

Tuesday, October 5, 2021, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

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

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION. IN ACCORDANCE WITH THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH GUIDELINES, UNIVERSAL MASKING INDOORS IS RECOMMENDED. MASKS ARE REQUIRED FOR UNVACCINATED INDIVIDUALS IN INDOOR PUBLIC SETTINGS. 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: 2550 645 6353** 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 25506456353#8722922#

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "Consent Calendar" "Items from the Agenda/Public Comment" or "Regular Agenda" portions of the agenda will be accepted until the public comment for that item is closed.*

- The total allotted time for public comment will be as follows:
 - *Consent Calendar: 10 minutes*
 - *Items from the Audience: 15 minutes*
 - *Regular Items: 10 minutes*

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

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS

1. Proclamation - Domestic Violence Awareness Month
2. Proclamation - Arbor Day
3. Promotional Swearing-In Ceremony

1. CONSENT CALENDAR

- 1.A. ADOPTION OF SEPTEMBER 21, 2021 CLOSED SESSION AND REGULAR MEETING MINUTES
- 1.B. AUTHORIZE STAFF TO INITIATE THE PROCESS TO PARTICIPATE IN THE PROPOSED LOS VAQUEROS RESERVOIR EXPANSION PROJECT FOR WATER STORAGE AND APPROPRIATE \$280,000 FROM THE WATER FUND RESERVES TO PAY FAIR-SHARE START UP COSTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROJECT ACTIVITY AGREEMENT
- 1.C. APPROVE CUSTOM SURVEY QUESTIONS FOR INCLUSION IN THE 2021 NATIONAL COMMUNITY SURVEY™ FOR THE CITY OF TRACY
- 1.D. WAIVE SECOND READING AND ADOPT ORDINANCE 1317, AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 7.32, PARKLETS, TO TITLE 7, PUBLIC WORKS, OF THE TRACY MUNICIPAL CODE
- 1.E. AMEND COUNCIL POLICY FOR REIMBURSEMENT OF TRAVEL AND EXPENSES FOR ELECTED AND APPOINTED OFFICIALS
- 1.F. ACCEPT UPDATE ON FISCAL YEAR 2021-2023 MULTI-YEAR AND SHORT-TERM CITY COUNCIL STRATEGIC PRIORITIES AND WORKPLAN
- 1.G. RECEIVE AN UPDATE ON THE TRACY CITY CENTER ASSOCIATION (TCCA) SPECIAL EVENT PERMIT WHICH WILL NOT BE EXTENDED AT THE REQUEST OF TCCA AND WILL EXPIRE ON OCTOBER 14, 2021
- 1.H. PROVIDE AN UPDATE TO THE CITY COUNCIL ON THE POLICE DEPARTMENT'S RESPONSE TO FIREWORKS COMPLAINTS AND OFFICIAL CITY EVENTS DURING THE JULY 4TH WEEKEND

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA
 - 3.A. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)
 - 3.B. APPROVE AN AMENDMENT TO ADD ANIMAL BOARDING FACILITIES AS A CONDITIONALLY PERMITTED USE WITHIN THE GENERAL INDUSTRIAL LAND USE DESIGNATION OF THE INDUSTRIAL AREAS SPECIFIC PLAN (SPA20-0009)
 - 3.C. DISCUSS CITY'S DEVELOPMENT AGREEMENT PROCEDURES AND PROVIDE DIRECTION TO STAFF
 - 3.D. INTRODUCE AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION 6.36 TO INCREASE THE NUMBER OF CANNABIS BUSINESS PERMITS FOR RETAILERS-STOREFRONT (DISPENSARIES) TO ONE DISPENSARY PER 10,000 RESIDENTS
 - 3.E. DISCUSS AMENDING REQUIREMENT FOR A SUPERMAJORITY VOTE (OR FOUR-FIFTHS VOTE) OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY AND PROVIDE DIRECTION TO STAFF
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
6. COUNCIL ITEMS AND COMMENTS
7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

September 21, 2021, 5:45 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Young called the meeting to order at 5:46 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Arriola, Bedolla, Davis, Mayor Pro Tem Vargas and Mayor Young present.
3. ITEMS FROM THE AUDIENCE – None
4. CLOSED SESSION

a. Real Property Negotiations (Gov. Code, § 54956.8)

Property Location: APN: 235-068-06
729 N. Central Avenue, Tracy, CA

Negotiators for the City: Bill Dean, Interim Development Services Director
Michael Nimon, Economic Development Manager
Barbara Harb, Economic Development
Management Analyst II
Scott Claar, Senior Planner
Leticia Ramirez, City Attorney

Under Negotiation: Price & Terms of Payment

b. Conference with Legal Counsel – Existing Litigation (Gov. Code § 54956.9(d)(1))

- i. *City of Tracy v. BBS Adventures, LLC* (San Joaquin County Superior Court Case No. STK-CV-URP-2018-0009827)

PUBLIC COMMENT - Brandon Perry, co-owner of the Great Plate shared history and challenges faced in acquiring necessary permits to repair building, stated there has been significant work done to ensure that building is safe for occupancy, and requested Council to review documents submitted.

Aziz B., affiliated with the proposed buyer for the Great Plate, voiced support to allow current owners time to restore property back to standard.

5. MOTION TO RECESS TO CLOSED SESSION – Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to recess to closed session at 5:55 p.m. Roll call found all in favor; passed and so ordered.
6. REPORT OF FINAL ACTION – None.

7. COUNCIL ITEMS AND COMMENTS – None

8. ADJOURNMENT – Time: 7:12 p.m.

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

The agenda was posted at City Hall on September 16, 2021. The above are action minutes.

ATTEST:

Mayor

City Clerk

September 21, 2021, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

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

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

Mayor Young called the meeting to order at 7:12 p.m.

Mayor Young led the Pledge of Allegiance.

Pastor Timothy Heinrich, Crossroads Baptist Church offered the invocation.

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

Bob Adams, Interim City Manager presented Employee of the Month Award for September to Sergeant Richard Graham, Police Department.

Sekou Millington, Police Chief swore in Police Officer Manuel Fong.

Mayor Young acknowledged National Nanny's Appreciation Week – September 22 through 28, 2021, and also Hispanic Heritage Month – September 15 through October 15, 2021.

1. CONSENT CALENDAR – Rosa Torres, a member of the public requested to pull all the items on the consent calendar stating she needed to look over the agenda for clarification as she was unable to attend any Council meetings due to the meetings allegedly being cancelled.

Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Vargas to call for a recess.

Mayor Young called for a recess at 7:32 p.m., and reconvened the meeting at 7:36 p.m.

Mayor Young stated that the consent calendar would be moved to the end after regular item 3.G to allow Ms. Torres time to review the agenda.

2. ITEMS FROM THE AUDIENCE – Deekay Lee, Teamsters Local 439 Business Representative, shared concerns regarding the drivers for Tracer, which is operated by MTM Transit, and requested support from the City to work with MTM and urge them to increase their wages and benefits and improve the contract.

Anthony Lenoir, Gene Stoica, and Vernice Tenca, bus drivers with MTM shared that benefits are unaffordable and asked Council for support for better wages and benefits from MTM.

Gil Gomez, Teamsters Business Representative for City of Tracy Employees, supported the MTM drivers, and expressed the importance of the MTM drivers.

Gwendolyn White thanked staff for promptly finding a resolution to her previous issue she had shared at the September 7, 2021 Council meeting.

Bob Tanner shared concerns regarding the need to increase Police Officers and additional Police vehicles, and urged Council to ask the community what they want to have for the Police force.

Jamie Medina requested Agenda Item 3.D be moved before Agenda Item 3.A.

Crystal asked about funding for homeless initiatives, requested information on how funds allocated for homelessness are being utilized and asked about COVID and what resources are being provided to the homeless population.

Dotty Nygard, Tracy Earth Project shared two events: October 2, 2021 - bike rodeo, October 6, 2021 - community bike ride, and invited Council to join the events.

Dale Cose requested a longer discussion on what to do with the Great Plate site.

Alice English shared census and redistricting information and announced on September 29, 2021 Lodi will be having an outreach regarding redistricting.

Carlton, driver with MTM asked Council to assist the employees of MTM.

3. REGULAR AGENDA

Mayor Young asked Council if they were opposed to moving item 3.D to the beginning of the regular agenda, as requested by Jaime Medina under items from the audience. Council was not opposed to moving the item.

Bob Adams, Interim City Manager pulled item 3.F as there are some items staff would like to complete. The item was continued to the October 5, 2021 meeting.

DEVIATION

3.D RECEIVE UPDATE ON CITY OF TRACY HOMELESS INITIATIVES INCLUDING COMMUNITY PRESERVATION EFFORTS, TEMPORARY EMERGENCY HOUSING FACILITY PROJECT, FUNDING STRATEGIES AND STAFFING, AND PROVIDE DIRECTION ON PHASING OF THE EMERGENCY HOUSING FACILITY PROJECT AND A TEMPORARY WARMING CENTER DURING FISCAL YEAR 2021-2022

Vanessa Carrera, Assistant to the City Manager provided the staff report.

City Council comments and questions followed.

Ilene McIntire, Project Engineer shared information regarding the impacts of developing an additional project in conjunction with the existing Temporary Housing project.

Ms. Carrera shared the timeline dates for Project Home Key.

Council questions and comments continued.

Andrea Brown asked for clarification as to what the original plan consists of and what would take a shorter time of providing.

Bob Tanner stated that phase one will house about 60 people, shared concerns about the amount of people that will be housed, and once the pandemic is over there will be an increase in the homeless population.

Jamie Medina shared information regarding the Royal Motel, a 32 room motel that could be used for permanent supportive housing and be completed using Project Home Key. Mr. Medina shared that \$230K would be the cost of renovation that would include a stove, ventilation system and cabinets within a month and a half, volunteered his time to get this project done, and requested Council direct staff to pursue the option of Project Home Key.

Crystal asked how the sleeping quarters are going to be separated at the Temporary Housing Project, and stated there has to be more feasible solutions for housing and shared her concerns about the location.

Dan Evans asked if his previous request for an update regarding a biweekly and general progress report on the Temporary Emergency Shelter was in the works, and speaking specifically to the Arbor Road facility stated if other projects do come to fruition would like to see how they impact the overall schedule.

Council comments continued.

Council Member Arriola stated understanding that the only viable project related to Project Home Key is the Royal Motel and is time sensitive and requires some investment from the City, requested a memorandum of viability to be issued if not to Council to Tracy Homelessness Advisory Committee for evaluation. There are opportunities for partnerships and if we can get a viability memorandum we can perhaps join with some of our partners to see if they can supplement some of the staff effort, but need to know first if viable and requested that is done simultaneously with our already projected plan for the shelter. Council Member Davis agreed with Council Member Arriola, and stated a permanent housing conversation needs to take place, would like to talk to County about contributions, and wants no delays with the Temporary Housing Facility.

Leticia Ramirez, City Attorney stated if Council wants the subcommittee to make a recommendation to Council for final action, it could be done that way.

Council Member Arriola asked if a viability study could be done for the October 21, 2021 Tracy Homelessness Advisory Committee meeting and bring back to Council after that meeting.

Midori Lichtwardt, Assistant City Manager clarified the request to have a viability assessment done in memo form and present to Tracy Homelessness Advisory Committee, then have that advisory committee come back at a following Council meeting for discussion and potential vote.

Mayor Young stated that would give Council clarity and have more information as to how that would impact the process we are in currently, so pulled Item 4 (*Redeploy current staffing and resources to explore and pursue permanent housing funding opportunities*) to follow through with the subcommittee and based on their recommendation can let Council know. Mayor Young and Council Member Davis supported.

ACTION: Motion was made by Council Member Bedolla and seconded by Mayor Pro Tem Vargas to include the administration building in Phase 1 of the project, proceed with design of 2nd Phase once the 1st Phase is at or near completion, issue an RFP for a warming center contract and return to allocate funding and get a memo on the feasibility of seeking permanent housing funding opportunities. Roll call found all in favor, passed and so ordered.

3.A PUBLIC HEARING TO CONSIDER ESTABLISHING AN UNDERGROUND UTILITY DISTRICT FOR PORTIONS OF VALPICO ROAD, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE NECESSARY PG&E DOCUMENTS FOR COMPLETION OF UNDERGROUNDING

Robert Armijo, City Engineer provided the staff report and responded to questions.

Richard Steiner and Nanda Gottiparthi, SNG & Associates continued with the staff report and explained what an undergrounding district is and why it is important for the Valpico Road widening project, and responded to questions.

Council comments and questions followed.

Mayor Young opened the public hearing.

Craig Schwab asked if bike lanes would be included in this project.

Mayor Young closed the public hearing.

Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt **Resolution 2021-132** establishing an Underground Utility District for portions of Valpico Road, and authorizing the City Manager or designee to execute necessary PG&E forms for completion of undergrounding. Roll call found all in favor, passed and so ordered.

3.B RECEIVE REPORT AND CONDUCT A PUBLIC HEARING REGARDING THE CALIFORNIA UNIFORM CONSTRUCTION COST ACCOUNTING COMMISSION'S FINDINGS PERTAINING TO TEMPORARY REPAIR WORK PERFORMED BY IN-HOUSE STAFF ON CORRAL HOLLOW ROAD

Don Scholl, Director of Public Works, provided the staff report.

Council questions followed.

Mayor Young opened the public hearing.

Mary Mitracos shared her frustration that Public Works employees are not allowed to perform work on a City street, City employees should be used to the fullest extent possible, requested that Council push back when attending the League of California Cities Conference and asked for an update to the California Uniform Construction Costs.

Mayor Young closed the public hearing.

Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to receive the report of the California Uniform Construction Cost Accounting Commission's findings regarding the temporary repair work performed by in house staff on Corral Hollow Road. Roll call found all in favor, passed and so ordered.

3.C PUBLIC HEARING TO INTRODUCE AN ORDINANCE ADDING CHAPTER 7.32 TO THE TRACY MUNICIPAL CODE TO REPURPOSE ON-STREET PARKING SPACES IN THE DOWNTOWN AS OUTDOOR DINING AREAS, KNOWN AS PARKLETS, APPROVE THE DOWNTOWN PARKLET GRANT PROGRAM, AND APPROPRIATE \$500,000 FOR THE DOWNTOWN PARKLET GRANT PROGRAM FROM THE ECONOMIC DEVELOPMENT AMERICAN RESCUE PLAN ACT (ARPA) FUNDING

Michael Nimon, Economic Development Manager, and Scott Claar, Senior Planner provided the staff report and responded to questions.

Council questions followed.

Mayor Young opened the public hearing.

Karen Schwab asked if a bike lane and bike parking can be implemented into plan.

Dino Margaros thanked staff on their work on the project, shared that outdoor dining is critical to downtown, and would like outdoor dining to become a permanent fixture.

Kim Scarlata expressed concerns regarding aesthetics of the original parklets design, does not agree with crowd control fencing, and shared concerns regarding lighting around parklets.

Mike Trotter, Town and Country Café, stated that the restaurant would not have survived had the City not assisted, and recommended that the parklet permits be extended through the end of the year.

Mayor Young closed the public hearing.

Council comments and questions followed.

Mayor Young asked for clarification regarding fencing options.

Bob Adams, Interim City Manager clarified that the intent is to receive input from businesses and affordability, and stated that will come back with recommendations.

Mayor Young asked about options funding assistance.

Mr. Adams stated that Council would be presented with more information in regards to this.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt a Resolution approving the Downtown Parklet Grant Program and appropriating \$500,000 for the Downtown Parklet Grant Program from the Economic Development ARPA funding and extending the permits of the current use for the Parklets until December 31, 2021 and also continue to work on alternative designs with Tracy Commerce Center Association and look into the options of adding lighting if possible.

Council Member Bedolla reminded Council that the reading of the title of the proposed ordinance needed to occur.

Necy Lopez, Deputy City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to waive the reading of the full text and introduce **Ordinance 1317** an ordinance of the City of Tracy adding a new Chapter 7.32, Parklets, to Title 7, Public Works, of the Tracy Municipal Code. Roll call found all in favor, passed and so ordered.

Leticia Ramirez, City Attorney stated that the extension of the special event permit Tracy City Center Association holds is not agendaized and clarified with staff they may not need Council action as it is something that could potentially be done administratively.

Mr. Adams clarified that it can come back to be formally adopted in the next meeting on the consent calendar unless discussion is needed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt **Resolution 2021-133** approving the Downtown Parklet Grant Program and appropriating \$500,000 for the Downtown Parklet Grant Program from the Economic Development ARPA and to continue to work with the design aesthetic with the Tracy Commerce Center Association and create a new ready template and add lighting on parklets. Roll call found all in favor, passed and so ordered.

3.E REVIEW AND DISCUSS STATUS OF THE CITY'S CANNABIS PROGRAM CHANGES DIRECTED AT THE SEPTEMBER 7, 2021 CITY COUNCIL MEETING, AND PROVIDE DIRECTION AS NECESSARY

Midori Lichtwardt, Assistant City Manager recused herself from the item as she is the hearing officer for the current cannabis hearings.

Bill Dean, Interim Development Services Director, provided the staff report.

Council questions followed.

Eric Powers, V.P. of Megan's Organic Market stated expanding the cannabis permits from four to ten is not sustainable, and the City should implement a standardized fee.

Ariana Van Alstine, Tracy Cannabis Collective supported Council's decision for ten applicants to move forward, and expressed support for staff report item five with a friendly amendment to allocate a percentage based on net versus gross sales.

Melinda Ramirez shared concerns regarding ten cannabis licenses being too high and stated it seems like businesses are being set up for failure, disagrees with item 2 on staff report.

Devon Julian, member of Inside the Culture Triangle, an awardee of one of the four original permits, asked for clarification regarding the decision prompting the expansion to ten licenses. Suggested allowing the four that have been awarded a year to get operational, lock in ranking set now, have opportunity to get property and see then if residents want to have additional licenses awarded.

Michaela Toscas asked was this an oversight on a new process and if so needs to be fixed immediately, and asked for discussion regarding noncompetitive applications being reevaluated right away.

Pamela Epstein, representing GOE Tracy dba Garden of Eden, a final applicant commercial cannabis retail permit referred to Option 5 and proposed a friendly amendment to move from gross to net receipts.

Aziz B. supported expanding the permits and shared statistics regarding cannabis revenues and community benefit, and a full or in part refund for the RFP applicants not scored.

Chris Berman, CEO of Manzanita shared support for Council's previous decision to allow all of the finalists to move forward in CUP process.

