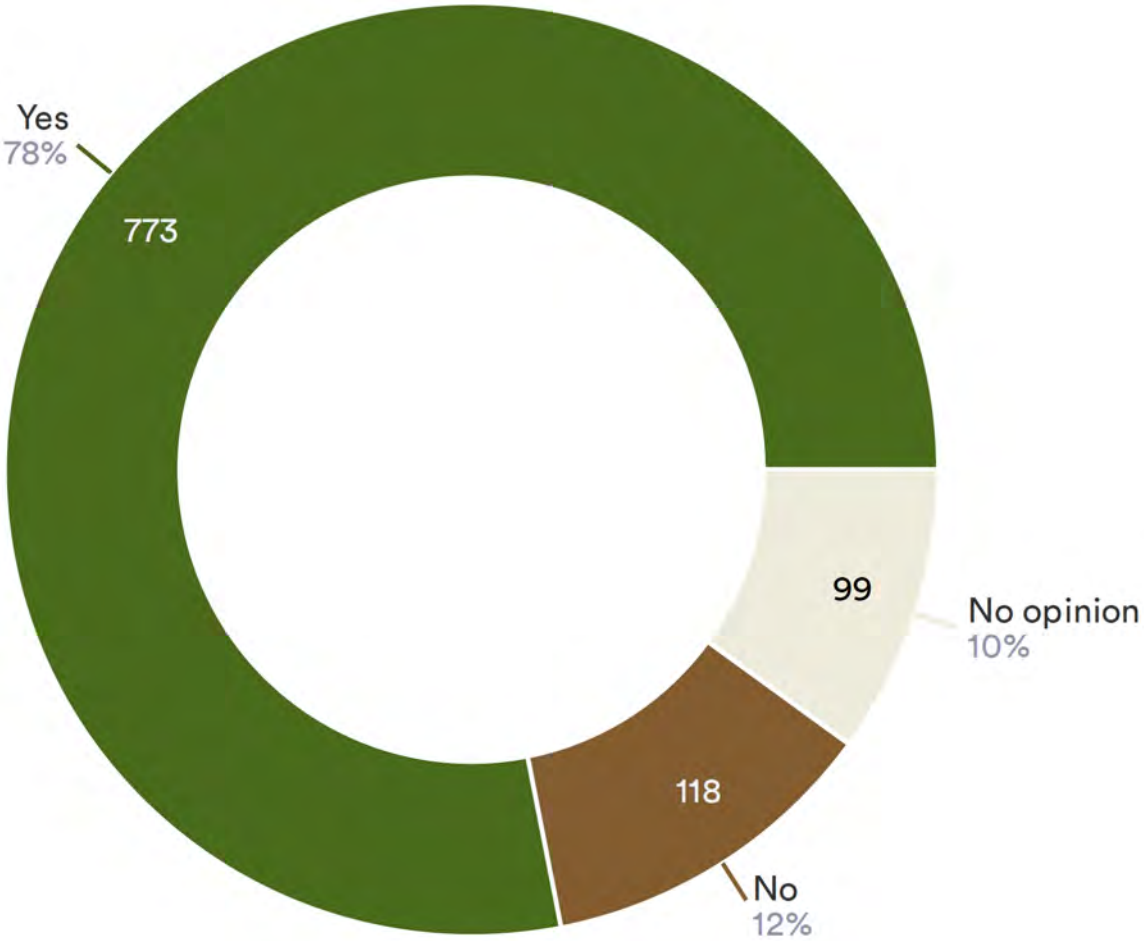
If "other", please specify below.	
1.	8:00 am to 5:00 pm in industrial areas.
2.	After work hours
3.	As long as it's not preventing people to be late for work
4.	As long as they aren't blocking anyone from working
5.	During business hours for the safety of the operators
6.	During business hours only
7.	During business operating hours
8.	During operating hours of the businesses
9.	Food trucks in the warehouse areas would be great
10.	However there should be exceptions based upon activities being created by commercial business.
11.	I still think a timeframe is needed but maybe with some extended hours.
12.	If businesses operate 24-hours, then times should be extended
13.	If commercial businesses are open then food truck should be allowed.
14.	If it's ok with the people near by
15.	Many workers in those areas may work graveyard or nighttime shifts and it's nice for the top right food option
16.	Not permitted at any time at all.
17.	Only during business hours
18.	Only when that business is open
19.	Privately owned property should have more flexibility to operate according to their individual needs; public property needs to be designated and regulated
20.	Restricted hours!
21.	That is up to the property owner
22.	Wanted food trucks on CorralHollow Road or Tracy Hills
23.	When employees are working
24.	Whenever it is busy and workers are there.
25.	Workers need to eat and there are swing shifts
26.	8am to midnight
27.	8am-8pm is fine for most locations. by the fwy, it could be as early as 6am. again, it has to make sense for the business, for the city and for the location.

TRACY

Think Inside the Triangle™

Would you like more food trucks at parks?

990 Responses



TRACY
Think Inside the Triangle™

Would you like more food trucks at parks?

Continued…

41 Responses – 949 Blank/Empty

Add a comment below, if you'd like:

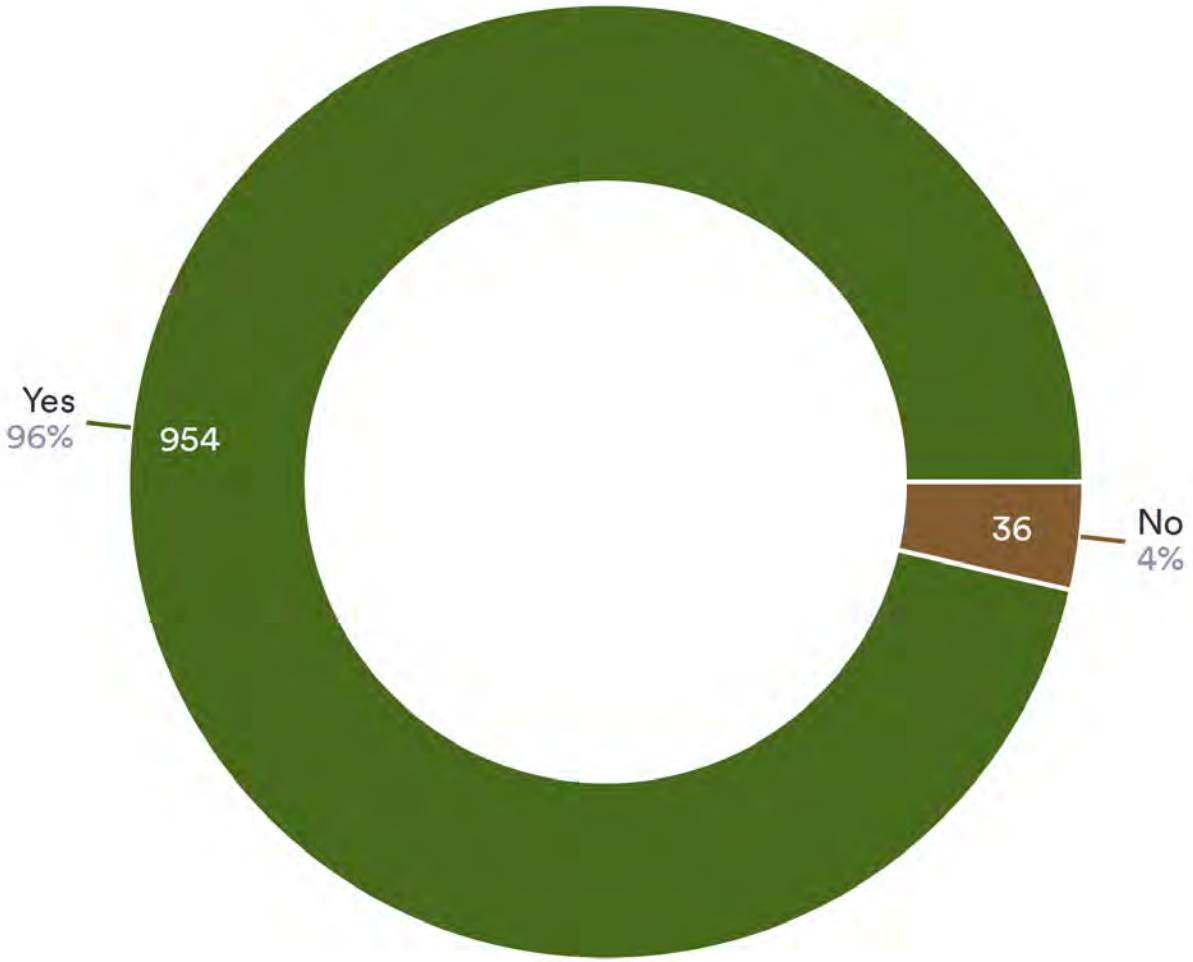
1.	A food truck like Lathrop a would be excellent
2.	As maybe a once a week occurrence.
3.	As part of a structured process and within a specific timeframe
4.	At larger, more attended parks and definitely at events
5.	Bill schwarts park Thursday nights
6.	Bill schwartz
7.	Bring more people out from the shadows of their homes and out into the public. Let's make our community a thriving utopia rather than a reclusive scene.
8.	But.....more trash cans would be needed. Hold food trucks accountable for the garbage
9.	Clean up the parks first!
10.	Creates a sense of community
11.	During events
12.	During events only
13.	Ellis village park
14.	Especially around the residential areas in south of Tracy. Limit the hours of operation only from 5:30 PM to 9:00 PM. s
15.	Food truck events at parks would be nice
16.	Food trucks in the community parks is a wonderful service!
17.	Having weekly food truck events at parks would be nice
18.	I do not think they're required at parks, unless cleanups during and afterwards are being supervised
19.	I think ice cream, coffee, hot coffee and ramen and bo-ba things young people like is a good idea
20.	If it is an organized event
21.	Indian food trucks!
22.	It strange we don't have any out to serve the public at any events big or small
23.	It would be great to have dedicated events at parks with food trucks such as Off The Grid or Food Truck Fridays at different parks in Tracy, maybe in conjunction with Rollin Rec so it's a family type event and it will draw more people to parks
24.	It's tough to answer these as it would depend where and who it effects.
25.	Maximize how many trucks by size of park
26.	May have food trucks at the park when there is an event.
27.	No, unless there is a special event taking place and it acquires some sort day pass.
28.	Not at neighborhood parks unless they have a permit and it's for a special occasions, not all the time
29.	On street parking in neighborhood parks. Asking the neighborhoods if they would like this on a once a week.
30.	Only for events and food truck meet-ups (Off The Grid SF style)
31.	Only for special events
32.	Only if there is enough parking
33.	Please! Especially ice cream, popcorn, sodas/tea/coffee
34.	Solo en ovaciones especiales como días festivos *(English Translation: Only on special occasions like holidays or special events).*
35.	That would be nice for the weekends
36.	The mall would be best
37.	Wanted food trucks on CorralHollow Road or Tracy Hills
38.	Yes please! They're amazing for group events at various parks.
39.	Yes!!!!!!!!
40.	Yes, for special events. Food truck events.
41.	You can eat and enjoy the park with your family

TRACY

Think Inside the Triangle™

Do you live in the City of Tracy?

990 Responses



Think Inside the Triangle™

Any other comments or suggestions?

220 Responses – 720 Blank/Empty

1.	A food truck location similar to what the city of Lathrop has would be ideal.
2.	A food truck park would be a great addition to this town
3.	A food truck park would be great.
4.	A permanent downtown location with multiple trucks would be nice
5.	All food trucks must plan for disposal of all refuse in a certain distance from their food truck.
6.	Allow entertainment at food truck courts as well
7.	Allow more businesses to open in Tracy.
8.	Allowing Food Trucks to permanently park will only hurt small established food businesses . To run a food truck it is less expensive, and basically no employees needed but will end up making the same as those small owned restaurants that have more than 5 employees and pay way more in taxes, and other expenses. By allowing food trucks you are putting small family owned established restaurants at risk.
9.	An area like Lathrop has for food trucks would be a great idea too. Along with allowing food trucks in other areas of city.
10.	As long as food trucks don't create more traffic and dirty environments
11.	As long as the food trucks are following health's no safety standards, i welcome opportunity for businesses to thrive, diversity of food/culture, and convenience of distribution. There's so many spots in Tracy that are sad and unwelcoming. Food trucks with family friends games, music, unique food and adult beverages like beer gardens would be welcome year round.
12.	As long people have the right permits and permission to park there trucks at certain spot that I'm all for it. Don't knock the smaller business owners down.
13.	Born and raised in Tracy, we need more activities for children as well
14.	Bring more businesses not warehouses in town.
15.	Consider doing something similar to Lathrop in regards to a food truck plaza, which does not interfere with other business, does not taking away parking, etc.
16.	Consider regulations that ensure equity and inclusion. You MUST be intentional about policy and regulation to ensure it does not disadvantage underrepresented or marginalized communities. You should include performance measurements and feedback loops both for citizens, commercial and retail business and the food truck owners.
17.	County
18.	Cut the red tape, eliminate bureaucratic hurdles, cut fees, especially focused on new, small, family and locally run businesses.
19.	Deben regular los puestos ambulantes , solo hay regulación para food truck pero no regulan a los vendedores de tacos en puestos en la calle que tampoco colaboran con el desarrollo económico de la ciudad ni con las regulaciones sanitarias. *(English Translation: You should regulate the food carts, there are only regulations for food trucks but you dont regulate the vendors with taco carts on the streets that they don't help contribute to the city's economic development nor with health regulations.*
20.	Deberían de juntar los camiones en un espacio y que las personas puedan ir a ver que consumir *(English translation: You should get all the food trucks together in one area and people can go see what they want to consume)*
21.	Don't live in city limits but have worked there since 1986.
22.	Downtown food truck courts would give space for gathering at ding benches, possibly bring in local music artists, gives downtown merchants more business with shopping, a wonderful gathering for families. SW lot owned by railroad, 6th and Central.
23.	Downtown is not a suitable place for a food truck. Parking already is in short supply. Traffic is congested all day long. A food truck court away from downtown would be a better fit.
24.	Downtown parking is already MASSIVELY impacted by outdoor seating for restaurants. Food trucks should only be lots or private property, not blocking parking.
25.	El emprender un negocio de comida es una excelente idea me encararía ver una área permanente designada para ellos de esa manera se apoya la economía de los emprendedores y sus familias, Se cubre una necesidad en la población y ayuda a la economía de la ciudad; todo esto manteniendo un ORDEN en Tracy. Si se designa una área no se verá fea la ciudad. *(English translation: Starting a food business is an excellent idea. I would like to see a permanent area designated for them in this way the economy of the entrepreneurs and their families is supported. It covers a need in the population and helps the economy of the city; all this maintaining ORDER in Tracy. If an area is designated, the city will not look ugly.)*