Quinn Brady shared that moving from 4 to 10 permits is unwise, and would have negative impact for City moving forward. If this Council feels more than four are needed to serve the City, consider six at maximum with option to revisit additional permits two years after all businesses are in operation.

Joe Devin, on behalf of Bowtie Wellness encouraged Council to move forward on direction they approved at the last meeting, and including other applicants that have been excluded is problematic at this time.

Deanna Garcia supported amending of the ordinance to allow ten finalists to move forward in the vetting process of the conditional use permit application, and supported Option #5.

Michelle Trew, Tracy Cannabis Collective supported to allow for the final ten applicants to be further vetted through the CUP process and amending the ordinance to do so, and is also in favor of Option #5.

Zoe Schreiber, on behalf of GOE of Tracy highlighted the proposed 1 in 10,000 ratio is a model that has been successful throughout the State.

Bob Tanner shared that the City should only be looking at the population of adults and not anyone under the age of 18, and suggested opening four or five retail stores maximum.

A member of the public stated he would like to see if the four original can be sustained before adding ten more.

Letty Moran, majority owner of one of the original four successful applicants, who is local stated adding additional store fronts will make expensive real estate harder to come by, and asked Council to consider how this may affect success of initial awarded applicants. Shouldn't go above initial expansion plan of six.

Tony Fernandez, Manzanitas thanked Council for their votes on September 7 to allow the top ten qualified to move forward. It reaffirms Council's commitment to get cannabis moving forward in Tracy.

Mike Warda stated that if additional licenses are going to be granted, it should be based on objectivity of experience, numbers and production. Suggests that all 41 applicants be looked at because the next ten won't get best operators. Need to look at all of it. Bring in their receipts and production.

Ron Roberts expressed the importance of revenue and how cannabis business can assist in that, and shared his concerns regarding using the same selection process to issue six more licenses.

Dotty Nygard, Megan's Organic Market stated that she had submitted information to Council providing statistics. Community benefit plan should be standardized,

and does not believe 10 licenses is fair, let first four get established, reassess and allow more in. To go from 4 to 10 is unrealistic and not sustainable.

Mike Souza, GOE stated he is in agreement with ten licenses being awarded and supported Option #5 and like standardized public benefit and do it on the net proceeds.

Sean Mullin, Doctors Choice Modesto LLC one of the four awarded licenses stated we need to look at if the Police Department can support ten dispensaries. Mr. Mullin suggested starting with four and see then gradually add, and look at cultivation as being another source of generating revenue.

Alex Monceaux wants to focus on non-competitive licenses, recommended that City stays with 4, go to 6 and then expand to 10 incrementally. The process is flawed, should fix the process. Regarding taxes, stated it is better to do a lower percentage of gross.

Lauren Carpenter, Embarc shared hardships faced in the application process and supports item 2 and requested that Embarc's application be rescored. Ms. Carpenter added they are not seeking eleven licenses, only the right to be rescored.

Nicole Trujillo-Rice, UFCW Local 8 representative, stated the retail cannabis operator review process is exhausting for all involved and Council's willingness to review this process means everything for future cannabis operators and employees of this business. Ms. Trujillo-Rice spoke about a letter of support submitted to Council in support for Embarc and encouraged the Council to rescore Embarc.

Megan Souza, Megan's Organic Market Tracy discouraged Council from amending the Cannabis ordinance to allow for 1 retailer per 10,000 residents. If Council is going to go forward with the 10 applicants, allow 4 retail permit awardees to continue with CUP process, score Embarc's application and simultaneously invite the six other applicants and Embarc, if they score over 80%, to participate in a public process where two more applicants are selected to allow for two more permits.

Nicholas Andre, Megan's Organic Market was awarded an initial permit and jointly with other three applicants submitted letter to Council. Mr. Andre suggested that there be six applicants, have public meeting to decide who else comes into the market place.

Adrienne Richardson, City Clerk announced correspondence was received and provided to Council from North Valley Labor Federation, Alyce Eversole, Karen Moore, Louanne Phillips, correspondence on behalf of C.H.C.C, Inc. dba Tracy Cannabis Collective, GOE Tracy, LLC. dba Garden of Eden, Jiva TCY LLC and Altamont Wellness, LLC. dba Bowtie, correspondence on behalf of MOM TR, Inc. dba Megan's Organic Market, Inside the Culture Triangle, Inc., Community Veterans of Tracy LLC, Doctor's Medical Choice Modesto, LLC.

Mayor Young called for a 5 minute recess at 11:10 p.m., and reconvened the meeting at 11:16 p.m.

Council questions and comments continued.

ACTION: Council Member Arriola motioned to 1) increase number of cannabis business permits to one permit per 10,000 population, with a temporary increase to eleven for the initial process 2) to reevaluate the Embarc application 3) implement option #5 of the community benefit plan with sliding scale 4) to bring further modification to revise guidelines and criteria to use for subsequent cycles including separate competitive and non-competitive applications.

Council Member Davis stated the motion is wonderful should Embarc meet the 80% threshold, but if they don't this is only temporary.

Council Member Arriola accepted the friendly amendment with the possibility for a temporary increase to eleven for the initial process depending on Embarc's application.

Leticia Ramirez, City Attorney advised Council that staff needs to do a little more work and figure out how we would implement Option #5 – implement gross receipts as a uniform standard for community benefit. In Option #5 staff just inserted examples. Staff will do more work and vet out how exactly that will work out and come back to Council and ultimately any community benefit agreement that a cannabis retailer enters into will be approved by Council.

Mayor Pro Tem Vargas stated in the spirit of moving forward, and not completely supporting the entirety of the motion and mainly because of the adding of another application, but she can see that we want to move forward in consensus so seconded the motion to move forward with this business.

Roll call found Council Members Arriola, Davis, Mayor Pro Tem Vargas and Mayor Young in favor; passed and so ordered. Council Member Bedolla opposed.

3.F PROVIDE AN UPDATE TO THE CITY COUNCIL ON THE POLICE DEPARTMENT'S RESPONSE TO FIREWORKS COMPLAINTS AND OFFICIAL CITY EVENTS DURING THE JULY 4TH WEEKEND - Item was pulled by Bob Adams, Interim City Manager and will be brought back to Council at the October 5, 2021, regular meeting.

3.G DISCUSS AMENDING REQUIREMENT FOR A SUPERMAJORITY VOTE (OR FOUR-FIFTHS VOTE) OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY AND PROVIDE DIRECTION TO STAFF – Item was pulled by Mayor Pro Tem Vargas, and will be brought back to Council at the October 5, 2021, regular meeting.

1. CONSENT CALENDAR – Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt the consent calendar. Roll call found all in favor; passed and so ordered.

- 1.A ADOPTION OF AUGUST 31, 2021 CLOSED SESSION AND SPECIAL MEETING MINUTES, AND SEPTEMBER 7, 2021 CLOSED SESSION, SPECIAL MEETING AND REGULAR MEETING MINUTES – **Minutes were adopted.**
- 1.B. AUTHORIZE THE ACCEPTANCE OF \$280,149 FROM THE 2021 SHUTTERED VENUE OPERATORS GRANT AND APPROVE THE APPROPRIATION TO THE CULTURAL ARTS DIVISION – GRAND THEATRE CENTER FOR THE ARTS BUDGET – **Resolution 2021-134** authorized the acceptance of the 2021 Shuttered Venue Operators Grant.
- 1.C AUTHORIZE THE PURCHASE OF MULTIPLE VEHICLES AND EQUIPMENT IN THE AMOUNT OF \$807,469 - **Resolution 2021-135** authorized the purchase of vehicles and equipment.
- 1.D AUTHORIZE THE ACCEPTANCE OF A \$66,500 GRANT FROM SAN JOAQUIN COUNTY'S ECONOMIC DEVELOPMENT DEPARTMENT FOR CITY TOURISM ATTRACTION EFFORTS - **Resolution 2021-136** authorized the acceptance of the grant from San Joaquin County's Economic Development Department.
- 1.E APPROVE CLAIM TO BE SUBMITTED TO THE STATE OF CALIFORNIA, THROUGH THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG), FOR STATE OF GOOD REPAIR (SGR) PROGRAM FUNDS IN THE AMOUNT OF \$93,931 FOR THE PROGRAM'S FISCAL YEAR 2017-2018, AND \$117,121 FOR THE PROGRAM'S FISCAL YEAR 2019-2020, AND AUTHORIZE THE FINANCE DIRECTOR TO EXECUTE THE CLAIM – **Resolution 2021-137** approved the claim to be submitted for State of Good Repair Program funds.
- 1.F AUTHORIZE AMENDMENTS TO THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND MASTER SALARY SCHEDULE RELATING TO THE MULTIMEDIA COMMUNICATIONS COORDINATOR AND MULTIMEDIA COMMUNICATIONS ASSISTANT; AND AUTHORIZE THE BUDGET OFFICER TO AMEND THE CITY'S POSITION CONTROL ROSTER FOR FY 2021-22 TO REFLECT THE DELETION OF ONE MEDIA SERVICES SUPERVISOR AND ONE POLICE RECORDS ASSISTANT II AND TO ADD ONE MULTIMEDIA COMMUNICATIONS COORDINATOR AND ADD ONE SENIOR POLICE RECORDS ASSISTANT – **Resolution 2021-138** authorized amendments to the City's Classification and Compensation Plans and Master Salary Schedule.
- 1.G WAIVE SECOND READING AND ADOPT ORDINANCE 1315, AN ORDINANCE OF THE CITY OF TRACY AMENDING ARTICLE 1 "CARD ROOMS" OF CHAPTER 4.04 OF THE TRACY MUNICIPAL CODE TO INCREASE THE NUMBER OF CARD ROOM TABLES ALLOWED AND PLAYER CAPACITY PER TABLE AND CHANGE OTHER OPERATIONAL REQUIREMENTS – **Ordinance 1315** was adopted.
- 1.H WAIVE SECOND READING AND ADOPT ORDINANCE 1316, AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF TITLE 1 OF THE TRACY MUNICIPAL CODE REGARDING CODE ENFORCEMENT, ADMINISTRATIVE CITATIONS AND PENALTIES, AND PUBLIC NUISANCE ABATEMENT – **Ordinance 1316** was adopted.

4. ITEMS FROM THE AUDIENCE – None
5. STAFF ITEMS Bob Adams, Interim City Manager provided an update on the following actions taken by the Interim City Manager during the COVID emergency:
 - Accepted Improvements for Tracy Hills Neighborhood Park 1 within the Dedicated Park site in Village 4A, Tract 3890.
 - Accepted the construction of the 6th Street reconstruction project (west of Tracy Blvd) CIP 73168, Completed by Tracy Grading and Paving.
 - Accepted offsite improvements for the West Linne Road widening at South Tracy Blvd, a Tracy Hills Phase 1A project, constructed by Tracy Phase 1, LLC.
 - Approved four (4) Inspection Improvement Agreements (IIAS) for Tract 4083 – Tracy Hills Village 9A, Tract 4084 – Tracy Hills Village 9B, Tract 4085 – Tracy Hills Village 10C and Tract 4086 – Tracy Hills Village 11A.
 - Approved Inspection Improvement Agreement (IIA) for Tracy Hills Drive 1B-1 improvements.
5. COUNCIL ITEMS - Mayor Pro Tem Vargas requested a closed session to disclose and share all documents on the threat of a lawsuit by the Fire Chief and a Division Chief sent to City Council, and would like Council to be briefed on the details of all the documents submitted. Mayor Young supported the request for a closed session update.

Mayor Pro Tem Vargas shared that she was appointed to be on the Delta College Advisory Board for the School of Business for the Stockton and Mountain House campus.

Mayor Pro Tem Vargas stated she would like to come back next month and provide a 5 minute update to Council on Valley Link and try to have a representative to attend. There is a lot of movement happening.

Council Member Bedolla requested support in regards to the cannabis program for a local tax rebate program with a minimum floor. There are other cities that have a rebate program for local taxes to compensate for the fact that they are not allowed all the same deductions as other businesses. Mayor Young and Mayor Pro Tem Vargas supported a memo.

Council Member Arriola shared the Homelessness Advisory Committee had a positive faith based round table on homelessness, thanked staff and stated he looks forward to future advancements on the project. Council Member Arriola announced Dancing with the Tracy Stars on September 25, 2021, and staff member Brian MacDonald will be participating.

Council Member Davis stated in light of growth all over the City, and in some of the direction the City Council is taking with industries, she requested support to have a discussion about increasing Police Officers. Mayor Pro Tem Vargas supported the request.

Council Member Davis requested support to talk about revisiting the non-competitive cannabis licensing and look at the scoring mechanism the City is using to determine if

we need to modify or create a new rubric for that. Council Member Bedolla supported the request.

Council Member Davis congratulated The Station on their ribbon cutting and wished them the best of luck.

Mayor Young reported on the meetings and events she has attended.

7. ADJOURNMENT – Time: 12:13 a.m. Wednesday, September 22, 2021.

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

The above agenda was posted at the Tracy City Hall on September 16, 2021. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

AUTHORIZE STAFF TO INITIATE THE PROCESS TO PARTICIPATE IN THE PROPOSED LOS VAQUEROS RESERVOIR EXPANSION PROJECT FOR WATER STORAGE AND APPROPRIATE \$280,000 FROM THE WATER FUND RESERVES TO PAY FAIR-SHARE START UP COSTS AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE PROJECT ACTIVITY AGREEMENT

EXECUTIVE SUMMARY

The City of Tracy has a robust and reliable water supply portfolio. However, the curtailments of water supplies by the Bureau of Reclamation during this year's drought and the potential of more severe curtailments during future droughts, may result in significant impacts on the City's water supplies as shown in the City's 2020 Urban Water Management Plan. In order to minimize such impacts and allow the City of Tracy to continue to provide reliable water supplies to its community, staff is exploring various new sources of water supply and storage. Proposed expansion of the Los Vaqueros Reservoir by the Contra Costa County Water District provides a reliable option for storage of excess water during the wet season for use during drought conditions, when needed. Los Vaqueros' Reservoir is located west of Tracy in the Altamont Pass area between Highway 580 and Brentwood area.

This item requests that City Council authorize staff to initiate the process to join other Authority agencies for storage of water in the proposed Los Vaqueros Reservoir and authorize appropriation of \$280,000 from water fund reserves to pay for the City's fair share of the startup costs incurred through June 2021 by the other agencies. It further asks that Council authorize the City Manager to execute the project activity agreement.

DISCUSSION

The City of Tracy has always explored opportunities for new reliable water supply sources and storage opportunities to strengthen its water portfolio and provide high quality water supplies to its community. Even though the City has robust water supplies, the recent curtailments of approved water allocations by the Bureau of Reclamation during the current and ongoing drought and the potential of more severe curtailments in the future, have resulted in the need for staff to explore other water supplies and storage options. With the ongoing drought conditions in the State and potential impacts of environmental changes, the water supply landscape in the State has changed dramatically. Almost all water agencies and irrigation districts are pursuing acquisitions or development of sustainable water sources.

A window of opportunity recently opened for storage of water in the proposed expansion of the Los Vaqueros water reservoir located in the Altamont Pass hills between Highway I-580 and the Brentwood area. The existing reservoir is owned and operated by Contra Costa Water District. The proposed expanded capacity will be used for water storage by various water agencies from the Bay Area and the San Joaquin Valley. Contra Costa

Water District will remain the owner and operate the Los Vaqueros water reservoir once expanded. The project's environmental document has already been approved for expansion of the reservoir from the existing 160,000 Acre feet capacity to 275,000 Acre feet capacity. The project has already received \$11,950,000 in federal funding for preconstruction activities for this project. In addition, the state and federal commitment for this project is estimated at 77% of the total cost with local sharing cost by participating agencies at 23%. Total cost of the project estimated during the feasibility study was estimated at \$895,000,000. The project provides multiple benefits to the agencies partnering and funding the project. It provides more reliable and high-quality water for Municipal and Industrial (M&I) and agricultural uses especially during drought years.

The proposed reservoir is located upstream of the Delta Mendota Canal (DMC) and water will be conveyed through this canal to the member agencies of the San Joaquin Valley partnering with this project. If the City participates in this project, water will be delivered to the City's John Jones Water Treatment Plant from the DMC. The project includes construction of a pipeline from the reservoir to discharge water into the DMC for delivery to the partnering agencies in the San Joaquin Valley.

Water Agencies from the Bay Area and San Joaquin Valley interested in this project have entered into an initial project activity agreement to fund and share water storage capacity constructed from this project. San Luis Delta Mendota Water Authority (Authority) represents the City of Tracy along with 27 other member agencies for dealing with the water supplies from the Central Valley Project (CVP) and other water related services in the San Joaquin Valley. Four members of the Authority including neighboring Byron Bethany Irrigation District and Del Puerto Water District have joined together for pooled storage in the proposed Los Vaqueros reservoir. The Authority is representing the interests of these four agencies under a Project Activity Agreement. If City Council authorizes staff to initiate participation in this project the attached amended Project Activity Agreement, which includes the City of Tracy, needs to be executed. The City will also enter into this Activity Agreement with the Authority.

The project will be funded from the partner agency and state and federal grants. The City's cost for storage, conveyance and operations is estimated to be between \$1,500 to \$2,000 per acre-foot. The City has a narrow window of opportunity to join the other four water agencies from the valley ending in November. If the City joins the group, the City needs to pay its fair share costs already incurred by these four agencies on this project. City's share and other associated costs are estimated at approximately \$280,000. Additional funding will be needed next year and beyond. The estimated maximum cost for 5,000-acre feet of storage for the City will be around \$10 million and will be shared by the existing rate payers and new developments.

Staff believes it will be in the best interest of the City of Tracy to avail of this opportunity and join the above group under the Authority's lead and plan for water storage in the proposed reservoir.

The City will have the opportunity to opt out from this project, at any time, for any reason, before committing to construction funding. However, it will be difficult to join the project at a later date due to the limited water storage capacity that will be available and interest from other agencies.

Staff recommends that the City make a long-term investment to improve and expand its water portfolio for more reliability. Staff is requesting Council to authorize staff to initiate

the process of joining the proposed Los Vaqueros water reservoir project and appropriate \$280,000 from Water Fund reserves.

If Council authorizes staff to initiate the process to join the other agencies, staff will update Council with important benchmarks every three to four months to provide progress and status of the project. During those meetings, staff will provide further breakdown of the project costs, City's share and will request approvals of further necessary actions, accordingly.

STRATEGIC PLAN

This agenda item supports Council's Strategic Priority of Quality of Life by providing necessary infrastructure and also supports the City's Economic Development efforts to provide facilities for attracting new development.

FISCAL IMPACT

The initial funding of \$280,000 required for participating in the Los Vaqueros Reservoir Expansion project will not have significant impacts to the existing water fund reserves needed for unforeseen conditions during emergencies. As the Los Vaqueros Reservoir project progresses, additional funding will be required from both existing ratepayers and new developments based upon further analysis and level of responsibilities.

RECOMMENDATION

That City Council, by resolution, authorize staff to initiate the process to participate in the proposed Los Vaqueros Reservoir project, appropriate \$280,000 from the Water Fund reserves to pay fair-share startup costs and authorize the City Manager to execute the Project Activity Agreement.

Prepared by: Kuldeep Sharma, Director of Utilities

Reviewed by: Karin Schnaider, Director of Finance
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS

Attachment A: Letter Agreement as to terms for the City of Tracy Participation in the First Amended and Restated Los Vaqueros Reservoir Expansion Project Activity Agreement (Amended Project Activity Agreement)

DATE

VIA U.S. MAIL AND EMAIL

Rick Gilmore, General Manager
Byron Bethany Irrigation District
7995 Bruns Road
Byron, CA 94514

Ara Azhderian, General Manager
Panoche Water District
52027 W. Althea
Firebaugh, CA 93622

Anthea Hansen, General Manager
Del Puerto Water District
P.O. Box 1596
Patterson, CA 95363

Tom Birmingham, General Manger
Westlands Water District
P.O. Box 6056
Fresno, CA 93703

Kuldeep Sharma, Director of Utilities
City of Tracy
6649 South Tracy Blvd.
Tracy, CA 95377

**Re: LETTER AGREEMENT AS TO TERMS FOR THE CITY OF TRACY PARTICIPATION IN THE
FIRST AMENDED AND RESTATED LOS VAQUEROS RESERVOIR EXPANSION PROJECT
ACTIVITY AGREEMENT**

Dear All,

On August 5, 2021, the San Luis & Delta-Mendota Water Authority (Authority) Board of Directors adopted a resolution authorizing the execution of the First Amended and Restated Los Vaqueros Reservoir Expansion Project Activity Agreement and the Los Vaqueros Reservoir Joint Exercise of Powers Agreement (LVR JPA). In addition, under the LVR JPA, the Board appointed an Authority representative and alternate to serve on the LVR JPA Board of Directors. Over the past year, Local Agency Partners (LAPs) have worked on the development of the new LVR JPA to govern the implementation of the Phase 2 Los Vaqueros Reservoir Project, including by drafting the LVR JPA.

The First Amended and Restated Los Vaqueros Reservoir Expansion Activity Agreement (LVE Activity Agreement) enables the signatories thereto (the Activity Agreement Members) to participate in the LVR JPA Agreement through the Authority to allow the Authority to obtain

for each of the Activity Agreement Members the benefits, and to share the obligations of the LVR Project. The current Activity Agreement Members include Byron-Bethany Irrigation District, Del Puerto Water District, Panoche Water District, and Westlands Water District; each agency has affirmed its desire to participate in the LVR JPA through its execution of the LVE Activity Agreement.

The City of Tracy has also indicated interest in participating in the LVR JPA through the Water Authority, and becoming a signatory to the LVE Activity Agreement. The addition of a participant in the Activity Agreement is governed by the following provision in the LVE Activity Agreement:

17. ADMISSION OF NEW MEMBERS

Other members of the Authority may become Activity Agreement Members upon (1) the prior written agreement of all of the parties to this Agreement, which will include terms, if necessary, to ensure the Activity Agreement Members do not bear undue financial obligations, e.g., payment of an equal share of the costs previously paid by Activity Agreement Members, including pursuant to the Activity Agreement executed in April 2019, and (2) each member of the Authority seeking to join agreeing in writing to the terms and conditions of this Activity Agreement; provided, however, upon admission of a new Activity Agreement Member, the parties shall agree to the (1) participation percentage of such new Activity Agreement Member, (2) the revised participation percentages of all other Activity Agreement Members, and (3) any necessary modifications to existing Service Agreements and/or Special Project Agreements as may be required.

The current Activity Agreement Members have indicated their willingness to have the City of Tracy become an Activity Agreement Member, assuming compliance with terms to ensure the current Activity Agreement Members do not bear undue financial obligations. The City of Tracy has indicated its willingness to comply with such terms.

Therefore, the signatories to this letter agreement agree as follows:

(1) The City of Tracy will:

- a. Execute the LVE Activity Agreement and comply with all terms in the LVE Activity Agreement; and
- b. Following execution of this letter agreement by the current Activity Agreement Members, submit payment for the equal share for costs previously paid by the other Agreement Members. Per attachment 1, this amount due through June 2021, is \$241,244.21.

(2) Upon receipt of payment, the Water Authority will:

- a. Provide proportional credits to the current Activity Agreement Members from the amount paid by the City of Tracy;
- b. Update the exhibits to the LVE Activity Agreement; and

c. Notify the LVR JPA of the change in its Activity Agreement Member participation, so that the LVR JPA exhibits may be amended.

(3) The current Activity Agreement Members agree that there are no other terms required to add the City of Tracy as an Activity Agreement Member.

(4) This letter agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this letter agreement.

To memorialize in writing the terms presented in this letter agreement, please sign in the space provided below and return to me. Once I receive signatures from each of the parties, I will circulate a fully executed copy of this letter.

Regards,

Pablo Arroyave
Chief Operating Officer
San Luis & Delta-Mendota Water Authority

APPROVED AND AGREED. PARTY City of Tracy	APPROVED AND AGREED. PARTY Westlands Water District
APPROVED AND AGREED. PARTY Panoche Water District	APPROVED AND AGREED. PARTY Byron-Bethany Irrigation District
APPROVED AND AGREED. PARTY Del Puerto Water District	

RESOLUTION 2021-_____

AUTHORIZING STAFF TO INITIATE THE PROCESS TO PARTICIPATE IN THE PROPOSED LOS VAQUEROS RESERVOIR EXPANSION PROJECT FOR WATER STORAGE AND APPROPRIATING \$280,000 FROM THE WATER FUND RESERVES TO PAY FAIR-SHARE START UP COSTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROJECT ACTIVITY AGREEMENT

WHEREAS, the City of Tracy has a robust and reliable water supply portfolio, and

WHEREAS, the curtailments of water supply by the Bureau of Reclamation due to ongoing drought and the potential of future severe curtailments resulting in significant impacts to the City's water supply reliability, and

WHEREAS, the City is looking for options to minimize future drought impacts to its water supply, and

WHEREAS, the proposed expansion of the Los Vaqueros Reservoir is a viable option to store water during wet seasons for use during dry and drought conditions, and

WHEREAS, most of the major water agencies in the Bay Area and four irrigation districts in the San Joaquin Valley have entered into an agreement to participate in the Los Vaqueros Reservoir expansion, and

WHEREAS, four irrigation districts and the City of Tracy, along with other water agencies in the San Joaquin Valley, are represented by San-Luis Delta Mendota Water Authority (Authority) to deal with the Central Valley Project (CVP) water supplies, and

WHEREAS, the Authority also represents the four irrigation districts for the Los Vaqueros Reservoir Project, and

WHEREAS, staff believes it is in the best interest of the City of Tracy to participate in the Los Vaqueros Reservoir Expansion Project for storage of water, and

WHEREAS, the project environmental document has been completed and the City needs to make the partnership decision as soon as possible, and

WHEREAS, the project, due to its high visibility, will be eligible for State and Federal funding as well, and

WHEREAS, the City's cost of storage of water in the reservoir conveyance and operations is estimated between \$1,500 - \$2,000 Acre feet at this time, and

WHEREAS, if Council authorizes staff to initiate participation in the Los Vaqueros Reservoir Expansion Project, the City needs to share costs already incurred by the other four agencies through September, and

WHEREAS, the estimated City's share and other costs is \$280,000, and

WHEREAS, an appropriation of \$280,000 will be needed from the Water Fund reserves to initiate participation in this project, and

WHEREAS, if Council authorizes staff to initiate participation in the Los Vaqueros Reservoir Expansion Project, the Project Activity Agreement will need to be executed, and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes staff to initiate the process to participate in the proposed Los Vaqueros Reservoir Expansion Project for water storage, appropriate \$280,000 from the Water Fund reserves to pay fair-share startup costs and authorize the City Manager to execute the Project Activity Agreement.

The foregoing Resolution 2021-____ was adopted by Tracy City Council on the 5th day of October 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

APPROVE CUSTOM SURVEY QUESTIONS FOR INCLUSION IN THE 2021 NATIONAL COMMUNITY SURVEY™ FOR THE CITY OF TRACY

EXECUTIVE SUMMARY

On June 1, 2021, staff presented an item to Council to discuss and provide direction on the 2021 National Community Survey™ or The NCS™ for the City of Tracy. The NCS™ is used to measure satisfaction levels of City services among residents across multiple service areas and to compare survey results against other cities who have participated in the survey. The survey is administered by Polco, and is typically issued by municipalities every two to four years.

Within the survey, there is room to add roughly three custom questions on topics specific to the community. It was Council's consensus to incorporate the following question categories in The NCS™ for Tracy: funding priorities, infrastructure, and Transit Oriented Development (TOD). This staff report requests Council's approval on the custom survey questions highlighted in Attachment "A", questions 13-16.

DISCUSSION

In 2014 and 2016, the City of Tracy partnered with The NCS™ to measure satisfaction levels of City services among residents across multiple service areas and to compare survey results against other cities who have participated in the survey. The NCS™ was developed to provide a statistically valid survey of resident opinions about community services provided by government agencies. Survey results are used to build community awareness on local issues and satisfaction levels of City services and programs, support annual budget planning and strategic priority setting, and benchmark findings against similar jurisdictions and previous survey results.

On June 1, 2021, staff requested that Council discuss and provide direction on the 2021 NCS™ including opportunities for custom survey questions. It was Council's consensus to incorporate the following question categories in The NCS™ for Tracy: funding priorities, infrastructure, and Transit Oriented Development (preferred location and components). Staff worked with the Polco team to develop the custom survey questions which are highlighted in Attachment "A", questions 13-16. The remaining 17 questions are standard within The NCS™, however, staff intends to remove the questions related to snow removal, electricity, and health services, as they are not reflective of City services. Due to limited space in the survey, staff incorporated infrastructure within the funding priorities question, and provided background information on TOD for context.

Once the custom survey questions are approved by Council, Polco will finalize the survey and mailing materials and open the survey by mid-October. Survey invitations will be sent to approximately 2,700 randomly selected households. A postcard is sent first to

the random sample announcing that a survey will follow. The first survey arrives a week later and is followed by a second survey two weeks later. A web address is also provided to allow for online completion. The open participation portion of the survey will be made available online roughly one month after the survey is launched and is open to residents who were not selected as part of the random sample group. The City will distribute the open participation survey link widely to get maximum participation.

Once the survey closes and results are compiled and analyzed, the City will receive a summary of the results and present them before the City Council with the aid of a senior Polco staff member. Survey results will also be posted to the City website for public viewing. Staff will return in winter 2022 to present the results of the survey.

FISCAL IMPACT

There is no fiscal impact associated with the approval of this item.

STRATEGIC PLAN

This agenda item supports the City Council's FY 2021-2023 Governance Strategic Priority, and specifically implements the following goal:

Goal 1: Enhance community engagement through technology.

Objective 2: Conduct National Community Survey™ (The NCS™) to better assess community priorities.

RECOMMENDATION

That the City Council approve, by resolution, the custom survey questions for inclusion in the 2021 National Community Survey™ for the City of Tracy.

Prepared by: Vanessa Carrera, Assistant to the City Manager

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS

A - Draft 2021 National Community Survey (The NCS) for Tracy

The City of Tracy 2021 Community Survey

ATTACHMENT A

Please complete this survey if you are the adult (age 18 or older) in the household who most recently had a birthday (the year of birth does not matter). Your responses are confidential and no identifying information will be shared.

1. Please rate each of the following aspects of quality of life in Tracy.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Tracy as a place to live.....	1	2	3	4	5
Your neighborhood as a place to live	1	2	3	4	5
Tracy as a place to raise children.....	1	2	3	4	5
Tracy as a place to work	1	2	3	4	5
Tracy as a place to visit	1	2	3	4	5
Tracy as a place to retire.....	1	2	3	4	5
The overall quality of life in Tracy.....	1	2	3	4	5
Sense of community.....	1	2	3	4	5

2. Please rate each of the following characteristics as they relate to Tracy as a whole.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Overall economic health of Tracy	1	2	3	4	5
Overall quality of the transportation system (auto, bicycle, foot, bus) in Tracy	1	2	3	4	5
Overall design or layout of Tracy's residential and commercial areas (e.g., homes, buildings, streets, parks, etc.)	1	2	3	4	5
Overall quality of the utility infrastructure in Tracy (water, sewer, storm water, electric, gas)	1	2	3	4	5
Overall feeling of safety in Tracy.....	1	2	3	4	5
Overall quality of natural environment in Tracy.....	1	2	3	4	5
Overall quality of parks and recreation opportunities.....	1	2	3	4	5
Overall health and wellness opportunities in Tracy.....	1	2	3	4	5
Overall opportunities for education, culture, and the arts.....	1	2	3	4	5
Residents' connection and engagement with their community	1	2	3	4	5

3. Please indicate how likely or unlikely you are to do each of the following.

	<u>Very likely</u>	<u>Somewhat likely</u>	<u>Somewhat unlikely</u>	<u>Very unlikely</u>	<u>Don't know</u>
Recommend living in Tracy to someone who asks	1	2	3	4	5
Remain in Tracy for the next five years	1	2	3	4	5

4. Please rate how safe or unsafe you feel:

	<u>Very safe</u>	<u>Somewhat safe</u>	<u>Neither safe nor unsafe</u>	<u>Somewhat unsafe</u>	<u>Very unsafe</u>	<u>Don't know</u>
In your neighborhood during the day.....	1	2	3	4	5	6
In Tracy's downtown/commercial area during the day	1	2	3	4	5	6
From property crime.....	1	2	3	4	5	6
From violent crime.....	1	2	3	4	5	6
From fire, flood, or other natural disaster	1	2	3	4	5	6

5. Please rate the job you feel the Tracy community does at each of the following.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Making all residents feel welcome	1	2	3	4	5
Attracting people from diverse backgrounds.....	1	2	3	4	5
Valuing/respecting residents from diverse backgrounds.....	1	2	3	4	5
Taking care of vulnerable residents (elderly, disabled, homeless, etc.).....	1	2	3	4	5

6. Please rate each of the following in the Tracy community.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Overall quality of business and service establishments in Tracy	1	2	3	4	5
Variety of business and service establishments in Tracy	1	2	3	4	5
Vibrancy of downtown/commercial area	1	2	3	4	5
Employment opportunities	1	2	3	4	5
Shopping opportunities	1	2	3	4	5
Cost of living in Tracy.....	1	2	3	4	5
Overall image or reputation of Tracy	1	2	3	4	5

7. Please also rate each of the following in the Tracy community.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Traffic flow on major streets.....	1	2	3	4	5
Ease of public parking.....	1	2	3	4	5
Ease of travel by car in Tracy.....	1	2	3	4	5
Ease of travel by public transportation in Tracy.....	1	2	3	4	5
Ease of travel by bicycle in Tracy.....	1	2	3	4	5
Ease of walking in Tracy.....	1	2	3	4	5
Well-planned residential growth.....	1	2	3	4	5
Well-planned commercial growth.....	1	2	3	4	5
Well-designed neighborhoods.....	1	2	3	4	5
Preservation of the historical or cultural character of the community.....	1	2	3	4	5
Public places where people want to spend time.....	1	2	3	4	5
Variety of housing options.....	1	2	3	4	5
Availability of affordable quality housing.....	1	2	3	4	5
Overall quality of new development in Tracy.....	1	2	3	4	5
Overall appearance of Tracy.....	1	2	3	4	5
Cleanliness of Tracy.....	1	2	3	4	5
Water resources (beaches, lakes, ponds, riverways, etc.).....	1	2	3	4	5
Air quality.....	1	2	3	4	5
Availability of paths and walking trails.....	1	2	3	4	5
Fitness opportunities (including exercise classes and paths or trails, etc.)... ..	1	2	3	4	5
Recreational opportunities.....	1	2	3	4	5
Availability of affordable quality food.....	1	2	3	4	5
Availability of affordable quality health care.....	1	2	3	4	5
Availability of preventive health services.....	1	2	3	4	5
Availability of affordable quality mental health care.....	1	2	3	4	5
Opportunities to attend cultural/arts/music activities.....	1	2	3	4	5
Community support for the arts.....	1	2	3	4	5
Availability of affordable quality childcare/preschool.....	1	2	3	4	5
K-12 education.....	1	2	3	4	5
Adult educational opportunities.....	1	2	3	4	5
Sense of civic/community pride.....	1	2	3	4	5
Neighborliness of residents in Tracy.....	1	2	3	4	5
Opportunities to participate in social events and activities.....	1	2	3	4	5
Opportunities to attend special events and festivals.....	1	2	3	4	5
Opportunities to volunteer.....	1	2	3	4	5
Opportunities to participate in community matters.....	1	2	3	4	5
Openness and acceptance of the community toward people of diverse backgrounds.....	1	2	3	4	5

8. Please indicate whether or not you have done each of the following in the last 12 months.

	<u>No</u>	<u>Yes</u>
Contacted the City of Tracy (in-person, phone, email, or web) for help or information.....	1	2
Contacted Tracy elected officials (in-person, phone, email, or web) to express your opinion.....	1	2
Attended a local public meeting (of local elected officials like City Council or County Commissioners, advisory boards, town halls, HOA, neighborhood watch, etc.).....	1	2
Watched (online or on television) a local public meeting.....	1	2
Volunteered your time to some group/activity in Tracy.....	1	2
Campaigned or advocated for a local issue, cause, or candidate.....	1	2
Voted in your most recent local election.....	1	2
Used bus, rail, subway, or other public transportation instead of driving.....	1	2
Carpooled with other adults or children instead of driving alone.....	1	2
Walked or biked instead of driving.....	1	2

The City of Tracy 2021 Community Survey

9. Please rate the quality of each of the following services in Tracy.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
Public information services.....	1	2	3	4	5
Economic development.....	1	2	3	4	5
Traffic enforcement.....	1	2	3	4	5
Traffic signal timing.....	1	2	3	4	5
Street repair.....	1	2	3	4	5
Street cleaning.....	1	2	3	4	5
Street lighting.....	1	2	3	4	5
Snow removal.....	1	2	3	4	5
Sidewalk maintenance.....	1	2	3	4	5
Bus or transit services.....	1	2	3	4	5
Land use, planning, and zoning.....	1	2	3	4	5
Code enforcement (weeds, abandoned buildings, etc.).....	1	2	3	4	5
Affordable high-speed internet access.....	1	2	3	4	5
Garbage collection.....	1	2	3	4	5
Drinking water.....	1	2	3	4	5
Sewer services.....	1	2	3	4	5
Storm water management (storm drainage, dams, levees, etc.).....	1	2	3	4	5
Power (electric and/or gas) utility.....	1	2	3	4	5
Utility billing.....	1	2	3	4	5
Police/Sheriff services.....	1	2	3	4	5
Crime prevention.....	1	2	3	4	5
Animal control.....	1	2	3	4	5
Ambulance or emergency medical services.....	1	2	3	4	5
Fire services.....	1	2	3	4	5
Fire prevention and education.....	1	2	3	4	5
Emergency preparedness (services that prepare the community for natural disasters or other emergency situations).....	1	2	3	4	5
Preservation of natural areas (open space, farmlands, and greenbelts).....	1	2	3	4	5
Tracy open space.....	1	2	3	4	5
Recycling.....	1	2	3	4	5
Yard waste pick-up.....	1	2	3	4	5
City parks.....	1	2	3	4	5
Recreation programs or classes.....	1	2	3	4	5
Recreation centers or facilities.....	1	2	3	4	5
Health services.....	1	2	3	4	5
Public library services.....	1	2	3	4	5
Overall customer service by Tracy employees (police, receptionists, planners, etc.).....	1	2	3	4	5

10. Please rate the following categories of Tracy government performance.

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
The value of services for the taxes paid to Tracy.....	1	2	3	4	5
The overall direction that Tracy is taking.....	1	2	3	4	5
The job Tracy government does at welcoming resident involvement.....	1	2	3	4	5
Overall confidence in Tracy government.....	1	2	3	4	5
Generally acting in the best interest of the community.....	1	2	3	4	5
Being honest.....	1	2	3	4	5
Being open and transparent to the public.....	1	2	3	4	5
Informing residents about issues facing the community.....	1	2	3	4	5
Treating all residents fairly.....	1	2	3	4	5
Treating residents with respect.....	1	2	3	4	5

11. Overall, how would you rate the quality of the services provided by each of the following?

	<u>Excellent</u>	<u>Good</u>	<u>Fair</u>	<u>Poor</u>	<u>Don't know</u>
The City of Tracy.....	1	2	3	4	5
The Federal Government.....	1	2	3	4	5

12. Please rate how important, if at all, you think it is for the Tracy community to focus on each of the following in the coming two years.