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

26.	En los parques deberían permitir los camiones solo los fines de semana, ya que es cuando las familias nos juntamos en el parque. *(English Translation: Food trucks should only be permitted at Parks during the weekends as this is when families get together at the park.)*
27.	Esta bien este tipo d encuesta porq las personas con este tipo d negocio creo no reciben mucho apoyo porq ves las trocas d comida y d repente ya no las ves y pienso q merecen la oportunidad d ganarse la vida honradamente en vez d estar como otras personas pidiendo dinero en las esquinas q se ven muchas es mi opinión gracias *(English Translation: This type of survey is great because i think people with this type of business do not receive a lot of support because you see the trucks and then all of a sudden you don't see them anymore and I think that they deserve the opportunity to obtain a source of income and livelihood honorably, instead of being like other people asking for money at the corners, which you see a lot of. This is my opinion, thank you.)*
28.	Food truck court should be strongly considered.
29.	Food truck gatherings are responsible to keep are clean from litter, city is responsible from allowing homeless encampment from forming in and around these areas.
30.	Food truck groupings are a great idea !
31.	food truck must have city business license and health permit. On private property allow the property owner to determine the time limit (based on City guidelines)On on street public parking such as Downtown: determine 2-3 areas that food trucks can park: and define how many food truck spots can safely park. If there are more food trucks wanting to park than paces available than a rotation can be created to change every week. For Downtown Consider having a Food Truck Organizer/manager (just like farmer markets have) But not affiliated with TCCA. You should also have and we've discussed before: Parks and Recreation Dept could have a list of food trucks /food vendors that meet the operating criteria that get evaluated yearly (just like a business) Do not make food trucks or food vendors have to pay additional permit fees on an ongoing basis.
32.	Food Truck park , similar to Lathrop - Reduces crime at stand alone trucks. Encourages community involvement
33.	Food truck park would be great at the new Western Park in Ellis
34.	Food trucks are amazing and we travel outside of tracy every weekend to food trucks in surrounding areas
35.	Food trucks are fine as long as they keep the area clean
36.	Food trucks are great for use at Farmer's Market and other special events. Otherwise, when parked long-term, they junk up the look and feel of an area. Would you allow a building to be designed to look like a food truck? with flashy colors, unlimited signs, exposed utilities, no landscaping, etc. Of course, not.
37.	Food trucks bring the very social aspects of life in Tracy, and provide options when the restaurant rate of growth is very meager. Please encourage food trucks as it supports the community, community growth for entrepreneurs that live amongst us, and keeps the fun city aspect alive which also helps to keep the city positive and more forward thinking. Thank you for this survey!
38.	Food trucks gathered together in one place with lights and seating makes our town more desirable and brings in more revenue for nearby businesses.
39.	Food trucks in the old Tracy outlets on Pescadero
40.	Food trucks operate on a demand basis... so no demand no business. it's pretty simple.
41.	Food trucks should be allowed , downtown they should be limited but the city has too many empty buildings and parking lots that could be used to host food trucks .
42.	Food trucks should be allowed only when there is an event or on a weekend at a park. Food trucks should all be together in one lot like they are in Lathrop. Also, they should only be allowed to be open 8 to 10 hours. I feel we have enough food trucks around the city. And too many scattered around town would be unattractive to the city and would look like an industrial area.
43.	Food trucks should be allowed to operate like any other legitimate food business in this city. It will bring a better variety and promote small business. As long as the property healthy and safety codes are being followed, and they are staying current with any required business licenses, food trucks, trailer or carts should be welcomed to provide their services in the city limits.
44.	Food trucks should be registered with the City of Tracy so their can be accountability.
45.	Food trucks should be well maintained and sanitary and maybe provide a table or two for customers to sit.
46.	Food trucks south east of valpico
47.	Food trucks would be great here as those of us who live in Tracy won't have to travel far distances to find a good food truck.
48.	Food trucks would bring a nice selection of food options to Tracy.
49.	Food trucks/trailers are fun & tasty!! But PLEASE don't saturate the scene with businesses that serve all the same food. Please get a variety!!
50.	Get them in Malls and commercial areas. Keep them away from parks as it creates clutter and people go to parks for peace and enjoy nature and cluttering that with garbage and excess people is not fun.