	Essential	Very important	Somewhat important	Not at all important
Overall economic health of Tracy	1	2	3	4
Overall quality of the transportation system (auto, bicycle, foot, bus) in Tracy.....	1	2	3	4
Overall design or layout of Tracy’s residential and commercial areas (e.g., homes, buildings, streets, parks, etc.)	1	2	3	4
Overall quality of the utility infrastructure in Tracy (water, sewer, storm water, electric, gas).....	1	2	3	4
Overall feeling of safety in Tracy.....	1	2	3	4
Overall quality of natural environment in Tracy.....	1	2	3	4
Overall quality of parks and recreation opportunities.....	1	2	3	4
Overall health and wellness opportunities in Tracy.....	1	2	3	4
Overall opportunities for education, culture, and the arts.....	1	2	3	4
Residents’ connection and engagement with their community	1	2	3	4

13. Transit Oriented Development, or TOD, is a style of development that encourages the creation of walkable and bikeable mixed-use communities generally located within a ¼ or ½ mile radius of a transit hub (bus, rail, airport). The goal is to create a vibrant, connected community where people can easily get to and from their homes, jobs, shopping, dining, and entertainment opportunities. Having a mix of uses within walking or biking distance of a transit station makes it convenient for riders to run errands on the way to work or on the way home without using a car. TOD is not one-size-fits-all, and the preferences of another community may not be the same preferences in Tracy.

To what extent do you support or oppose the creation of a Transit Oriented Development District in Tracy?

- Strongly support Somewhat support Somewhat oppose Strongly oppose Don’t know

14. If a TOD were to be built in Tracy, how much of a priority, if any, do you think each of the following should be to include in this development?

	High priority	Moderate priority	Not a priority	Don’t know
Transportation options (rail, bus, ride share, etc.)	1	2	3	4
Housing	1	2	3	4
Office and co-working spaces	1	2	3	4
New shops and restaurants.....	1	2	3	4
Walkable areas and bike paths	1	2	3	4
Public spaces for events.....	1	2	3	4
Entertainment venues	1	2	3	4
Parks and green space	1	2	3	4
Connectivity to existing neighborhoods	1	2	3	4
Mixed-use spaces (combines two or more types of real estate, such as retail and residential properties).....	1	2	3	4

15. What is your preferred location for a TOD in Tracy?

- I-205/ Mall area Westside Ranch area near Mountain House Parkway
 Downtown Tracy Near the Tracy ACE Train Station (south Tracy)
 I do not think we should have a TOD district in Tracy

16. Please indicate how much of a priority, if any, you think each of the following should be for the City to fund?

	High priority	Moderate priority	Not a priority	Don’t know
Building a temporary emergency housing facility for the homeless	1	2	3	4
Completing Legacy Fields Sports Complex – Phase II.....	1	2	3	4
Building a multi-generation recreation center	1	2	3	4
Building a community aquatics center	1	2	3	4
Redeveloping the downtown area.....	1	2	3	4
Expanding recycled water infrastructure	1	2	3	4
Pursuing green initiatives (reducing Tracy’s carbon footprint and responding to effects of climate change).....	1	2	3	4
Renovating and updating existing City parks and facilities.....	1	2	3	4
Renovating and updating existing City infrastructure including streets, sidewalks, and underground utility pipelines.....	1	2	3	4
Constructing new Police and Fire stations	1	2	3	4

The City of Tracy 2021 Community Survey

Our last questions are about you and your household.
Again, all of your responses to this survey are confidential and no identifying information will be shared.

D1. In general, how many times do you:

	Several times a day	Once a day	A few times a week	Every few weeks	Less often or never	Don't know
Access the internet from your home using a computer, laptop, or tablet computer	1	2	3	4	5	6
Access the internet from your cell phone.....	1	2	3	4	5	6
Visit social media sites such as Facebook, Twitter, Nextdoor, etc.	1	2	3	4	5	6
Use or check email.....	1	2	3	4	5	6
Share your opinions online.....	1	2	3	4	5	6
Shop online.....	1	2	3	4	5	6

D2. Please rate your overall health.

- Excellent
 Very good
 Good
 Fair
 Poor

D3. What impact, if any, do you think the economy will have on your family income in the next 6 months?

Do you think the impact will be:

- Very positive
 Somewhat positive
 Neutral
 Somewhat negative
 Very negative

D4. How many years have you lived in Tracy?

- Less than 2 years
 2-5 years
 6-10 years
 11-20 years
 More than 20 years

D5. Which best describes the building you live in?

- One family house detached from any other houses
 Building with two or more homes
 (duplex, townhome, apartment, or condominium)
 Mobile home
 Other

D6. Do you rent or own your home?

- Rent
 Own

D7. About how much is your monthly housing cost for the place you live (including rent, mortgage payment, property tax, property insurance, and homeowners' association (HOA) fees)?

- Less than \$500 \$2,000 to \$2,499
 \$500 to \$999 \$2,500 to \$2,999
 \$1,000 to \$1,499 \$3,000 to \$3,499
 \$1,500 to \$1,999 \$3,500 or more

D8. Do any children 17 or under live in your household?

- No Yes

D9. Are you or any other members of your household aged 65 or older?

- No Yes

D10. How much do you anticipate your household's total income before taxes will be for the current year? (Please include in your total income money from all sources for all persons living in your household.)

- Less than \$25,000 \$75,000 to \$99,999
 \$25,000 to \$49,999 \$100,000 to \$149,999
 \$50,000 to \$74,999 \$150,000 or more

D11. Are you Spanish, Hispanic or Latino?

- No, not Spanish, Hispanic, or Latino
 Yes, I consider myself to be Spanish, Hispanic, or Latino

D12. What is your race? (Mark one or more races to indicate what race you consider yourself to be.)

- American Indian or Alaskan Native
 Asian, Asian Indian, or Pacific Islander
 Black or African American
 White
 Other

D13. In which category is your age?

- 18-24 years 55-64 years
 25-34 years 65-74 years
 35-44 years 75 years or older
 45-54 years

D14. What is your gender?

- Female
 Male
 Identify in another way

Thank you! Please return the completed survey in the postage-paid envelope to:
National Research Center, Inc., PO Box 549, Belle Mead, NJ 08502

RESOLUTION 2021-_____

APPROVING CUSTOM SURVEY QUESTIONS FOR INCLUSION IN THE 2021 NATIONAL COMMUNITY SURVEY™ FOR THE CITY OF TRACY

WHEREAS, On June 1, 2021, staff requested that Council discuss and provide direction on the 2021 National Community Survey™ (The NCS™) including opportunities for custom survey questions, and

WHEREAS, It was Council's consensus to incorporate the following question categories in The NCS™ for Tracy: funding priorities, infrastructure, and Transit Oriented Development (preferred location and components), and

WHEREAS, Staff worked with the Polco team to develop the custom survey questions which are outlined in Attachment "A" of the staff report, questions 13-16,

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tracy hereby approves the custom survey questions for inclusion in the 2021 National Community Survey™ for the City of Tracy contained in Attachment "A."

* * * * *

The foregoing Resolution 2021-_____ was passed and adopted by the Tracy City Council on the 5th day of October, 2021 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.D

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1317, AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 7.32, PARKLETS, TO TITLE 7, PUBLIC WORKS, OF THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

Ordinance 1317 was introduced at the regular Council meeting held on September 21, 2021. Ordinance 1317 is before Council for adoption.

DISCUSSION

The proposed ordinance was introduced at the regular Council meeting held on September 21, 2021 to add a new Chapter 7.32, Parklets, to the Tracy Municipal Code. The key elements of the proposed ordinance include the following:

- “Parklet” shall mean an outdoor dining area created by the repurposing of on-street parking spaces for exclusive use by an adjacent restaurant.
- An encroachment permit shall be required prior to installation of a parklet. An encroachment permit for a parklet shall be valid for a three-year term. The City may approve subsequent extensions with each extension having a three-year term. There shall be no limit on the number of extensions that the City may approve.
- Parklets shall only be allowed in the following locations:
 - Central Avenue between 11th Street and 6th Street,
 - 10th Street between Central Avenue and A Street, and
 - 6th Street between Central Avenue and D Street.
- A parklet must be located in front of the restaurant that the parklet is serving, except that a parklet may extend in front of an adjacent property or adjacent tenant space if the adjacent property owner and the adjacent tenant have provided signatures indicating endorsement of the application.
- A parklet shall be installed in accordance with the Parklet Design Standards approved by the Development Services Director and all applicable federal and state laws, regulations, or statutes. See below for further discussion regarding the Parklet Design Standards.
- An encroachment permit for a parklet shall grant exclusive use of the parklet to the permittee.
- The permittee shall be solely responsible for maintaining the parklet and the underlying and adjoining street, curb, gutter, sidewalk, and related appurtenances in a neat, clean, and orderly condition at all times, including the care of any plants, to the satisfaction of the Public Works Director.

- The permittee shall meet the City's requirements for indemnification and insurance.
- Any existing parklets would need to be brought into compliance with the provisions of the new parklet ordinance.
- If a restaurant with parklet changes ownership, the encroachment permit will need to be transferred to the new owner or the parklet will need to be removed within 30 days of the change in ownership.
- Once an encroachment permit has expired or been suspended or revoked, the permittee shall remove the parklet and restore the public right-of-way to its previous condition, including any necessary repairs to the street, curb, gutter, sidewalk, and related appurtenances. A bond or other acceptable means of deposit is required for this purpose prior to issuance of an encroachment permit.

Proposed Ordinance 1317 is before Council for adoption.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Economic Development Strategic Priority, Goal 1, which is to support local businesses impacted by COVID-19.

FISCAL IMPACT

The program requires an appropriation of \$500,000; funded from ARPA funding under the allowable use of addressing the economic effects of COVID-19.

RECOMMENDATION

Staff recommends that Council waive the full reading of the text and adopt Ordinance 1317 adding a new Chapter 7.32, Parklets, to Title 7, Public Works, of the Tracy Municipal Code.

Prepared by: Necy Lopez, Deputy City Clerk

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

Approved by: Bob Adams, Interim City Manager

Attachment A: Ordinance 1317

ORDINANCE 1317

AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 7.32, PARKLETS, TO TITLE 7, PUBLIC WORKS, OF THE TRACY MUNICIPAL CODE

WHEREAS, In July of 2020, the City, in collaboration with the Tracy City Center Association (TCCA), issued encroachment permits and implemented a partial street closure on 10th Street between Central Avenue and “B” Street to allow for outdoor dining, known as the “Streatery,” which was part of the City’s efforts to stabilize the economy in response to the COVID-19 pandemic’s effects on local small businesses; and

WHEREAS, The City issued encroachment permits to participating businesses located within the TCCA district boundaries that permitted businesses to expand business operations into the City’s public right-of-way on Central Avenue, Tenth Street, and Sixth Street; and

WHEREAS, The City issued a special event permit to TCCA to permit the Streatery dining concept starting on July 15, 2021 to ensure that restaurants had adequate capacity and could continue operation; and

WHEREAS, The Streatery concept was implemented as a temporary solution to alleviate restaurant closures during the pandemic with the permit expiration tied to full restaurant capacity being allowed indoors; and

WHEREAS, The Streatery concept was well-received by the public, with some restaurants reporting record sales compared to pre-COVID-19 operation; and

WHEREAS, The strong popularity of the Streatery concept highlighted consumer support and an economic development opportunity for activating the street environment and providing additional seating capacity for downtown restaurants long-term; and

WHEREAS, With the decrease in COVID-19 rates during the Spring of 2021, the Governor announced full reopening of the State on June 15th, 2021, which would have ended the outside dining permit; and

WHEREAS, In early June 2021, TCCA applied for a four-month permit extension with the City, in order to allow time for planning long-term outdoor dining solutions; and

WHEREAS, The permit extension was granted and is currently set to expire on October 13, 2021; and

WHEREAS, During the past few months, the TCCA Board explored pathways towards balancing strong public demand for outdoor dining with reopening direct access and parking in front of businesses negatively affected by the Streatery with regard to visibility and parking limitations; and

WHEREAS, TCCA’s Board voted on June 10, 2021 to work with City staff to explore and implement parklet concepts as an outdoor dining enhancement strategy; and

WHEREAS, Working closely with TCCA, City staff identified long-term outdoor dining concepts and new opportunities in downtown, focusing on 10th Street, 6th Street, and along Central Avenue; and

WHEREAS, The City prepared this ordinance to establish the manner by which on-street parking spaces in the downtown may be repurposed as outdoor dining areas, known as parklets, in order to expand outdoor dining opportunities and enhance the attractiveness, ambiance, and synergy of downtown; and

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

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on September 21, 2021;

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

SECTION 1. A new Chapter 7.32, Parklets, is added to Title 7, Public Works, of the Tracy Municipal Code to read as follows:

“Chapter 7.32 – PARKLETS

7.32.010 – Purpose.

The purpose of this chapter is to establish the manner by which on-street parking spaces in downtown Tracy may be repurposed as outdoor dining areas, known as parklets, in order to expand outdoor dining opportunities and enhance the attractiveness, ambiance, and synergy of downtown.

7.32.020 – Definition.

For the purposes of this chapter, the following definition shall apply:

“Parklet” shall mean an outdoor dining area created by the repurposing of on-street parking spaces for exclusive use by an adjacent restaurant.

7.32.030 – Parklet Encroachment Permit Required; Term.

- (a) An encroachment permit shall be required prior to installation of a parklet. An encroachment permit application for a parklet must be in the form required by the Development Services Department and subject to a fee as established by resolution of the City Council. The application must be signed by the property owner and the restaurant owner proposing the parklet. The encroachment permit may include conditions of approval as deemed necessary by the City.
- (b) An encroachment permit for a parklet shall be valid for a three-year term. The permittee may apply for an extension of the encroachment permit up to 30 days before the permit expires. An application for extension shall take the same form as a new encroachment permit application, including all applicable materials, documentation, and signatures. The Development Services Director or designee

may approve an extension of up to a three-year term. There shall be no limit on the number of extensions that the City may approve.

- (c) An encroachment permit for a parklet, or an extension request, may be approved by the Development Services Director, except for in the following circumstances:
 - (1) If it is determined that the parklet would interfere with street improvement activities, construction activities, or other similar activities.
 - (2) If the City wishes to maintain the space as, or return the space to, on-street parking or has other needs for the public right-of-way.
 - (3) If the parklet creates a public health or safety hazard.
 - (4) If the application is not in compliance with all provisions of this Chapter.In instances where any of the above circumstances apply, no permit shall be approved.
- (d) Failure to obtain an encroachment permit to install or maintain a parklet is a violation of this Code and may be subject to administrative citation and penalty in accordance with Chapter 1.28.

7.32.040 – Location Criteria.

The following location criteria shall apply:

- (a) Parklets shall only be allowed in the following locations:
 - (1) Central Avenue between 11th Street and 6th Street,
 - (2) 10th Street between Central Avenue and A Street, and
 - (3) 6th Street between Central Avenue and D Street.
- (b) A parklet must be located in front of the restaurant that the parklet is serving, except that a parklet may extend in front of an adjacent property or adjacent tenant space if the adjacent property owner and the adjacent tenant have provided signatures indicating endorsement of the application.

7.32.050 – Design Standards.

A parklet shall be installed in accordance with the parklet design standards approved by the Development Services Director and all applicable federal and state laws, regulations, or statutes.

7.32.060 – Exclusive Use.

An encroachment permit for a parklet shall grant exclusive use of the parklet to the permittee.

7.32.070 – Signs.

No signs shall be permitted with a parklet, except in accordance with Article 35 of the Tracy Municipal Code.

7.32.080 – Alcoholic Beverages in Parklets.

The permittee shall comply with all applicable California Department of Alcoholic Beverage Control (ABC) regulations.

7.32.090 – Maintenance.

The permittee shall be solely responsible for maintaining the parklet and the underlying and adjoining street, curb, gutter, sidewalk, and related appurtenances in a neat, clean, and orderly condition at all times, including the care of any plants, to the satisfaction of the Public Works Director. Cleaning requirements shall include the sweeping of any and all areas of the street that become inaccessible to the City's street sweeping service provider's equipment as a result of the placement of the parklet. All such cleaning and maintenance must comply with all local and state regulations and standards. At no time shall litter, debris, food or liquids related to such cleaning and maintenance tasks be allowed to enter the storm water conveyance system or be dumped into temporary or permanent planter beds. All tables, chairs, umbrellas, railing, platform, planter boxes, or other items included in the parklet must not only be clean, but also repaired or replaced as needed, due to weathering, wear and tear, or damage, to the satisfaction of the Public Works Director. Additionally, all access required by the City for maintenance of infrastructure and City assets such as trees shall be accommodated by the permittee. This shall include the removal of all non-fixed obstacles. If permanent or fixed portions of the parklet are required to be moved for City maintenance or repair operations, or are damaged by such operations or City assets, those costs shall be borne solely by the permittee.

7.32.100 – Indemnification/ Insurance.

- (a) Indemnification. Permittee 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 Permittee's performance or failure to comply with any conditions of approval, 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; "Permittee" means the Permit holder, 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".

- (b) Insurance. Permittee shall, throughout the term of the encroachment permit for the parklet, maintain insurance to cover Permittee, its agents, representatives, and employees in connection with this encroachment permit at the minimum levels set forth herein, covering the area subject to the permit.
- (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.
- (c) Endorsements. Permittee shall obtain endorsements to the commercial general liability insurance policies with the following provisions:

- (1) The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
 - (2) For any claims related to an encroachment permit for a parklet, Permittee’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Permittee’s insurance and shall not contribute with it.
- (d) Notice of Cancellation. Permittee 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. Permittee shall immediately obtain a replacement policy.
- (e) Insurance Certificate. Permittee 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 issues an encroachment permit for a parklet.

7.32.110 – No Vested Right.

No Vested Rights. No person(s) shall have any vested rights to any permit, right or interest under this Chapter, regardless of whether such person(s) maintained or operated a parklet prior to adoption of the ordinance codified in this Chapter.

7.32.120 – Suspension or Revocation.

An encroachment permit for a parklet may be suspended or revoked at any time at the discretion of the Development Services Director or designee, in the event of any of the following:

- (a) If it is determined that the parklet would interfere with street improvement activities, construction activities, or other similar activities.
- (b) If any portion of a parklet obstructs the public right-of-way beyond that which was provided for by the encroachment permit.
- (c) If the parklet creates a public health or safety hazard.
- (d) If the permittee has not complied with the provisions of this Chapter or any conditions of approval.

7.32.130 – Change of Ownership.

If a restaurant with parklet changes ownership, the encroachment permit will need to be transferred to the new owner or the parklet will need to be removed within 30 days of the change in ownership. Transfer of an encroachment permit shall take the same form as a new encroachment permit application, including all applicable materials, documentation, and signatures. If the tenant space changes to a non-restaurant use, the parklet will need to be removed by the permittee within 30 days of occupancy by the new tenant.

7.32.140 – Removal of Parklet.

Once an encroachment permit has expired or been suspended or revoked, the permittee shall remove the parklet and restore the public right-of-way to its previous condition, including any necessary repairs to the street, curb, gutter, sidewalk, and related appurtenances within 30 days of the permit expiration, suspension, or revocation, to the satisfaction of the Development Services Director.

7.32.150 – Bond Requirement.

Prior to issuance of an encroachment permit for a parklet, a performance bond or other acceptable means of deposit, as determined by the Development Services Director or designee, shall be provided to the City to ensure that once an encroachment permit for a parklet has expired or been suspended or revoked, the parklet will be removed and the public right-of-way will be restored to its previous condition, including any necessary repairs to the street, curb, gutter, or sidewalk. The amount of the performance bond or other acceptable means of deposit shall be based on a cost estimate of the project specific details, to the satisfaction of the Development Services Director or designee.”

SECTION 2. This Ordinance is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)); and

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

SECTION 4. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov’t. Code §36933.)

* * * * *

The foregoing Ordinance 1317 was introduced at a regular meeting of the Tracy City Council on the 21st day of September, 2021, and finally adopted on the _____ day of _____ 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.E

REQUEST

AMEND COUNCIL POLICY FOR REIMBURSEMENT OF TRAVEL AND EXPENSES FOR ELECTED AND APPOINTED OFFICIALS

EXECUTIVE SUMMARY

On January 17, 2006, City Council approved Resolution No. 2006-026 adopting a policy related to the reimbursement of travel and expenses for elected and appointed officials as required by State law.

On August 17, 2021 Council directed staff to revise the Policy and Procedures for Travel and Expenses Reimbursement for Elected and Appointed Officials to include expenses from events where the attendance of the Mayor and/or City Council are requested to attend and/or present a certificate on behalf of the City as an authorized expenditure.

DISCUSSION

Government Code Sections 53232, et seq., requires that all cities adopt an expense reimbursement policy for Mayor and Council expenses. In accordance with Section 53232.2 of the Government Code, when a reimbursement is otherwise authorized by statute, a local agency may reimburse members of a legislative body for actual and necessary expenses incurred in the performance of official duties, including, but not limited to, activities described in Article 2.4 (commencing with Section 53234). If a local agency reimburses members of a legislative body for actual and necessary expenses incurred in the performance of official duties, then the governing body shall adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a member of the legislative body to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses.

On January 17, 2006, City Council adopted a policy related to the reimbursement of travel and expenses for elected and appointed officials which includes the Mayor, members of the City Council, City Manager, City Attorney and other non-employee members of boards, commissions and committees. On April 17, 2007, City Council approved Resolution No. 2007-075 amending the policy to include a remedy for non-compliance by Board and Commission members. On August 17, 2021, Council directed staff to revise the Policy and Procedures for Travel and Expenses Reimbursement for Elected and Appointed Officials to include eligible expenses from events when the attendance of the Mayor and/or City Council is requested to present a certificate on behalf of the City as an authorized expenditure.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategy and Business Plan, and specifically implements the following goals and objectives:

Governance Strategy

Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce.

Objective 1b: Affirm organizational values.

FISCAL IMPACT

Expenditures as a result of this policy revision will be absorbed within the FY 2021/22 adopted budget and no additional funds are being requested.

RECOMMENDATION

That the City Council, by resolution, amend Council Policy for Reimbursement of Travel and Expenses for Elected and Appointed Officials.

Prepared by: JoAnn Weberg, Human Resources Manager

Reviewed by: Kimberly Murdaugh, Director of Human Resources
Karin Schnaider, Director of Finance

Approved by: Bob Adams, Interim City Manager

ATTACHMENT:

A – Policy and Procedures for Travel and Expenses Reimbursement for Elected and Appointed Officials

POLICY FOR REIMBURSEMENT
FOR TRAVEL AND EXPENSES
FOR ELECTED AND APPOINTED OFFICIALS

The City Council of the City of Tracy believes that it is important that elected and appointed officials (including Planning Commissioners, Parks Commissioners, Transportation Commissioners and other volunteer members of boards, commissions, and committees) remain informed and trained in issues affecting the affairs of the City and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its citizens. The benefits include:

- a. The opportunity to discuss the community's concerns with state and federal officials;
- b. Participation in regional, state and national organizations whose activities affect the City;
- c. Attending educational seminars improve officials' skill and information levels; and
- d. Promoting public service and morale by recognizing such service.

In order to promote these endeavors, to protect public resources and foster public trust in the use of those resources, as well as comply with state law requirements regarding reimbursement of expenses, the City Council hereby sets forth the travel and expense reimbursement policies for the City of Tracy.

All anticipated conferences, conventions and professional meetings shall be budgeted for in the current operating budget. As the trip is being paid for with public funds, it shall be the responsibility of the official undertaking the trip to make every effort to attend the entire conference and/or as many sessions as possible.

All elected officials and City Council appointed officials (including the City Manager and City Attorney) who receive compensation for their service or reimbursement for their expenses shall comply with this Policy. This shall include Planning Commissioners, Parks Commissioners, Transportation Commissioners and other Commissioners appointed by City Council.

A. AUTHORIZED EXPENSES

City funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this Policy are met:

1. Communicating with representatives of regional, state and national government on City adopted policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels;
3. Participating in regional, state and national organizations whose activities affect the city's interests;

4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events;
6. Implementing a City-approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member;
7. Meetings such as those listed above for which a meeting stipend is expressly authorized under this Policy;
8. City Council members may be reimbursed for Internet and/or Cable TV expenses related to, and used in connection with, their official duties; and
9. Events where attendance of the Mayor and/or City Council is requested to attend and present a certificate on behalf of the City.

All other expenditures require prior approval by the City Council.

Expenses for international and out-of-state travel, other than the annual "One-Voice" trip to Washington D.C. coordinated through the San Joaquin County Council of Governments, require prior City Council approval.

For the purposes of this Policy, if the City pays directly for the expenses it is not considered a reimbursement (e.g. conference fees).

B. EXPENSES NOT ELIGIBLE FOR REIMBURSEMENT

Examples of personal expenses that the City will not reimburse include, but are not limited to:

1. The personal portion of any trip;
2. Political or charitable contributions or events;
3. Family expenses, including partner's expenses, when accompanying official on agency-related business¹, as well as children- or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
5. Alcohol/personal bar expenses;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.
8. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred.

¹ If trip arrangements are made, as a convenience, for spouse or family members, reimbursement to the City for any advanced expenses must be received by the City prior to the trip.

C. COMPENSATION FOR ATTENDANCE AT MEETINGS

Compensation for meeting attendance, for elected and appointed members of city boards and commissions, shall be as follows:

1. City Council members' salaries shall be set and enacted as mandated by the California Government Code.
2. Compensation for meeting attendance for members of the Planning Commission, Parks Commission, Transportation Commission and other Commissions appointed by Council, shall be established by resolution of the City Council.

D. TRANSPORTATION

When attending conferences or meetings that are of such distance that it is more economical to take commercial transportation, if an official proposes to drive his/her car in those cases, commercial air fare will be paid and not automobile mileage. Government and group rates must be used when available.

1. Airfare. Airfares that are reasonable and economical shall be eligible for reimbursement.

2. Automobile. Automobile mileage is reimbursed at Internal Revenue Service ("IRS") rates in effect at the time of travel. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

3. Car Rental. Rental rates that are reasonable and economical shall be eligible for reimbursement.

4. Taxis/Shuttles. Taxis or shuttles fares may be reimbursed, including a fifteen (15%) percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

E. LODGING

Lodging expenses will be reimbursed, or paid for when travel on official City business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, reimbursement at the IRS rate in effect at the time of travel shall apply (IRS Publication 463).

F. MEALS

A local expense reimbursement policy identifying a "per diem" of reasonable rates for meals is not adopted. Receipts for expenses for meals shall be required. Actual expenses shall be reimbursed subject to the maximum per diem for the meal as set by the IRS rate in effect at the time of travel. (See Cal. Gov't Code §53232.2(c) and Publication 1542 at www.irs.gov.) The City will not pay for alcohol/personal bar expenses.

G. MISCELLANEOUS EXPENSES

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred on City business. Telephone bills should identify which calls were made on City business.

H. CASH ADVANCE POLICY

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure to the residents of City;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this Policy, such individual must seek resolution from the City Council.

I. CREDIT CARD USE POLICY

City does not issue credit cards to individual office holders but does have an agency credit card for selected City expenses. City office holders may use the city's credit card for such purposes as airline tickets and hotel reservations by following the same procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this Policy must be submitted within five (5) working days of use. Except as allowed under Section 8(3), city credit cards may not be used for personal expenses, even if the official subsequently reimburses the City.

J. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the city. This form shall include the following advisory:

"All expenses reported on this form must comply with the city's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the city's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability."

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within thirty (30) calendar days of an

expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging and/or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council.

All expenses are subject to verification that they comply with this Policy.

K. REPORTS TO CITY COUNCIL, BOARD OR COMMISSION

At the next regular City Council (or Board or Commission) meeting, each official shall make a brief report (written or oral) on meetings attended at City expense. If multiple officials attended, a joint report may be made.

L. COMPLIANCE WITH LAWS; VIOLATION

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other applicable laws. Use of public resources or falsifying expense reports in violation of this Policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the agency's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

Failure of an appointed Board or Commission member, after forty-five (45) days written notice, to complete the training required by AB1234 and this Policy shall result in the automatic removal of the member from their Board or Commission position.

RESOLUTION 2021 - _____

AUTHORIZING AN AMENDMENT TO THE POLICY FOR REIMBURSEMENT FOR TRAVEL AND EXPENSES FOR ELECTED AND APPOINTED OFFICIALS AND REPEALING RESOLUTION NO. 2007-075

WHEREAS, in 2006, City Council approved Resolution No. 2006-026 adopting a policy related to the reimbursement of travel and expenses for elected and appointed officials as required by State law; and

WHEREAS, elected and appointed officials include the Mayor, members of the City Council, City Manager, City Attorney, and members of the Planning Commission, Parks Commission, Transportation Commission, and other non-employee members of boards, commissions, and committees; and

WHEREAS, public resources should only be used when there is a substantial benefit to the City; and

WHEREAS, such benefits include:

- a) The opportunity to discuss the community's concerns with the state and federal officials;
- b) Participating in regional, state and national organizations whose activities affect the City;
- c) Attending educational seminars designed to improve officials' skill and information levels;
- d) Promoting public service and morale by recognizing such service; and
- e) Attending events on behalf of the City and present certificates; and

WHEREAS, a) legislative and other regional, state and federal agency business is frequently conducted over meals; b) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and c) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, this Policy provides guidance to elected and appointed officials on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, Government Code section 36514.5 allows Council Members to be reimbursed for actual and necessary expenses incurred in the performance of their official duties; and

WHEREAS, On April 17, 2007, Council revised the policy to include a remedy for non-compliance by Board and Commission members; and

WHEREAS, On October 5, 2021, Council revised the policy to include expenses from events where the attendance of the Mayor and/or City Council is requested to present a certificate on behalf of the City as an authorized expenditure; and

WHEREAS, this Policy satisfies the requirements of Government Code sections 53232.2 and 53232.3; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy repeals Resolution No. 2007-075; and

FURTHER, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes revisions to the Travel and Expenses Reimbursement Policy and Procedures for Elected and Appointed Officials in the City of Tracy, attached hereto as "Exhibit "A" is hereby adopted and shall take effect immediately upon adoption.

* * * * *

The foregoing Resolution 2021-_____ was adopted by the Tracy City Council on the 5th day of October, 2021 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.F

REQUEST

ACCEPT UPDATE ON FISCAL YEAR 2021-2023 MULTI-YEAR AND SHORT-TERM CITY COUNCIL STRATEGIC PRIORITIES AND WORKPLAN

EXECUTIVE SUMMARY

In January 2021, the Tracy City Council held a series of special meeting workshops to discuss the topics of City governance, fiscal sustainability, and strategic priorities. On March 16, 2021, the Council adopted Resolution 2021-034 outlining the City Council strategic priorities for FY 2021-2023. The four Strategies adopted by City Council include Public Safety, Quality of Life, Economic Development, and Governance.

DISCUSSION

On March 16, 2021, the City Council adopted Resolution 2021-034 outlining the City Council's strategic priorities for FY 2021-2023. The strategic priority workplan contains a total of 82 action items within the categories of Public Safety, Quality of Life, Economic Development, and Governance.

Priority Setting Framework

The City Council priority-setting discussion was grounded on the idea that it is important to keep the long-term view in focus while establishing what can be reasonably accomplished in the short-term. Council defined short-term and multi-year priorities as the following:

- Short-term priorities are defined as initiatives that are expected to be completed within the next 12-18 months and have been identified as a top priority.
- Multi-year priorities are defined as major initiatives that will require ongoing attention and action but that are not likely to be completed within the next 12-18 months.

As a starting point, potential priorities were organized into the same four strategic priority categories used previously and reflected a combination of "continuing items" and new items generated from input received prior to the workshop. The strategic priority areas include:

Economic Development

To enhance the competitiveness of the City while further developing a strong and diverse economic base.

Governance

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

Public Safety

To enhance community safety by promoting a responsive public safety system that includes civic engagement and partnerships, community involvement, public education, and prevention, intervention, and suppression services that meet the needs of Tracy residents.

Quality of Life

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.

Attachment "A" presents the multi-year goals affirmed by Council during the January 2021 workshop as well as status updates on goals and objectives. The short-term priorities that are included are a combination of continuing efforts and new priorities discussed during workshop. Attachment "B" presents each strategic priority area in a summarized format.

STRATEGIC PLAN

This agenda item supports the City Council's FY 2021-2023 Governance Strategic Priority, and specifically implements the following goal:

Goal 1: Model good governance, teamwork, and transparency.

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

That the City Council accept an update on the FY 2021-2023 multi-year and short-term strategic priorities and workplan.

Prepared by: Vanessa Carrera, Assistant to the City Manager

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENT

A - FY 2021-2023 City Council Strategic Priority Workplan

B - FY 2021-2023 City Council Strategic Priority Boards

ATTACHMENT "A"
FY 2021-2023 COUNCIL STRATEGIC PRIORITIES WORKPLAN

Adopted by Council on March 16, 2021

Governance

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

Multi-Year Priorities (Goals)	Short-Term Priorities (Objectives)	Estimated Completion of Short-Term Priorities	Department Lead	Comments/ Status Updates
1. Model good governance, teamwork, and transparency.	<ol style="list-style-type: none"> 1. Evaluate City advisory bodies' scope and policy framework and provide recommendations to Council. 2. Conduct Advisory Bodies Code of Conduct Training. 3. Identify Council public service announcement opportunities within available budget. 	<ol style="list-style-type: none"> 1. Q3 2021 2. Q2 2022 3. Q1 2021 & Ongoing 	City Manager's Office	<ol style="list-style-type: none"> 1. Council approved policy framework July 2021. 2. Code of Conduct training completed May 18, 2021. 3. Ongoing.
2. Ensure short and long- term fiscal health.	<ol style="list-style-type: none"> 1. Develop and provide policy recommendations to balance the City's budget. 2. Adopt Council Budget Principles. 3. Develop a Financial Sustainability Plan to address long- term fiscal challenges. 4. Update City Purchasing Policy. 5. Develop City Grant Policy. 6. Complete Rate and Fee Studies: Solid Waste, Wastewater, Citywide, Core Fees, Master Impact Fees. 7. Initiate Cost Allocation Study; create replacement schedules for Vehicle and Equipment; building maintenance; Information Technology. 	<ol style="list-style-type: none"> 1. Q2 2022 2. Q1 2021 3. Q2 2021 4. Q3 2021 5. Q2 2021 6. Q2 2021 & Q3 2021 7. Q4 2021 	Finance Department	<ol style="list-style-type: none"> 1. Completed. 2. Completed. 3. Completed. 4. Completed and will return at the end of the emergency period. 5. In progress. 6. In progress, various completion dates. 7. Internal Services Fund analysis will be included in 5-year CIP update.