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

51.	Give this a 6 month trial ! Then get community input, it could trun out awesome or it's not a good choice for the City of Tracy residents.
52.	Glad to see this survey. Hopefully more options can be offered to our community.
53.	Gracias espero sirva de ayuda *(English Translation: Thank you, I hope this is of help)*
54.	Great that you're looking into this. Just put regulations to keep it classy, not trashy.
55.	Have you researched other cities with successful food truck regulations?
56.	Having an area that is similar to the food truck area in Lathrop would be good for the city. Not the mall area, but more in the downtown area
57.	Having an organized food truck program instead of just allowing them just scattered everywhere would be great.
58.	Having trucks open late would give us more of a night-life opportunity to grow into something more that could bring more people to town.
59.	How about adding a Dutch Bros or a Chic fil a on the south of Tracy. How about more resaurants too????
60.	I actually live in Rural Tracy, in the county but come into town for shopping and work. I love that your considering a Food Truck Court. We have frequented the Lathrop and even Modesto's Food Truck Courts. Lathrop is ALWAYS PACKED! The benefits to having the food trucks together like this are 1) families can have different foods yet eat together. 2) having a bunch of central seating for everyone. You do need a lot of shade structures which provides year-round use, & a ton of parking. In Lathrop, their parking lot is always full and the entire Harlan Rd is lined with patrons. The reason I was against downtown area is that could really affect the resturaunts there. We should keep downtown a destination for resturaunts and nightlife and keep the zoo of the a food truck court to a area away from downtown. Is there any land on 11th street near Chrisman? Yes, on the outskirt of town but after seeing how huge Lathrop has gotten, the traffic is a real thing. Although, They are along the freeway and are high visability. The Mall area is good too since not much is happening there. Thanks for considering this!
61.	I believe that Food Trucks serve the greater good of our community. I also strongly believe that the city should NOT be so overwhelming be concerned about Food trucks parked within commercially owned properties, where the owner of the property has given them their personal permission. Sure, there can be safety and health guidelines to follow, but for the city to deny or restrict a food truck to park on someones commercial property where the owner has granted permission and it serves the greater community, should be allowed. At that point, the public should then be able to choose for themselves if they'd like to patronize them or not.
62.	I believe the best solution is having a dedicated area like Lathrops food truck plaza. It gives people options to purchase from several vendors not just one We have empty areas in Tracy. Look into purchasing land for them to operate on. Tracy could charge rental space monthly as well.
63.	I do not agree that food trucks should be allowed to operate in the downtown area. This is purely based upon the reality that downtown restaurants are struggling as it is to stay busy. There are not enough anchor businesses downtown to support small business owners as it is and they're trying to hard to get business into their doors. Competing with food trucks would make it even more challenging.
64.	I don't live in Tracy but my kids go to school there and I do most of my shopping in Tracy.
65.	I don't mind food trucks as long as they don't interfere with our already outrageous traffic and the revenue of other brick and mortar businesses. I think food trucks in the park or a set up food court locations I are great options.
66.	I frequent Tracy a lot.
67.	I fully support food trucks and feel like there should be more opportunities for them.
68.	I have a Food truck and I have all the permits and SJ health department permit, and insurance. and I'm thinking that all food trucks should be requested to comply with all the permits to operate.
69.	I just don't feel it is fair for a business that opened by choosing their storefront and size of their store. These trucks can pop up anywhere. Businesses that selected their location are being penalized. The same with the restaurants downtown that expanded their size during the pandemic. That was a good idea at the time, but now they should not be allowed to still take over the streets. Businesses that wanted more space had to choose a different location. I think these restaurants are unfair to other businesses in the city that chose their location for their size requirements.
70.	I like the food trucks in Lathrop. . it would be fun to develop an area like that in Tracy. . perhaps the old outlet mall? Something visible from the freeway
71.	I like the idea of a convenient location for a food truck court that is safe and offers parking and easy access
72.	I like the idea of a food truck court, either as a permanent fixture or as an event.
73.	I like the idea of Friday night having food trucks group together for a food truck event at the mall or old outlet parking lots. I think having a permanent weekly event like this would be great! I would love to see a permanent area like Lathrop has.
74.	I like the idea of having a food court type area that food trucks could possibly sign up for a space for certain days and times. With picnic tables and shade. A gathering place. Similar to Lathrop.
75.	I live in Lathrop

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

76.	I live in Lathrop but work in Tracy. Thanks!
77.	I live in Mountain House but go to Tracy a few times a week. I would go more often if there were food trucks especially a food truck court
78.	I live in Mountain House CA but shop in and frequent Tracy at least 3 days a week.
79.	I live in Mountain House, but spend most of my $$ in Tracy. I would live to see a Food Truck court or maybe a food truck night near downtown.
80.	I love food :)
81.	I love visiting the Lathrop Food Truck Plaza. If the city of tracy adds a similar attraction it would be great for the community.
82.	I own a restaurant in downtown Tracy I do NOT want food trucks to be allowed to park any day any time anywhere near my business Food trucks should be for special events only / farmers markets / festivals we do not need the brick and mortar business to compete with food trucks Food trucks should have their own place AWAY from other eateries set up a parking lot for them in industrial areas for warehouse workers since they are so far away from in town business and only have 30 minute lunch/ dinner If other residents want to dine with the trucks they can go out to this location AWAY FROM ALL BRICK AND MORTAR BUSINESSES!
83.	I think a permanent food truck court would add something special to our city. A nice variety of food trucks would be wonderful.
84.	I think doing a good truck court would be amazing! It would be an easy way to locate any food or drink truck business.
85.	I think food truck are great a way to bring the community together as well as bring a variety of foods to the city of tracy. We should support these small businesses as a community.
86.	I think food truck courts would be a great addition to the city!
87.	I think food trucks are a wonderful way to bring new and innovative food options to our area.
88.	I think having various options on a rotation basis makes sense. It provides more options to the community while still protecting local businesses. Having dedicated food truck days with collaboration with city events/resources would be a good idea. I know that Lathrop Food Plaza does very well if something similar is created in Tracy but rotation gives more variety and keeps the system sustainable
89.	I think if you allow food trucks you should have a program that limits the amount of food trucks that are issued. Additionally those who have a Tracy Residence should be priority.
90.	I think the parks would be a great location for food trucks. Not at mall., Home Depot etc.
91.	I think they should be allowed anywhere in Tracie not at just industrial think it's a good idea allowing trucks in Tracy
92.	I think this changes should not affect taco truck owners who are fully permitted
93.	I think we need to hold the food truck owners accountable for the trash in the area we are allowing them.
94.	I went to Florida and they had a food truck court with live DJ on the weekends…it was very lively and the food was delicious.
95.	I would like to see a food truck park.
96.	I would like to see food trucks more at parks or recreational areas. I do not feel that food trucks should be near the small local businesses, other than lunchtime, and after work hours so after 5 PM only I feel it will take away from our small local business owners, especially downtown
97.	I would like to see more food trucks in Tracy. They need to be city permitted and health food certified just like any other place in town. I also would rather like to see them all in one grouped area.
98.	I would love a food truck court at the airport.
99.	I would love a permanent food truck set up (like a food court), around the mall with all the space would be perfect!
100.	I'd think the community and food trucks would benefit greatly by having a monthly food truck event. This would families together and generate food trucks business.