	<ul style="list-style-type: none"> 8. Develop long-term funding options for City Services, including but not limited to road and park maintenance and replacement (City, LMD, and CFD). 9. Develop funding plan for fire station construction. 10. Continue implementation of Fiscal Sustainability Plan. 	<ul style="list-style-type: none"> 8. Q4 2021 9. Q3 2021 10. Q4 2022 		<ul style="list-style-type: none"> 8. Landscape and park maintenance funding discussion will be presented in conjunction with Parks Master Plan update. 9. Fire station funding discussion presented in conjunction with Public Safety Master Plan update. 10. City Council Fiscal Sustainability Ad-Hoc Committee extended through 12/31/2021.
3. Increase Public Awareness around City finances and other civic matters.	<ul style="list-style-type: none"> 1. Conduct informational, virtual Council/Community Workshops. 2. Partner with local community organizations to showcase City services. 3. Develop and implement public service announcements via the City's social media platforms. 	<ul style="list-style-type: none"> 1. Q3 2021 2. Q1 2022 3. Q3 2021 	City Manager's Office	<ul style="list-style-type: none"> 1. Ongoing. 2. Ongoing. 3. Ongoing.
4. Enhance community engagement through technology.	<ul style="list-style-type: none"> 1. Conduct National Community Survey (NCS) to better assess community priorities. 2. Implement new City website content management system (CMS). 	<ul style="list-style-type: none"> 1. Q4 2021 2. Q4 2021 	City Manager's Office	<ul style="list-style-type: none"> 1. In progress. 2. Completed.

Public Safety

To enhance community safety by promoting a responsive public safety system that includes civic engagement and partnerships, community involvement, public education, and prevention, intervention, and suppression services that meet the needs of Tracy residents.

Multi-Year Priorities (Goals)	Short-Term Priorities (Objectives)	Estimated Completion of Short-Term Priorities	LEAD	Comments/ Status Updates
1. Support COVID-19 public health recovery.	1. Coordinate with the San Joaquin County Public Health Department and Office of Emergency Services to implement and manage a Vaccination Plan in Tracy.	1. Q1 2021 & Ongoing	South San Joaquin County Fire Authority & Human Resources Department	1. Ongoing.
2. Implement the Adopted Homelessness Strategic Plan.	1. Secure capital funding to construct a Temporary Emergency Housing Facility (Arbor Rd Project). 2. Secure ongoing funding to operate the facility. 3. Partner and contract with shelter service providers to operate the facility. 4. Coordinate/facilitate regular meeting with local homeless service providers to better deliver homeless/social services to the community. 5. Identify local, state, and federal funding opportunities to continue to address homeless support services during the COVID-19 pandemic.	1. Q2 2021 – Funding; 2021 Construction 2. Ongoing 3. Q3, Q4 2021 4. Q2 2021 5. Ongoing	City Manager’s Office	1. Complete. 2. Ongoing. 3. On schedule. 4. Ongoing. 5. Ongoing.

3. Strengthen Citywide Emergency Operations Preparedness.	1. Develop a Citywide Emergency Operations Plan, including Council and staff training and a local pandemic response plan.	1. Q4 2021	South San Joaquin County Fire Authority and Tracy & Police Department	1. In progress.
4. Continue to strengthen community safety through crime prevention reduction activities.	1. Continue to enhance and implement the use of technology (such as social media, stationary cameras, drones, and crime analytics) to generate evidence based intelligence to enhance enforcement efforts.	1. Q3 2021	Tracy Police Department	1. Mark43 dispatch and records software fully implemented. Developed plan to implement traffic cameras and License Plate Readers throughout the city. Secured federal funding for the first year of the project. Currently waiting for council approval for the rest of the contract.
5. Partner with the South San Joaquin County Fire Authority (SSJCFA) to Complete Phase 2 of the Personnel Transition Plan.	1. Complete and Present Fiscal Analysis of the SSJCFA Personnel Transition Plan (Phase 2) to Council. 2. Coordinate with SSJCFA to present the Personnel Transition Plan (Phase 2) to Council.	1. Q4 2021 2. Q4 2021	City Manager's Office & South San Joaquin County Fire Authority	1. Completed. 2. Completed.
6. Implement Equity and Empowerment Strategies/Initiatives.	1. Continue supporting policies and best practices that prevent police violence, as referenced in the approved Tracy Equity and Empowerment Initiative.	1. Q3 2020 & Ongoing	Tracy Police Department	1. Fully staffed Professional Standards and Training Division. Review and update of policies is ongoing.

	<p>2. Continue to participate in training opportunities focused on fairness in policing, de-escalation strategies, implicit bias, cultural competency, and officer wellness.</p> <p>3. Present use of force data to Council through the Tracy Police Department Annual Report and publish online for public viewing.</p>	<p>2. Q4 2021</p> <p>3. Q1 2021</p>		<p>2. De-escalation training and implementation of less lethal tools is in progress.</p> <p>3. Annual report, which includes all use of force data, has been presented to Council and is posted publicly on the City of Tracy web site.</p>
--	--	-------------------------------------	--	---

Economic Development

To enhance the competitiveness of the City while further developing a strong and diverse economic base.

Multi-Year Priorities (Goals)	Short-Term Priorities (Objectives)	Estimated Completion of Short-Term Priorities	Lead	Comments/ Status Updates
1. Support local businesses impacted by COVID.	<p>1. Support local businesses and streamline the process for businesses to reopen in accordance with public health regulations.</p> <p>2. Coordinate with the Tracy Chamber of Commerce and Tracy City Center Association (TCCA) to develop and implement a "Shop Tracy" marketing and outreach campaign.</p> <p>3. Administer remaining funds for the Small Business Relief Grant Program and other small business loans.</p> <p>4. Coordinate a roundtable discussion and response to industry needs.</p> <p>5. Award FY 2021-22 Community Development</p>	<p>1. Ongoing</p> <p>2. Q2 2021</p> <p>3. Q3 2021</p> <p>4. Q4 2021</p> <p>5. Q2 2021</p> <p>6. Q1 2022</p>	Economic Development	<p>1. Ongoing.</p> <p>2. In progress.</p> <p>3. Completed on May 12, 2021.</p> <p>4. In progress / first roundtable completed on June 15.</p> <p>5. Completed on March 16, 2021.</p> <p>6. In progress.</p>

	<p>Block Grant funding.</p> <p>6. Implement FY 2021-22 Community Development Block Grant funding.</p>			
<p>2. Continue to Support Valley Link.</p>	<ol style="list-style-type: none"> 1. Respond and provide feedback on the Valley Link Environmental Impact Report (EIR). 2. Maintain quarterly contact with Valley Link Executive Director. 3. Rezone industrial land on 3rd Street near the downtown bowtie area for residential development. 4. Continue lobbying efforts at the State and Federal level in support of funding for Valley Link. 5. Participate in Valley Link board meetings. 	<ol style="list-style-type: none"> 1. Ongoing 2. Ongoing 3. Q2 2022 4. Ongoing 5. Ongoing 	<p>Development Services</p>	<ol style="list-style-type: none"> 1. Completed on 5/12/2021. 2. In progress. 3. In progress. 4. In progress. 5. In progress.
<p>3. Continue to Advance Transient Oriented Development (TOD) opportunities.</p>	<ol style="list-style-type: none"> 1. Approve Scope of Work to begin Transit Oriented Development (TOD) Plan. 2. Conduct TOD Stakeholder and community outreach meetings. 3. Draft land use conceptual plans and alternatives. 4. Conduct market and fiscal analyses. 5. Draft TOD Specific Plan. 6. Prepare Administrative Draft Environmental Impact Report. 	<ol style="list-style-type: none"> 1. Q1 2021 2. Q3 2021 3. Q4 2021 4. Q4 2021 5. Q2 2022 6. Q2 2022 	<p>Development Services</p>	<ol style="list-style-type: none"> 1. Completed on 03/02/21. 2. In progress. 3. In progress. 4. In progress. 5. In progress. 6. In progress.

6. Pursue Smart Growth strategies for balanced growth in the City of Tracy.	<ol style="list-style-type: none"> 1. Conduct Council workshop on residential growth management. 2. Conduct Council workshop on General Plan Land Use and Circulation Elements, and the Transportation Master Plan. 3. Rezone Tracy Gateway property for mix of land uses to attract businesses, future hospital, range of residential, and various types of assisted and independent/senior housing. 4. Pursue zoning ordinance amendments to increase residential densities. 	<ol style="list-style-type: none"> 1. Q1 2021 2. Q4 2021 3. Q3 2022 4. Q2 2022 	Development Services	<ol style="list-style-type: none"> 1. Completed on February 2, 2021. 2. In progress. 3. In progress 4. In progress.
---	--	--	----------------------	---

Quality of Life

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.

Multi-Year Priorities (Goals)	Short-Term Priorities (Objectives)	Estimated Completion of Short-Term Priorities	Lead	Comments/ Status Updates
1. Advance green and roadway infrastructure projects that improve connectivity, including bike lanes.	<ol style="list-style-type: none"> 1. Complete Pavement Condition Index (PCI) Road Condition study. 2. Continue Corral Hollow Road Widening Project between Park Side Drive and Linne Road: <ol style="list-style-type: none"> a. Complete acquisition of Rights of Way. b. Complete design. c. Advertise for construction bids. d. Award construction contract. e. Start construction. f. Complete construction. 	<ol style="list-style-type: none"> 1. Q3 2021 2. a. Q2 2021 b. Q3 2021 c. Q3 2021 d. Q3 2021 e. Q3 2021 f. Q2 2023 	Development Services & Utilities	<ol style="list-style-type: none"> 1. Request for Qualifications will be issued in September 2021 to bring in a qualified Pavement Management Consultant Group to update the City's PCI. 2. The project schedule is dependent upon acquisition of right of ways which are almost complete. The next step is the PG&E relocation of overhead lines and electric poles.

	<ol style="list-style-type: none"> 3. Complete Phase 2B Wastewater Treatment Plant Expansion: <ol style="list-style-type: none"> a. Advertise for construction bids. b. Award construction contract. c. Start construction. d. Complete construction. 4. Adopt new Citywide Infrastructure Master Plans. 5. Include green technologies in infrastructure solutions (e.g. roundabouts, dual use of storm drain facilities, traffic signal coordination). 	<ol style="list-style-type: none"> 3. <ol style="list-style-type: none"> a. Q1 2021 b. Q2 2021 c. Q3 2021 d. Q3 2023 4. Q3 2021 5. Q3 2021 	<p>Utilities</p> <p>Development Services</p>	<ol style="list-style-type: none"> 3. Project is on schedule. 4. All Master Plans updates are ongoing 5. City is implementing Roundabouts in the Specific Plan areas and two Adaptive Signal Projects are in Design.
<p>2. Facilitate the completion of Measure V amenities.</p>	<ol style="list-style-type: none"> 1. Revisit Measure V amenities planning (e.g., aquatics center, multi-generational gymnasium, legacy fields). 2. Advance Measure V amenity planning. 3. Implement design of Measure V amenity. 4. Break ground on Measure V amenity. 	<ol style="list-style-type: none"> 1. Q2 2021 2. Q3 2021 3. To be determined 4. To be determined 	<p>Parks and Recreation</p>	<ol style="list-style-type: none"> 1, 2, 3. Ongoing. On March 23, 2021 Council revisited amenity planning including updating project priorities and adding the Nature Park to the list of priority projects. Funding was allocated to complete Legacy Fields Phase 1E and that project is in design. Special Meeting was held on Multi-Gen Rec Center potential locations on 8/31/21. 4. In progress - Legacy Fields Phase 1E is tentatively scheduled to break ground in Spring 2022.

3. Provide City programming and events that bolster quality of life.	<ol style="list-style-type: none"> 1. Reinststitute special events, Parks & Recreation, and Cultural Arts programming in alignment with Public Health guidelines. 2. Reinststitute special events, Parks & Recreation, and Cultural Arts programming to pre-COVID levels. 	<ol style="list-style-type: none"> 1. Q4 2021 2. Q3 2022 	Parks and Recreation	1 & 2. Currently all special events and programming are taking place in alignment with Public Health guidelines.
4. Implement affordable housing initiatives.	<ol style="list-style-type: none"> 1. Facilitate the development of affordable housing via affordable housing-focused policies and initiatives. 2. Pursue, encourage, and incentivize non-profit affordable housing developers to build in Tracy. 3. Approve Scope of Work to begin Council identified workforce/affordable housing policy changes. 4. Streamline multi-family permit process by removing requirements for Conditional Use Permits. 5. Amend Accessory Dwelling Unit (ADU) ordinance and develop "off-the shelf" ADU example designs. 6. Amend parking requirements for multi-family developments. 7. Amend zoning ordinance development standards. 8. Evaluate potential amendments to the Growth Management Ordinance (GMO). 	<ol style="list-style-type: none"> 1. Ongoing 2. Ongoing 3. Q1 2021 4. Q2 2022 5. Q2 2022 6. Q2 2022 7. Q2 2022 8. Q1 & Q2 2022 	Development Services / Economic Development	<ol style="list-style-type: none"> 1. Ongoing. 2. In progress. 3. Completed on 03/02/21. 4. Forthcoming. 5. Forthcoming. 6. Forthcoming. 7. Forthcoming. 8. Forthcoming.

TIMEFRAME DEFINITIONS

QUARTER 1 (Q1)	January, February, March
QUARTER 2 (Q2)	April, May, June
QUARTER 3 (Q3)	July, August, September
QUARTER 4 (Q4)	October, November, December



GOVERNANCE

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

Goal #1

Model Good Governance, Teamwork, and Transparency

- 1) Evaluate City advisory bodies' scope and policy framework and provide recommendations to Council.
- 2) Conduct Advisory Bodies Code of Conduct Training.
- 3) Identify Council public service announcement opportunities within available budget.

Goal #2

Ensure Short- and Long-term Fiscal Health

- 1) Develop and provide policy recommendations to balance the City's budget.
- 2) Adopt Council Budget Principles.
- 3) Develop a Financial Sustainability Plan to address long-term fiscal challenges.
- 4) Update City Purchasing Policy.
- 5) Develop City Grant Policy.
- 6) Complete Rate and Fee Studies: Solid Waste, Wastewater, Citywide, Core Fees, Master Impact Fees.
- 7) Initiate Cost Allocation Study; create replacement schedules for Vehicle and Equipment; building maintenance; Information Technology.
- 8) Develop long-term funding options for City Services, including but not limited to road and park maintenance and replacement (City, LMD, and CFD).
- 9) Develop funding plan for fire station construction.
- 10) Continue implementation of the Fiscal Sustainability Plan.

Goal #3

Increase Public Awareness Around City Finances and Other Civic Matters

- 1) Conduct informational, virtual Council/Community Workshops.
- 2) Partner with local community organizations to showcase City services.
- 3) Develop and implement public service announcements via the City's social media platforms.

Goal #4

Enhance Community Engagement Through Technology

- 1) Conduct National Community Survey (NCS) to better assess community priorities.
- 2) Implement new City website content management system (CMS).





PUBLIC SAFETY

Purpose: To enhance community safety by promoting a responsive public safety system that includes civic engagement and partnerships, community involvement, public education, and prevention, intervention, and suppression services that meet the needs of Tracy residents.

Goal #1

Support COVID-19 Public Health Recovery

- 1) Coordinate with the San Joaquin County Public Health Department and Office of Emergency Services to implement and manage a Vaccination Plan in Tracy.

Goal #2

Implement the Adopted Homelessness Strategic Plan

- 1) Secure capital funding to construct a Temporary Emergency Housing Facility (Arbor Rd Project).
- 2) Secure ongoing funding to operate the facility.
- 3) Partner and contract with shelter service providers to operate the facility.
- 4) Coordinate/facilitate regular meeting with local homeless service providers to better deliver homeless/social services to the community.
- 5) Identify local, state, and federal funding opportunities to continue to address homeless support services during the COVID-19 pandemic.

Goal #3

Strengthen Citywide Emergency Operations Preparedness

- 1) Coordinate with the San Joaquin County Public Health Department and Office of Emergency Services to implement and manage a Vaccination Plan in Tracy.

Goal #4

Continue to Strengthen Community Safety Through Crime Prevention Reduction Activities

- 1) Continue to enhance and implement the use of technology (such as social media, stationary cameras, drones, and crime analytics) to generate evidence based intelligence to enhance enforcement efforts.

Goal #5

Complete Phase 2 of Personnel Transition Plan with SSJCFA

- 1) Complete and Present Fiscal Analysis of the South San Joaquin County Fire Authority (SSJCFA) Personnel Transition Plan (Phase 2) to Council.
- 2) Coordinate with SSJCFA to present the Personnel Transition Plan (Phase 2) to Council.

Goal #6

Implement Equity and Empowerment Strategies/Initiatives

- 1) Continue supporting policies and best practices that prevent police violence, as referenced in the approved Tracy Equity and Empowerment Initiative.
- 2) Continue to participate in training opportunities focused on fairness in policing, de-escalation strategies, implicit bias, cultural competency, and officer wellness.
- 3) Present use of force data to Council through the Tracy Police Department Annual Report and publish online for public viewing.





ECONOMIC DEVELOPMENT

Purpose: To enhance the competitiveness of the City while further developing a strong and diverse economic base.

Goal #1

Support Local Businesses Impacted by COVID-19

- 1) Support local businesses and streamline the process for businesses to reopen in accordance with public health regulations.
- 2) Coordinate with the Tracy Chamber of Commerce and Tracy City Center Association (TCCA) to develop and implement a “Shop Tracy” marketing and outreach campaign.
- 3) Administer remaining funds for the Small Business Relief Grant Program and other small business loans.
- 4) Coordinate a roundtable discussion and response to industry needs.
- 5) Award FY 2021-22 Community Development Block Grant funding.
- 6) Implement FY 2021-22 Community Development Block Grant funding.