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

101.	I'm all for more food trucks around as long as there is trash cans for people to throw stuff away, we don't want trash all over the place
102.	I'd like to see a food truck group at west valley mall.
103.	I'd love a food truck park like Lathrop has.
104.	I'd love to see more variety in the food trucks. In general we have a lot of taco/ burritos options and not much else.
105.	If allowed city must mo it or performance, trash, traffic co gestion
106.	If allowed to pass I would like to see several peace officers stationed
107.	If any truck doesn't meet the quality food standards, it should be discontinued.
108.	If the city really has an issue with food trucks, find out and fix why brick and mortar restaurants are so difficult to obtain and maintain
109.	If we can't have stores and nothing other than homes are ever built then at least give residents food opinions.
110.	If we have food trucks with a variety of different culture food, it will definitely bring the community out and enjoy the great food. I'm hoping this will move forward for us to have something different to enjoy.
111.	If you aren't going to open more restaurants off Valpico that side of town needs more options for food. Food trucks are a great idea. Lathrop row of food trucks is so good Tracy should open that in the south parts of Tracy blvd
112.	It would be awesome to create a designated food truck plaza like what they have in Lathrop off I-5 but include some shade, grass, seating and make it like a destination place for people to go, hang out, try new foods, etc.
113.	It would be great to have a designated area for a food truck court, with seating, plenty of parking.
114.	It would be great to have a designated empty lot for the food trucks, where seating is available to enjoy the food there.
115.	It would be nice to have a food truck park in the city of Tracy where people can go to.
116.	It's time for the city to move into the 21st Century. Please stop putting road blocks in front of everyone to have small businesses. Most people cannot afford a brick n mortar. Also, consider opening something like Spark Social in SF. Not sure why any of this is even a question, we should be allowing food trucks to run and not just use them when they're conveinent
117.	Just allow them
118.	Just visited the Lathrop Food Truck area a couple weeks ago and thought it would be a great to have in Tracy. There were lots of familiar Tracy faces there as well.
119.	Lathrops food truck court is great. Tracy can do the same, however, they did put them away from any small businesses that they may hurt or block traffic from. They are tucked out of the way of everyday traffic but still visible.
120.	Less regulations on where and how long food trucks should be, unless owner of property says otherwise.
121.	Let people operate these businesses
122.	Let the food trucks determine where to go - they will know more and learn more where they can do the most business. And for gods sake let them come to the south side of town!!!!
123.	Let the food trucks do what they want when they went with the proper operating permits
124.	Let them run and operate without restrictions
125.	Let these hard working people operate inside Tracy!

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

126.	Let us have food trucks!
127.	Limit the traffic downtown. There are to many foolish drivers endangering the public
128.	Looking for types of food trucks, not just Mexican or BBQs and ice cream trucks. More options would be appreciated
129.	Los camiones de comida hacen ver feo al pueblo de Tracy *(English Translation: Food trucks make the city of Tracy look ugly.)*
130.	Love food trucks at events, they are fun & the community loves them. Don't saturate the food truck community with the same style of food, bring in more diverse ones!!
131.	Make it easier for new small business to open up.
132.	Make sure the trucks have a permit and insurance
133.	Maybe the city can create a dedicated space for food trucks. With restrooms and maybe a stage so local kids dance groups/performers/demonstrations/djs/karaoke on the evenings/weekends (Food Trucks there everyday) and can entertain while folks are enjoying their food. A place where residents can come together on a regular basis. NOT charging the trucks huge permit fees or anything. The area that came to mind was one of the dirt lots by the mall. I don't eat much at food trucks myself but think it would be some place to take the family since that is limited here. *BTW, I'm not saying make trucks already with arrangements leave
134.	Me gustaría muchos más restaurantes de varios tipos de comida aquí en Tracy, porque no hay suficientes lugares donde ir comer y con mi familia tenemos que ir a otras ciudades cercanas a comer los fines de semana . *(English Translation: I would like to see many more restaurants with different types of food here in Tracy because there are not enough places to go eat and with my family I have to go to other nearby cities to eat on the weekends.)*
135.	Me gustaría que hubiera un solo lugar para todas las trocas de comida afuera de la ciudad *(English Translation: I would like it if there was a single location outside of the city for all the food trucks.)*
136.	More food options! More local owned!
137.	More food trucks and veggie vendors will give more opportunities for locals around and community bonding . City of fremont has lot of options . If Tracy has such will increase popularity and fame of sanquoin county . Mayor should work on this. Also festive season is. Around corner light up streets and more cultural activities
138.	More Food Trucks please! Would also love to see a food truck court with inside and outside spaces, and with bathroom facilities. These are awesome in places we've visited that have them and they have a great mix of foods and drink (including beer), something for everyone. Please use up existing empty lots for things like this AND more entertainment spaces for our kids and families rather than more housing that Tracy infrastructure cannot handle. Thank you for reaching out to the community, I am hopeful the need for more options is heard and acted upon!
139.	More food trucks the better! Tracy is limited on creative food places food trucks would be amazing!
140.	More food trucks would be great, but allowing them to operate in shopping center parking lots is not fair existing restaurants and may circumvent exclusivity provisions that were built into the leases. Dedicated food truck courts, city parks, businesses without neighboring restaurants, and industrial areas seem like the places foods trucks should be allowed to operate.
141.	More lenient regulations on food trucks so more business in the city of Tracy!
142.	More time is necessary because a lot of people works far away from Tracy and has no time to fine something for lunch or dinner
143.	More variety of food trucks needed. Most are Mexican/Latin food at this time. No more Mexican food trucks please
144.	More variety of food trucks. We have enough Taco Trucks, need more food choices. In The Bay Area, the foods trucks make all types of food.
145.	Most restaurants in Tracy are closed Monday and Tuesday and close early Wednesday-Saturday.. with their existing short staff and minimal quality of food it's nice to have food trucks particularly without government restrictions. Food trucks are essential! And Tracy needs to remove such restrictions and allow these businesses to bloom
146.	My only concern is that in groups of trucks or events to have various food choices. In other words, a variety of food.
147.	NA
148.	Need trucks around Tracy hills and corral hollow junction
149.	No issues with food trucks servicing our community. If they have the proper permits to make food let them
150.	No me molesta que haya camiones de comida! Me gusta comprar en todos..la comida es muy buena... *(English Translation: I am not bothered to have food trucks! I like to buy from the all.. The food is very good.)*

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

151.	No veo nada de malo que estén los camiones de comida ya que es más rápido obtener comida que ir a un restaurante, es una buena opción para quienes trabajamos y necesitamos comida para nuestra hora de desayuno *(English Translation: I don't see anything wrong with food trucks being here as it is much faster to get food compared to going to a restaurant, it's a good option for those of us who work and need food during our breakfast hour.)*
152.	No vivo en Tracy pero seguido compró comida ahí !!!! En los trucks (English Translation: I don't live in Tracy but I frequently buy food there !!!! At the food trucks
153.	Not at this time
154.	Other cities have a food truck court/parking lot designed only for food trucks. It would be convenient to give citizens options in one location. Preferrably Not near the mall, Walmart, or Costco as traffic is very bad in that area. Perhaps near Ellis or Tracy Hills where there is no other restaurants to compete.
155.	Part time
156.	Please allow and do not hinder food trucks in the local parks.
157.	Please bring Trader Joe and Sprouts in Tracy. We been living in Tracy for more than a decade . We can with the help of city council bring nice restaurants and grocery stores in Tracy. Right now, we either go to Modesto or Bay Area to eat at a nice restaurant.
158.	Please create a good truck court, with plenty of lighting for safety and asthetics as well as seating and garbage collection. PLEASE allow them to operate past 8:00pm. I feel like I currently live in an old folks home because most restaurants in Tracy close by 8:00 (or even 7:00!!). We need more if a nightlife in Tracy. Let them be open until 10:00pm!
159.	Please don't harm these small businesses by raising their permits, it's hard times and they need business as other centers in our city. Please invest on entertainment for families cause that is something that is definitely lacking here.
160.	Please don't allow food trucks because we have so many good restaurants in Tracy we don't want them to go out of business so please no food trucks not all all
161.	Please leave the food trucks alone. They are just trying to make a living..
162.	Please make sure food quality and hygienic standard must be maintain by regular inspections. Also it must have regular permits to make sure city revenue increases to spend on other developments. Ie make downtown more beautiful!
163.	Please more food trucks and also we need more stores and more night places to go to like for example more stores to be open in down town late down town looks beautiful at night but you get off and there's nothing to do we need something fun also when family comes visit us is on the weekend they want us to take them to have fun and there's nothing to do
164.	Please read out votes and add more food truck for places half Tracy plaza are empty maybe life would be better if we had good spots to eat right know people drive other towns to give them there money and get food Tracy would benefit from this so I hope city of Tracy can read what people want and not do stupid s**** with our money like open drugs store etc
165.	Please we need food trucks. Every city has this option why not in Tracy?
166.	Please work hard to make Tracy a better place to live. You keep building homes and encouraging people to move here. Give the community resources, entertainment, healthy restaurants and grocery stores for the their wellness.
167.	Prioritize road infrastructure!
168.	Put more options by Edgewood, Ellis & Tracy Hills. We get hungry too and don't want to drive all the way through town and traffic for yummy tacos.
169.	Reduce fee or create one annual fee. Don't require monthly permits for food trucks
170.	Regulate using common sense !. No power grab
171.	Re-vote again after 6 months to see what the community wants.
172.	Safeway, Raleys, Walgree/CVS near Tracyhill/Hill view community.. This area is under server and not have basic facilities
173.	Should have food truck special events at affordable prices. Should have seating available for families and others to enjoy. Ensure safe space to gather and wait
174.	Since food trucks attract people from outside of Tracy, it's best to place them close to the freeway by the mall area and away from residential, parks, industrial offices for public safety.
175.	Solo que tengan todo en regla sus permisos y que mantengan limpia la ciudad *(English Translation: Only that they have everything in order with their permits and that they keep the city clean.)*

Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

176.	something like the Reno public market /mixed with some type of mini golf, arcade, axe throwing activities - would keep Tracy dollars in Tracy and not elsewhere….
177.	Stop concentrating all the commercial development options to the Walmart/Costco/Target areas of town. I live in Tracy and it takes me 20 minutes to get there on a good day. Let there be development and more of these flexible options further south for those of us south of Shulte.
178.	Stop the red stale and get with the program.
179.	street tacos need to be back in Home Depo area i missed those that serve there by lunch time
180.	Tener más vigilancia de Policías en áreas públicas como escuelas o parques alrededor de niños. Cuando aya ventas de comida cercas. *(English Translation: Have more pólice vigilance in public áreas like schools or parks around kids. When there are food sales nearby.)*
181.	Thank you for looking into this!
182.	The best idea is to develop a food truck court area like in lathrop
183.	The city of Tracy was better when no food trucks were allowed.
184.	The City's first priority should eb to support brick your typical brick and mortar eating establishment since such an establishment is a greater economic growth engine than a food truck in terms of payroll (more employees typically work in your average restaurant than in a food truck), property taxes (improvements made to a building or space to house a restaurant creates a higher property tax base which can result in more property taxes going to the City). Food trucks can do to restaurants what the Internet did to traditional brick and mortar retailers, i.e., kill them off. We cannot do anything about the Internet, but as a City we can sure limit the growth and spread of food trucks.
185.	The food offerings from Brock and mortar restaurants is very limited in selection. This could create opportunities for small business amd also provide the community a variety of food options.
186.	The food options in Tracy are horrible. Hopefully food trucks will bring more options and more locations
187.	The Lathrop food truck plaza is what we should be shooting for
188.	The main focus for food trucks should be in areas that do not have a lot of restaurants in the area currently. Why are you not asking about food trucks located south of the downtown area? South Tracy Blvd and Valpico road are good options for food trucks or on Gandy Dancer Drive.
189.	The mall will be best
190.	The south side of Tracy has fewer eating options. We would like to see something like every Thursday the Food Truck Mafia at Raley's parking lot, or somewhere on this side of town. When it's weekly and a variety with tables, bounce houses, etc it becomes a weekly community gathering… where everyone can eat food they enjoy.
191.	There are more important things to be taking care of in this town than this.
192.	There is so much empty space in Tracy. Why not create a food truck plaza like the one in Lathrop or Grub Hub like Modesto, so groups of trucks can operate together and consistently be in the same spot. This will also give Tracy families something fun to do.
193.	There should be a standard for the quality of the food and the cleanliness of the truck. There should also be a garbage can that the trucks carry with them and deploy when they stop.
194.	These stand alone food trucks will hurt local restaurant businesses cause these restaurants have places of doing business, they employ personnel, they pay for state and fed taxes, they pay sick leaves. Pay city taxes which brings lots of revenue to the city. Also it's a way for them to be self employed. Now verses trucks they 1 or 2 people, these Don't pay leases, insurance or other expenses. People please think with right head. Just for last of cheap food look at what you are trying to do. People all understand. Thanks for reading my view of trucks vs brick and mortar restaurants. I don't own any restaurant FYI. Thanks.
195.	They are eyesores and customers litter the areas around them. No health inspections once they get thier county license . City dose not have resorces to inspect or clean up after them. Horrible idea.
196.	Think about all the business that would be competing with these food trucks. Rent is high. Not fair for food trucks to not pay rent nor taxes. We live in a SMALL TOWN. not a big city. Everyone's mom and pop shops would be affected.
197.	This is a waist deep f time and resources. Let people run their lives and pay there bills. If a food trucks in private property it's none of your business other that the heath department permits
198.	To allow more food options at places that might not have food choices
199.	To r city should consider three spots for group food trucks. The mall and all third parties to rent Spence for a Ferris wheel, games, o outdoor fund, in the winter a ice skating ring, summer roller skater, slides, and lots of food trucks would be a good idea to kick around. On 11th food truck green space, music, simply thinks like karaoke, things that draw's family together, fun yet not crazy noisy or active- keep that at the mall. Last downtown Tracy central to 6th street allow that to be a space that promote food and fun, crafts and then tie into the city plaza events
200.	Tracy is my hometown and I visit frequently