Goal #2

Continue to Support Valley Link

- 1) Respond and provide feedback on the Valley Link Environmental Impact Report (EIR).
- 2) Maintain quarterly contact with Valley Link Executive Director.
- 3) Rezone industrial land on 3rd Street near the downtown bowtie area for residential development.
- 4) Continue lobbying efforts at State and Federal level in support of funding for Valley Link.
- 5) Participate in Valley Link board meetings.

Goal #3

Continue to Advance Transit Oriented Development (TOD) Opportunities

- 1) Approve Scope of Work to begin Transit Oriented Development (TOD) Plan.
- 2) Conduct TOD Stakeholder and community outreach meetings.
- 3) Draft land use conceptual plans and alternatives.
- 4) Conduct market and fiscal analyses.
- 5) Draft TOD Specific Plan.
- 6) Prepare Administrative Draft Environmental Impact Report.

Goal #4

Attract Businesses and Jobs That Meet the Needs and Desires of the Community

- 1) Conduct Council workshop on the City’s Economic Development efforts and strategies.
- 2) Develop FY 21-23 Economic Development Strategic Plan.
- 3) Update the City’s retail and industrial business attraction list.
- 4) Develop and implement a marketing campaign to attract specific businesses and industries.
- 5) Promote the City at trade shows and industry events (post pandemic).

Goal #5

Develop Policies to Target New Jobs in Innovative Industries

- 1) Complete issuance of cannabis business permits.
- 2) Complete Conditional Use Permit processes for cannabis Business Permit holders.
- 3) Initiate second round of Cannabis Business Permits.
- 4) Identify and market industrial properties attractive to Electric Vehicle (EV) testing and development.
- 5) Initiate marketing for enhancement of the green economy cluster and develop strategies for business growth and attraction.
- 6) Rezone and complete environmental review for the Chrisman Road property to attract innovation industry tenants.

Goal #6

Pursue Smart Growth Strategies for Balanced Growth in the City

- 1) Conduct Council workshop on residential growth management.
- 2) Conduct Council workshop on General Plan Land Use and Circulation Elements, and the Transportation Master Plan.
- 3) Rezone Tracy Westside (Gateway) property for mix of land uses to attract businesses, future hospital, range of residential, and various types of assisted and independent/senior housing.
- 4) Pursue zoning ordinance amendments to increase residential densities.





QUALITY OF LIFE

Purpose: 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.

Goal #1

Advance Green and Roadway Infrastructure Projects That Improve Connectivity, Including Bike Lanes

- 1) Complete PCI Road Condition study.
- 2) Continue Corral Hollow Road Widening Project between Park Side Drive and Linne Road:
 - a) Complete acquisition of Rights of Way;
 - b) Complete design; c) Advertise for construction bids; d) Award construction contract; e) Start construction;
 - f) Complete construction.
- 3) Complete Phase 2B Wastewater Treatment Plant Expansion.
 - a) Advertise for construction bids; b) Award construction contract; c) Start construction;
 - d) Complete construction.
- 4) Adopt new Citywide Infrastructure Master Plans.
- 5) Include green technologies in infrastructure solutions (e.g. roundabouts, dual use of storm drain facilities, traffic signal coordination).

Goal #2

Facilitate the Completion of Measure V Amenities

- 1) Revisit Measure V amenities planning (e.g., aquatics center, multi-generational gymnasium, legacy fields).
- 2) Advance Measure V amenity planning.
- 3) Implement design of Measure V amenity.
- 4) Break ground on Measure V amenity.

Goal #3

Provide City Programming and Events That Bolster Quality of Life

- 1) Reinstitute special events, Parks & Recreation, and Cultural Arts programming in alignment with Public Health guidelines.
- 2) Reinstitute special events, Parks & Recreation, and Cultural Arts programming to pre-COVID levels.

Goal #4

Implement Affordable Housing Initiatives

- 1) Facilitate the development of affordable housing via affordable housing-focused policies and initiatives.
- 2) Pursue, encourage, and incentivize non-profit affordable housing developers to build in Tracy.
- 3) Approve Scope of Work to begin Council identified workforce/affordable housing policy changes.
- 4) Streamline multi-family permit process by removing requirements for Conditional Use Permits.
- 5) Amend Accessory Dwelling Unit (ADU) ordinance and develop “off-the shelf” ADU example designs.
- 6) Amend parking requirements for multi-family developments.
- 7) Amend zoning ordinance development standards.
- 8) Evaluate potential amendments to the Growth Management Ordinance (GMO)



AGENDA ITEM 1.G

REQUEST

**RECEIVE AN UPDATE ON THE TRACY CITY CENTER ASSOCIATION (TCCA)
SPECIAL EVENT PERMIT WHICH WILL NOT BE EXTENDED AT THE REQUEST OF
TCCA AND WILL EXPIRE ON OCTOBER 14, 2021**

EXECUTIVE SUMMARY

On September 21, 2021, Council adopted an outside dining or parklet ordinance for restaurants in Downtown Tracy, approved the Downtown Parklet Grant program, and allocated \$500,000 in American Rescue Program Act (ARPA) funding to the project. The design standards for the program, including addition of lighting, are in the process of being completed and require additional effort between staff, TCCA, and restaurant owners. To accommodate this timeline, Council expressed a desire to extend the special event permit for the Streatery granted to the Tracy City Center Association (TCCA) through December 31, 2021. A week after Council's direction, the TCCA Board held a special meeting and voted to allow the special event permit to expire as scheduled on October 14, 2021.

This item provides Council with an update and confirms that the Streatery special event permit will not be extended and will expire on October 14, 2021.

DISCUSSION

In July of 2020, the City, in collaboration with TCCA took steps to temporarily expand outdoor business activities in the Downtown District. First, the Development Services Department issued encroachment permits to businesses located within the TCCA district boundaries to expand their operations into the City's public right-of-way on Central Avenue, 10th Street, and 6th Street. Second, the Parks and Recreation Services Department issued a special event permit to TCCA on July 15, 2020 for the partial street closure of 10th Street between Central Avenue and "B" Street to allow for outdoor dining, known as the "Streatery." Both actions were part of the City's efforts to stabilize the economy in response to the COVID-19 pandemic's effects on local small businesses.

The Streatery concept was well received by the public, with some restaurants reporting record sales compared to pre-COVID-19 operation. However, the Streatery concept was implemented as a temporary solution to alleviate restaurant closures during the pandemic with the permit expiration tied to full restaurant capacity being allowed indoors. With the decrease in COVID-19 rates during the Spring of 2021, the Governor announced full reopening of the State on June 15, 2021, which prompted the expiration of the special event permit for the Streatery. In early June 2021, TCCA applied for a 120-day (approximately four-month) permit extension, in order to allow time to plan long-term outdoor dining solutions. The permit extension was granted through the Parks & Recreation Department and is currently set to expire on October 14, 2021.

TCCA's Board voted on June 10, 2021 to work with City staff to explore and implement parklet concepts as an outdoor dining enhancement strategy. During the past few

months, the TCCA Board explored pathways towards balancing strong public demand for outdoor dining with reopening direct access and parking in front of businesses negatively affected by the Streatery with regard to visibility and parking limitations. Working closely with TCCA, City staff prepared a draft ordinance related to parklets, which would provide long-term outdoor dining opportunities in the Downtown, focusing on 10th Street, Central Avenue and 6th Street. City staff developed a Downtown Parklet Grant program, which consists of design guidelines, streamlined permitting process, and cost reimbursement for parklet construction.

Staff presented the parklet staff report to Council on September 21, 2021. Council adopted the Downtown outside dining ordinance, approved the Downtown Parklet Grant program, and allocated \$500,000 of ARPA funding to the project. Council also directed staff to continue exploring design standards, including lighting options, and ensure that merchant concerns were adequately addressed. With subsequent work needed to develop consensus around the design standards, Council expressed desire to extend the special event permit for the Streatery through December 31, 2021.

The Parks & Recreation Department has the authority to extend the current TCCA special event permit per Tracy Municipal Code Chapter 4.16 – *“Regulations Pertaining to the Use of Parks and Recreation Areas and Facilities.”* This extension would provide for continuity between removal of the Streatery and implementation of the new parklet outside dining program. However, on September 28, 2021, in support of 10th Street merchants’ desire to open up 10th Street for two-way traffic and allow access to parking along the north side of 10th Street, and to accommodate upcoming holiday parades, a vote of the TCCA board showed unanimous support to allow the special event permit to expire on October 14, 2021.

STRATEGIC PLAN

This agenda item supports the City of Tracy’s Economic Development Strategic Priority, Goal 1, which is to support local businesses impacted by COVID-19.

FISCAL IMPACT

This item has no fiscal impact to the City’s General Fund.

RECOMMENDATION

Staff recommends that Council receive an update regarding the Streatery special event permit expiring on October 14, 2021.

Prepared by: Michael Nimon, Economic Development Manager

Reviewed by: Thien Nguyen, Recreation Services Supervisor
Bill Dean, Interim Development Services Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

AGENDA ITEM 1.H

REQUEST

PROVIDE AN UPDATE TO THE CITY COUNCIL ON THE POLICE DEPARTMENT'S RESPONSE TO FIREWORKS COMPLAINTS AND OFFICIAL CITY EVENTS DURING THE JULY 4TH WEEKEND

EXECUTIVE SUMMARY

Building on lessons learned from prior years, the Police Department developed an operational plan for the July 2-4, 2021 period to include both responses to fireworks complaints as well as staffing City of Tracy events during that weekend. This report explains new strategies used this year as well as roadblocks that prevented the deployment from being fully effective. Several suggestions are included for implementation in the future.

DISCUSSION

In response to a request by City Council members, this report provides an update to the deployment of Tracy Police Department (TPD) personnel and resources during the July 4th, 2021 weekend, specifically related to fireworks complaints. In addition, the report includes details of the staffing and plans for City of Tracy events on July 4th, 2021.

The operational plan built on prior years' responses, including lessons learned and the application of new technology and statutes. Two of the most significant additions for 2021 were the use of drones to aid in the location of fireworks violations, as well as the use of the "social host" ordinance approved by the Council in late 2020. As a result, TPD noted a significant increase in our enforcement capabilities to locate and further investigate violators, but we also observed that the great potential was hindered by staffing issues.

Details of the deployment models, the results, the challenges and a list of recommendations for the future are included in the attached After Action Report.

In consulting with the City Attorney's Office, the following was determined:

Currently, the primary method of enforcement for addressing dangerous (illegal) fireworks in the City of Tracy is criminal prosecution. Tracy Municipal Code (TMC) section 3.04.030, subsection (b), provides that it shall be a misdemeanor to sell or discharge dangerous fireworks within the City of Tracy. State law establishes the penalties for a misdemeanor, which are a maximum fine of \$1,000, or imprisonment for six months, or both. TMC section 3.04.130 also provides that any violation of the Fireworks Chapter is a misdemeanor, which includes the discharge of safe and sane fireworks outside the permitted time period specified under the TMC. In the alternative, the Police Department may also issue administrative citations under TMC section 1.28 for both the sale or discharge of dangerous fireworks, or for safe and sane fireworks

discharged outside the permitted time period. Therefore, under the TMC the Police Department has the discretion to issue administrative citations, but criminal prosecution is typically considered to be the most effective deterrent because of the potential penalties and requirement that the cited individual appear in court. For the past couple of years, the San Joaquin County District Attorney's Office has prosecuted Tracy Police Department's misdemeanor citations for illegal fireworks.

The Health and Safety Code sets fine amounts for administrative citations relating to dangerous fireworks, but it is silent on fine amounts for safe and sane fireworks. Government Code section 36900 sets the following penalties for administrative citations for infractions: one hundred dollars (\$100) for a first violation; two hundred dollars (\$200) for a second violation of the same ordinance within one year; and five hundred dollars (\$500) for each additional violation of the same ordinance within one year. In this case, the discharge of safe and sane fireworks outside of the allowed time period is a misdemeanor under the TMC. The City Attorney's Office (CAO) was unable to locate any specific statutory authority on what fines can be imposed for administrative citations for safe and sane firework violations that can be charged as misdemeanors. If the Council chooses to increase the fine amount for the violations, the CAO recommends that such fines be a maximum of \$1,000 to be consistent with the penalty for a misdemeanor. Some cities have chosen to establish fines for illegal fireworks and safe and sane fireworks that are greater than what is allowed under state law. Such actions may expose those jurisdictions to legal risk.

In 2018, there were 7 citations issued for misdemeanor fireworks violations. In 2019, there was one case that was referred for prosecution for possession of illegal fireworks for sale. Due to modified deployment plans in 2020 because of COVID, there were no fireworks-related cases. For 2021, enforcement resulted in 7 administrative citations based on TMC violations (an additional 2 cases mentioned in the After Action Report did not yield sufficient evidence for prosecution) and 7 criminal cases being referred to the District Attorney's office for criminal violations (one Felony, five Misdemeanor, one case declined), including one case that resulted from a sting operation.

FISCAL IMPACT

None.

STRATEGIC PLAN

This agenda item relates to the Council's Strategic Plan in the area of Public Safety, specifically Goal #3: Strengthen community safety through crime prevention reduction activities.

RECOMMENDATION

Staff recommends that City Council receive the update.

Prepared by: Alex Neicu, Police Captain

Reviewed by: Sekou Millington, Chief of Police

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS:

ATTACHMENT A: Tracy PD Operations Plan for July 4, 2021 weekend

ATTACHMENT B: Tracy PD After Action Report for July 4, 2021 weekend

TRACY POLICE DEPARTMENT
OPERATIONS PLAN

Fourth of July in the Park
Operational Period: July 2nd to July 4th 2021

DATE OF EVENT: July 2 through 4th 2021

UPDATED:

PREPARED BY: Lt. M. Contreras

I. SITUATION

A. General Situation

The Tracy Chamber of Commerce is hosting their annual 4th of July Downtown Parade and “Day in the Park” celebration at Lincoln Park. It is anticipated over 3,000 people will be in attendance. The Fourth of July holiday weekend also results in a significant increase of calls for service related to illegal fireworks.

B. Background/Recent Events

In celebration of the 4th of July, the Tracy Chamber of Commerce has annually hosted a downtown parade and fireworks event. The downtown parade is followed by festivities and vendors in the park and concludes with a fireworks show from the old Heinz Factory located behind Tracy High School east of Lincoln Park. The Fourth of July event is one of the largest community events in the City of Tracy. Tracy PD anticipates a larger call for service volume pertaining to illegal fireworks. A Fireworks Enforcement Team will be scheduled for July 2, July 3rd and July 4th. (See attached appendix A and B)

C. Specific

The 4th of July event has been promoted on the Tracy Chamber of Commerce webpage and the Tracy Press.

4 July 2021	
Group	Tracy Chamber of Commerce
Participation	Approximately 3,000
Event	4th of July Parade, Lincoln Park festivities and Fireworks show
Location(s)	<ul style="list-style-type: none"> • Parade: Downtown Tracy • Park Event: Lincoln Park (200 E. Eaton Avenue)
Times	Parade: (1000 to 1100 hours). Lincoln Park festivities (0500 to 2200).
Purpose	Celebration of the 4th of July
Goal	Facilitate a peaceful and organized 4 th of July event.

06-02-2021

CLASSIFIED--FOR LAW ENFORCEMENT USE ONLY

D. Intelligence

The Tracy Police Department has been meeting regularly with representatives of the Tracy Chamber of Commerce along with City Departments to include Public works, Parks and South County Fire.

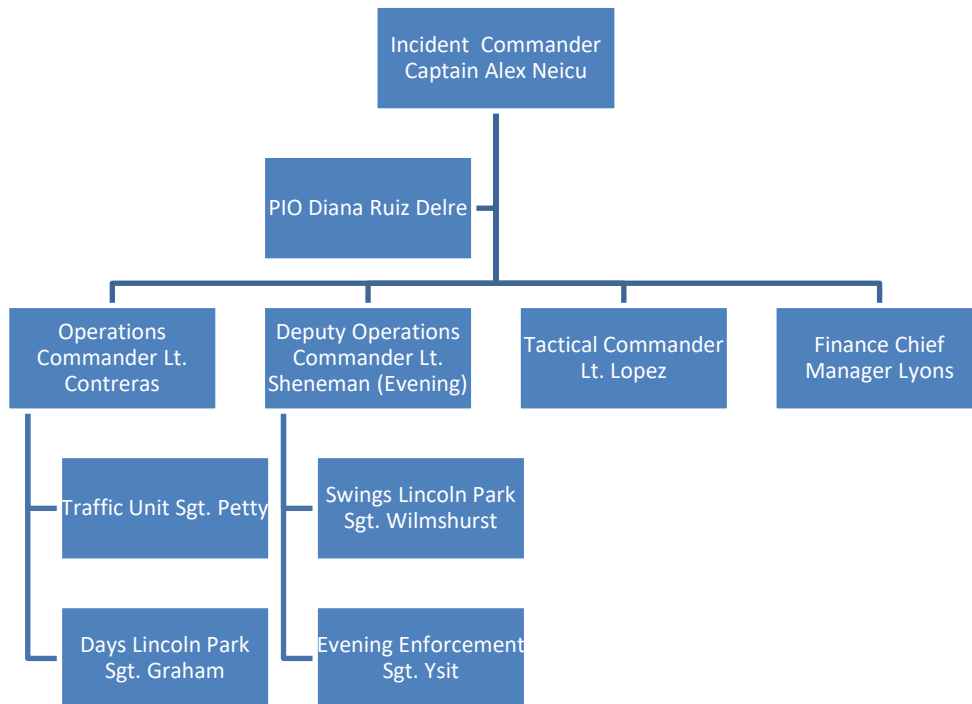
E. Organization

TPD Personnel will utilize the Incident Command System (ICS) to manage our efforts. All operations will be managed out of the Tracy PD Emergency Operations Center (EOC). In addition our Command Post vehicle will be parked at Lincoln Park on Eaton Avenue.

TPD Personnel assigned to the events will be assigned to the Operations Commander.

TPD will staff the event with Tracy PD resources. Public Works, Parks and South County Fire will be called upon to assist with logistic and medical aid if needed. Patrol staff assigned to patrol duties will assist if needed. There is no request for mutual aid at this time. However, the regional mutual aid coordinator at SJCO will be advised of the potential need for assistance.