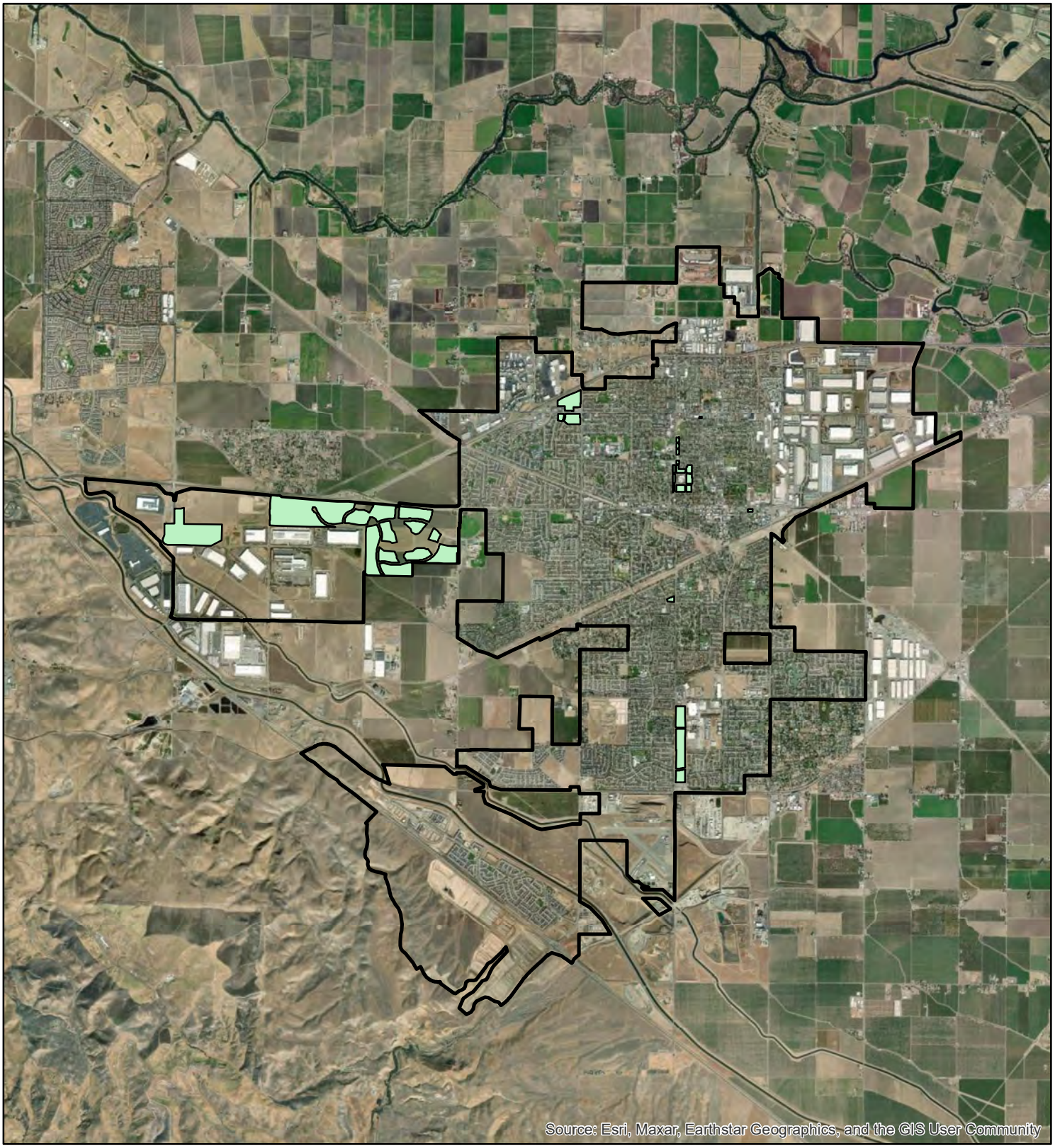
Any other comments or suggestions?
Continued…

220 Responses – 720 Blank/Empty

201.	Tracy needs more things to do. I spend a lot of money outside of this town.. downtown is really thriving and it's a wonderful part of town to spend time in. You should make a food truck court an extension to downtown. Downtown businesses may think that takes away from their business but there are so many people who don't even know Tracy has a downtown because they are always going out of town first. The city needs to introduce more activities to the people, this could be a really fun evening thing to do!
202.	Wanted food trucks on CorralHollow Road or Tracy Hills. Since we live in Tracy Hills, as of now if we wanted any food or food truck we have literally travel 6+ miles to catch a bite. It would be great if you can get us some food trucks nearby Tracy Hills and Corral Hollow road.
203.	We don't need any more food trucks
204.	We live 2 blocks outside city limits but our address is Tracy.
205.	We need a better mall. People shop outside Tracy, all that money is not staying in our city.
206.	WE NEED FOOD TRUCKS IN AREAS THAT ARE NO LONGER BEING VISITED LIKE THE GREAT VALLEY MALL. That mall has been dead for years, although there was a new buffet put in place the food is mediocre. The people from tracy want to see something new and exciting!!! We always get a temporary fair so why not bring on some food trucks?? I would love to see a variety of food not just tacos. Maybe something savory/sweet too.
207.	We need lots of variety not just taco trucks
208.	We need more food options in North East Tracy. It sucks having to drive 20+ minutes to the Naglee area to get something to eat. We have several comunity shopping centers in this are that are under developed, including Red Maple Village. People from Ellis, Tracy Hills and Hidden Lake are grossly underserved. Lets be like Livermore, food options all over the city, not just one overcrowded poorly designed area in the mall.
209.	We need more variety here! Lathrop has a food truck court, Manteca and stockton have trader joes! Let us get something more here!
210.	We need more vegan food trucks
211.	We need to focus on building the community around us, showcasing a thriving Tracy CA, and above all a unified city. It is great to see so many people out enjoying fresh air rather than stuck at home on their computers.
212.	We need to have the downtown more active on the weekends, it's a commuter town and no one wants to drive out of town on the weekends
213.	We need to liven Tracy up. I've lived here all my life and I would love to have places to eat late at night, more options for food, more ways for people to get together and build community. The easiest way to do that is with food. As long as traffic isn't obstructed who cares where they are
214.	We should have a designated area for food trucks with limited hours of operation. A stand alone should have time limits, and when not operational trucks should be parked in a designated area.
215.	What is happening to Gretchen Tally Park improvements? Nature trails would be wonderful.
216.	Why does it take so long for city of Tracy to process applications for commercial development. Y'all allowing Manteca to take all the developments cause y'all too slow. Also push for more public transportation to bay area especially ace and update the people on valley link. Valley link to Bart would be a game changer Tracy and a suggestion for it make the transfer as easy as possible.
217.	Would like to trails to hike and bike more
218.	Yeah, should also be inspected and regulated by the health department to prevent foodborne pathogens and unsanitary food preparation conditions
219.	You need to stop having big rigs around tracy and have an area where they park Not in residence area. Instead of focusing on business that would work in the city.
220.	You'll notice I'm not a fan of food trucks downtown competing for customers...these Mom and Pop shops give their blood, sweat and tears to stay afloat. Not trying to have anyone just cruise in, set up ahopy, and pluck customers. Other areas of town are VERY chain restaurant heavy....let them compete with the chains. Also, different trucks aside from taco would be wonderful. We already have 2639392628 taquerias and 19374920 taco trucks....we desperately need variety

Attachment E

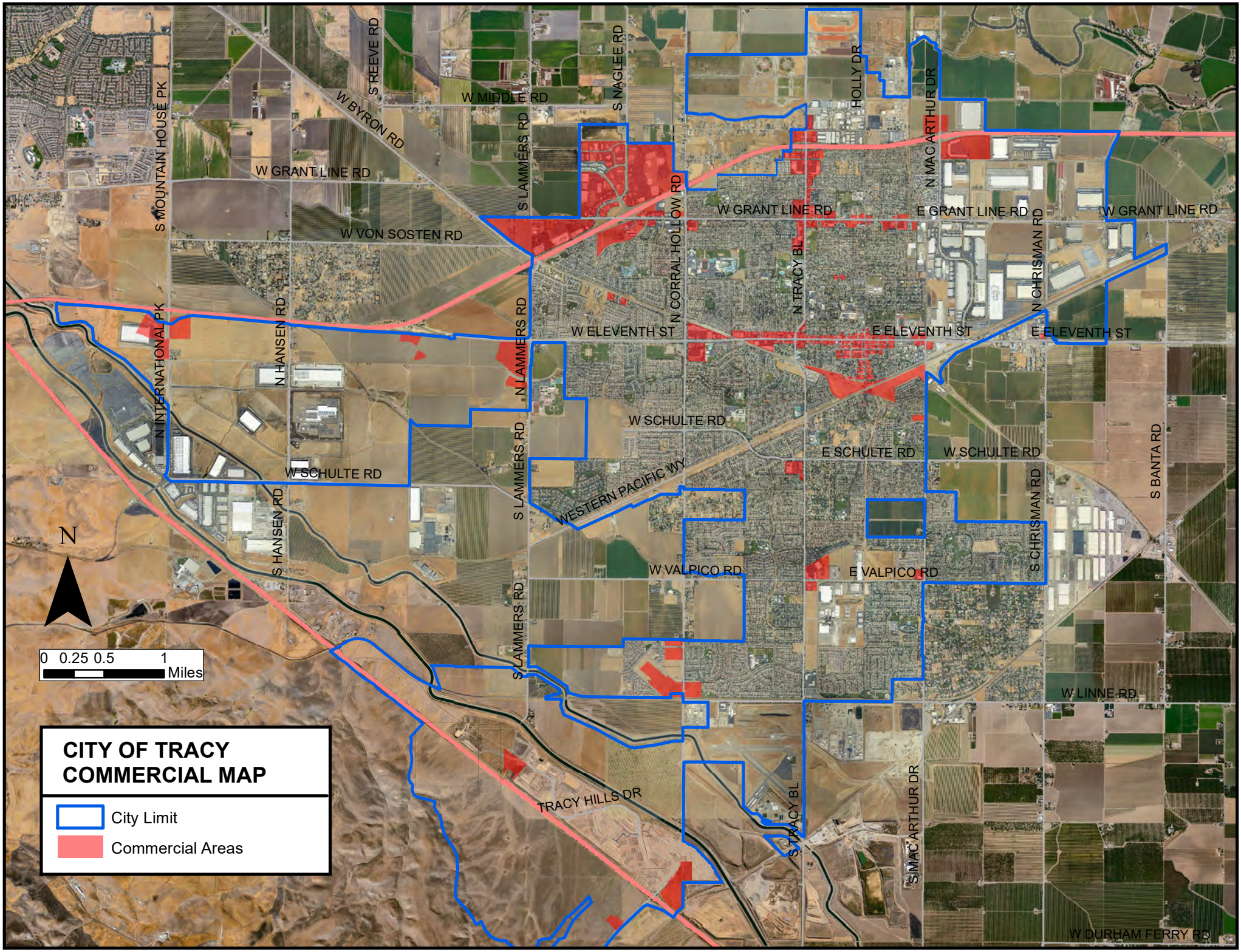
City of Tracy Office Zones



Office
City Limits

0 0.45 0.9 1.8 2.7 3.6
Miles

N


S MOUNTAIN HOUSE PK
S REEVE RD
W BYRON RD
W MIDDLE RD
S NAGLEE RD
HOLLY DR
N MAC ARTHUR DR
W GRANT LINE RD
S LAMMERS RD
N CORRAL HOLLOW RD
N TRACY BL
E GRANT LINE RD
W GRANT LINE RD
N CHRISMAN RD
W VON SOSTEN RD
N INTERNATIONAL PK
N HANSEN RD
N LAMMERS RD
W ELEVENTH ST
E ELEVENTH ST
E ELEVENTH ST
W SCHULTE RD
E SCHULTE RD
W SCHULTE RD
S BANTA RD
W SCHULTE RD
S HANSEN RD
S LAMMERS RD
WESTERN PACIFIC WY
S CHRISMAN RD
W VALPICO RD
E VALPICO RD
S LAMMERS RD
W LINNE RD
TRACY HILLS DR
S TRACY BL
S MAC ARTHUR DR
W DURHAM FERRY RD
N
0 0.25 0.5 1
Miles
CITY OF TRACY
COMMERCIAL MAP
City Limit
Commercial Areas

CITY OF TRACY DOWNTOWN MAP

Downtown / Central Business District Zone

Mobile Food Vendors Not Permitted