The Overall **ICS Structure for the Operational Period of 4 July 21** is as follows:



II. MISSION

The Mission of the Tracy Police Department, is to provide a law enforcement presence and promote positive community relations while maintaining public safety throughout the event. Officers will provide foot patrols within the park throughout the day and evening. Officers assigned to enforcement efforts will be utilized to handle fireworks related calls for service and enforce violations of fireworks laws. This will be done with an effort to:

1. Protect Life and Property;
2. Maintain Officer Safety;
3. Maintain Public Peace and Order

III. EXECUTION

A. Commander's Intent

Purpose: To provide a law enforcement presence and promote positive community relations while maintaining public safety during and after the Fourth of July event. Tracy PD will provide traffic controls for the downtown parade and around the vicinity of Lincoln Park as needed. Officers will provide foot patrols within the park throughout the day and evening.

Tracy PD personnel and the TPD Command Post Vehicle will be onsite during the festivities at Lincoln Park. In addition, patrol teams targeting illegal fireworks will be actively patrolling neighborhoods, responding to calls for service and ensure laws regarding illegal fireworks are strictly enforced.

The Fourth of July event in the park is a well-attended community event. Police personnel must maintain a professional demeanor and remain neutral in word and deed despite unlawful or anti-social behavior on the part of individuals or crowd members at the park. Unprofessional police behavior can inflame a tense situation and make crowd control efforts more difficult and dangerous. Strong supervision and command are essential to maintaining a unified, measured, and effective police response. Impulsive or independent actions by officers are to be avoided. TPD will endeavor to enforce applicable laws and arrest specific individuals who are committing crimes. In the event an officer on views a crime or disturbance a radio call for an additional cover units should be made.

Traffic congestion from event participants is guaranteed at the conclusion of the fireworks show. In the years past, traffic has been allowed to flow away from the event after the fireworks show, without police traffic control. A supervisor may direct others to control intersections if needed; however, it is our plan to allow traffic to flow out of the area without police intervention. This will free up officers assigned to the celebration allowing them to respond to calls for service in and around the park.

In the event of a declaration of an unlawful assembly, TPD will disperse crowds in an orderly manner to predetermined egress routes and arrest individuals who fail to disperse.

Repeated announcements will be made advising them of our intent to arrest them if they do not leave. Announcements shall be made in different locations if the crowd is large and noisy. Sufficient time will be allotted for those who wish to leave before any further police action is taken. Those remaining and refusing to leave will be cited or arrested.

TPD will follow and will request all law enforcement agencies participating pursuant to a mutual aid request to follow TPD policies respecting crowd control management, unlawful assemblies, use of chemical agents and less-lethal impact munitions, use of force, arrests and transporting in-custody individuals to jail. Responding units will be briefed on the operation at the designated staging locations and their crowd control munitions will be inspected. Chemical agents may be used to disperse riotous crowds ONLY at the direction of the Incident Commander. Use of chemical agents may be deployed at the supervisor and command level under exigent circumstances.

Key Tasks – The following is our list of our mission-essential tasks:

- Work with event organizers and city departments to gather intelligence regarding planning, crowd size, park events and time frames.
- Provide traffic and pedestrian controls for the downtown parade and around Lincoln Park as needed.
- Promote positive community relations while maintaining public safety for the Fourth of July event.
- Establish a Command Post utilizing our mobile command vehicle at Lincoln Park.
- Utilize uniformed patrol teams to provide firework enforcement.
- Enforce applicable laws by identifying and arresting specific individuals engaged in unlawful behavior when safe to do so.
- If necessary, issue dispersal orders and disperse crowds in an orderly manner to predetermined egress routes. Safely cite/arrest individuals who fail to disperse.
- Process arrestees in accord with TPD policy/procedures.
- Investigate uses of force, complaints and criminal acts in accord with TPD policy/procedures.
- Maintain strong team discipline.

End State – This operation will be successful if the following conditions are achieved:

- TPD promotes positive community relations.
- No acts of violence or vandalism occur.
- No officers are injured.
- Only reasonable force is employed in executing the mission.

B. Concept of Operations and TPD Organization

1. The Incident Commander and all subordinate units will utilize the Incident Command System for command and control.

2. TPD will deploy 3 squads throughout the day for this event:

- Dayshift Park and Parade detail (0800 – 1630)
- Swing shift Park detail (1530-2230)
- Evening Fireworks Enforcement detail (1900 – 0200)

Involved personnel will deploy to their designated assignments following and acknowledging understanding of the Operational Briefing.

3. Operational briefings will be held in the EOC and are scheduled as follows:

- Dayshift Park detail with motors (0810 hours).
- Swing shift Park detail (1540 hours).
- Evening Fireworks Enforcement detail (1910 hours)

4. After receiving the Operations Briefing, personnel will be deployed as follows:

- Dayshift park detail respond to assigned locations by (0845 hours)
- Swingshift park detail respond to Lincoln Park by (1600 hours)
- Evening patrol detail beginning patrolling by (1945 hours)

The complement of operational assets available to the operation include:

- The TPD motors unit will facilitate parade, provide traffic control and enforcement.
- Dayshift park detail will provide security at the park, conduct community outreach and enforce law violations.
- Swing shift park detail will provide security at the park, conduct community outreach and enforce law violations.
- Evening patrol detail will handle calls for service regarding illegal fireworks.
- The TPD Drone Unit will provide aerial surveillance as needed.
- South County Fire will be available along with American Medical Response for medical emergencies

During operations, uniformed teams will maintain a visible presence in and around their assigned areas. They will remain mobile, flexible, and ready to respond to address issues and crime concerns (violence or vandalism). Outside LE Agencies (mutual aid) may be used for crowd management and/or deployment to predetermined locations if needed.

5. If mutual aid is requested, each agency which responds to the City's request for mutual aid will be briefed in the north parking lot of TPD on Crowd Management and Use of Force policies and given an overview of the operation plan detailing the Commander's intent. Each agency will be assigned a TPD liaison to maintain the Incident Commander's command and control, communication, and situational awareness while executing the mission.

C. Tasks to Subordinate Units

1. Operations Section

- a. Provide traffic controls for the Downtown parade.
- b. Maintain a visible presence in and around the downtown area and Lincoln Park.
- c. Identify and arrest individuals committing crimes.
- d. If the circumstances require, request Mutual Aid resources from the Incident Commander.
- e. Be prepared to develop operations portions of the Incident Action Plan.
- f. Prepare, publish and notify assignments.
- g. Compile and display incident status information, reporting significant changes in incident status to the Incident Commander.
- h. Prepare and supervise the preparation of the Incident Operational Plan.
- i. Prepare and supervise the Demobilization plan.
- j. Prepare and supervise preparation of After Action Report (AAR).

Personnel Deployment:

Dayshift Motor Squad detail

- Deploy with the parade procession, maintaining a visible presence to monitor parade route and provide rolling closure of intersections and driveways as needed.

Dayshift and Swingshift Park detail

- Provide foot patrols, monitor park functions, offer community outreach and provide enforcement when needed.
- Maintain public safety and provide surveillance of the surrounding area.
- Identify and cite/arrest individuals committing crimes, when safe and tactically feasible to do so.

Evening Patrol Detail.

- Provide additional patrol services to neighborhoods with an emphasis on illegal fireworks enforcement.
- Identify and cite/arrest individuals committing crimes, when safe and tactically feasible to do so.

Tracy PD Drone Unit

- Provide overhead surveillance of park event and assist with surveillance and enforcement of illegal fireworks. Relay information to Operations Commander for situational updates. Information to include but not limited to crowd size and activity.

EMS/AMR

- Respond to medical emergencies and render appropriate aid.

SCFA

- Respond to medical emergencies and render appropriate aid.
- Respond to any fire emergencies.

Logistics and Finance

- Alicia Carson and Beth Lyons providing finance logistical support.

D. Arrest Procedures in Major Crowd Situations

Where a criminal act occurs within a large crowd, efforts shall be made to identify the suspect(s) for arrest(s). Field commanders shall consider the safety of officers and bystanders in their decision to move into a crowd to make an arrest. Where directed, arrest teams shall deploy to make surgical arrests. Arrest teams will be equipped with sufficient protective gear to complete the arrest or possible officer rescue. The field commander shall assess the situation and request the necessary resources to take action. On-scene personnel shall advise the best route to respond. Officers shall not abandon their posts, unless it becomes unsafe, to respond to other problems unless directed to do so by a supervisor or commander.

Individual arrests shall comply with Departmental policies and procedures. The field commanders maintain the responsibility to ensure the procedures briefing takes place prior to deployment. Juveniles shall be separated from adult offenders and processed in accordance with Departmental policy. Arrest teams shall be responsible for completing and submitting a separate supplemental report documenting each arrest at the conclusion of the operation.

Officers shall cite out misdemeanor violations unless there is reasonable likelihood that the offense would continue or resume or that the safety of persons or property would be immediately endangered by the release of the person (853.6i(7) PC). Offenses that are likely to continue must be supported by articulable facts.

In the event of riotous behavior, a field commander will evaluate and recommend if the crowd should be dispersed. The Incident Commander or Operations Commander shall make the determination. Dispersal orders *may be* made in the following conditions:

- ◆ When crowd violence targets law enforcement personnel at a level likely to cause injury to personnel and arrests are not possible or are not likely to succeed.
- ◆ When crowd violence includes arson and arrests are not possible or likely to succeed.
- ◆ When crowd violence targets buildings/property with felony malicious mischief and arrests are not possible or likely to succeed.
- ◆ When individuals in the crowd begin to attack other people in the crowd with force likely to produce injuries requiring medical assistance and arrests are not possible or likely to succeed.

Dispersal orders may be given even if arrests are possible and have been made so that order may be restored among the remaining members of the group. The field commander will give or direct another to provide the dispersal order.

E. Anticipated Scenarios

1. Illegal fireworks can result in property damage and injuries. This will generate an increase for calls for service.
2. Although not anticipated, discuss response plans to possible indiscriminate gunfire in the crowd occurring during the Independence Day celebration. This can cause injuries,

- death and property damage.
3. Expect an increase of incidents involving intoxicated drivers and intoxicated persons.
 4. With a large number of people congregating in a park anticipate a higher probability for disturbances, fights and law violations. This can also lead to a riotous crowd.
 5. Expect an increase in vehicle and pedestrian traffic near and around Lincoln Park and the Downtown area.

Each of these anticipated scenarios requires an increase in officer safety and overall situational awareness. Throughout the 4th of July event, our mission is to provide a law enforcement presence by maintaining public safety and promoting positive community relations.

In the event a decision is made by the Incident Commander to confront any number of civilians for any reason, the safety of officers and uninvolved persons shall be considered. Additionally, the capacity of police resources to manage an anticipated scenario shall be considered.

In the event a crowd become riotous, our mission is not to arrest every law violator but instead to manage the entire event. Police shall strive to not create a situation – unless necessary to prevent the loss of life, serious bodily injury, and major property damage.

In the event of a riotous crowd, the Incident Commander must consider the impact of minimizing police responses during a crowd control or riot situation. Such a strategy can actually escalate violence and vandalism by members of the crowd who observe no response from the police thereby empowering individuals and groups in the crowd to act even more recklessly and without consequences.

F. Use of Force in Major Crowd Situations

- The IC, field commanders and field supervisors shall make every effort to ensure that the police mission is accomplished as efficiently and unobtrusively as possible with the highest regard for the human dignity and liberty of all persons and with minimal reliance on the use of physical force.
- Departmental Policy 300 applies. The deployment of chemical agents shall be at the direction of the Incident Commander (unless exigent circumstances exist). If command directed, field commanders shall provide specific direction on the type of munition and location of deployment. If an Unlawful Assembly (407 PC) is declared and a dispersal order, and persons refuse to leave, a second warning(s), if feasible, shall be made prior to the use of chemical agents, allowing persons another opportunity to leave voluntarily. Use of specialty impact munitions shall not be indiscriminate nor used to disperse a non-violent crowd. Officers shall make an effort to arrest suspects when force is used to gain compliance. Chemical agents and specialty impact munitions shall only be deployed as authorized by TPD policy.
- Personnel using specialty impact munitions shall account for and report, to their supervisor, each individual use of force and document it in a report.
- All personnel involved in a use of force shall complete a report and supplemental reports articulating the circumstances and justifications for their individual decision to

use force per Department Policy 300.

G. Reporting/Evidence Collection

In the event a *major crowd disturbance occurs*, each member involved in the major crowd disturbance operation shall complete a supplemental report documenting his or her activities and observations during the course of the operation. ***Such an incident shall be properly identified by the Incident Commander.*** Individual members are required to document each use of force.

Members using specialty impact munitions shall account for and report, to their supervisor, each individual use of force and document it in a report. Supervisors shall be responsible for collecting the reports and submitting them as a complete package to their respective commanders.

Commanders shall ensure, in the event of a criminal act, an arrest, or any deployment of gas or specialty impact munitions, all involved personnel and their immediate supervisor(s) complete the appropriate report (crime report, supplemental report, etc.). Officers shall document specific acts of the individuals, list witnesses and take witness statements when appropriate.

The recovery of physical evidence (i.e. projectiles) shall be the responsibility of every member. Supervisors shall ensure that their assigned personnel collect, document, package, and catalog relevant physical evidence.

The supervisor of the officers involved shall ensure the proper reports are completed in accordance with Departmental policies, or in compliance with the procedures in this operation (i.e. mass arrest). When more than one team is involved, the field commander at the scene shall designate a single supervisor to coordinate the completion of the necessary reports.

Officers who have been assigned a BWC shall activate the camera when directly engaged with the crowd or individuals and shall document activation of the BWC in the appropriate report.

If the BWC is lost, stolen, damaged, or malfunctions during the duration of the incident, the circumstances shall be documented in the appropriate Departmental reports. BWCs shall be inspected to prior to deployment.

At the conclusion of the operation, all personnel shall be responsible for submitting the appropriate Crime Reports and supplements. The assigned supervisor shall be responsible for reviewing the reports and preparing UOF Report paperwork as follows:

1. Supplemental Reports, – to identified Primary Assigned Officer
2. UOF Report – to immediate supervisor/commander

At the conclusion of the operation, the Team Supervisor/Commander will be responsible for:

1. Determining the number of force incidents, types, locations, injuries, and identities of involved members.

2. Briefing the Incident Commander and Operations Commander on the totality of force used during the operational period.

H. Complaints

1. Complaints will be handled by supervisors in the field based on the following circumstances:
 - a. Under normal circumstances, when officers are in a static position and not engaged in confrontations with unlawful individuals: In such circumstances, officers shall advise their supervisor of the complaint, without delay. Supervisors shall then advise radio dispatch, without delay.
 - b. Under circumstances in which officers are moving as part of a skirmish line and in contact with unlawful individuals:

In such circumstances, officers shall advise their supervisor, as soon as tactically feasible. Supervisors shall then advise radio dispatch, as soon as tactically feasible.
 - c. Under circumstances in which officers are in direct contact with confrontational individuals: In such circumstances, officers shall note the time, location, and description of the complainant, and advise their supervisor, as soon as tactically feasible. Supervisors shall then advise radio dispatch, as soon as tactically feasible.

I. Mutual Aid

1. As the Law Enforcement Region Mutual Aid Coordinator, the San Joaquin County Sheriff will coordinate the mutual aid response by police departments throughout the region. All requests for mutual aid will be made through the Incident Commander. All mutual aid responders shall check in at the main staging area. Relevant TPD policies shall be provided to all participating outside agencies responding to a request for mutual aid.
2. All mutual aid agencies shall be briefed on the current Operations Plan by the Operations Commander or Deputy Commander.
3. Prior to deployment, a complete inventory of all munitions and chemical agents possessed by mutual aid responders shall be completed and documented to ensure identification and approval by a TPD commander. The approving TPD commander shall brief the Operations Commander for final approval of munitions and chemical agents possessed by mutual aid responders. Munitions and chemical agents not approved by the Operations Commander shall not be deployed by any agency. If a mutual aid responder refuses to comply with this directive that agency shall not be utilized for any assignment where munitions are likely to be deployed. The inventory shall be attached to the After Action Report.

J. Reporting Injuries

Injuries to an officer or private person shall be reported to an immediate supervisor. Supervisors shall notify the Incident Commander or the Operations Commander of any significant injuries or need for medical treatment. Supervisors/Commanders will

coordinate the treatment and transport of assigned personnel and complete the appropriate documentation prior to going off duty.

K. Contingency Plans

If individuals obstruct free flow of vehicle traffic at major thoroughfares or intersections causing significant disruption to commute traffic, safety and/or commerce: TPD will assess the time, place and manner in which people are engaged in these acts. The Incident Commander shall make the determination whether or not to remove people from intersections or thoroughfares based on the severity of the impacts if nothing is done to remove them. The Incident Commander shall balance the level of disruption to traffic against the TPD policy of facilitating 1st Amendment activity; the practicality of relegating the crowd to sidewalks or an alternate-route; the expected duration of the disruption, and the traffic disruption expected in making a mass arrest if demonstrators refuse to leave the street.

If individuals enter and take over a building or private lot refusing to leave: TPD will identify the building owner and determine if police services are requested to remove the trespassing occupants (unless obvious and on-going crimes are occurring; fire set, vandalism). If police services are requested, TPD shall surround the building or lot and contain the occupants. TPD will provide announcements directing trespassers to immediately leave and shall arrest anyone found exiting the building or lot. TPD shall determine a tactical plan to enter the building or lot and arrest remaining trespassers.

If individuals damage property: At the direction of a commander and when tactically feasible, arrest team(s) will make surgical arrests of individuals who damage or destroy property.

If individuals set fires: TPD will use fire extinguishers to put out small trash can fires. If needed, TPD escort officers will provide force protection to SCFA to put out larger fires. At the direction of a commander, arrest team(s) will make surgical arrests of individuals who set fires.

If shots are fired from within the crowd: TPD officers shall try and identify the shooter and react with the appropriate force, if possible. If there is no immediately identifiable target then officers shall seek immediate cover positions. The on-scene supervisor/commander will decide if the use of chemical agents, smoke or diversionary devices should be deployed to disperse the crowd, and/or shooter.

L. Pursuits

Departmental Policy 307 applies. Supervisors are responsible for authorizing, monitoring, and reporting pursuits involving personnel assigned to them. Units in a pursuit shall switch to TPD Primary.

IV. ADMINISTRATION AND SUPPORT

Administration

A. Pay

Overtime forms will be completed noting the event name for tracking purposes. Supervisors will review and endorse accurate overtime forms and forward them to their commander for approval.

B. After Action Reporting

The After Action Report will be completed by the Incident Commander (or designee).

C. Uniform for the operation

Class B with gun belt and all safety equipment and BWC.

D. Reporting

All reports will be or completed prior to leaving following the event and approved by a supervisor assigned to the event.

E. Key Locations

Name	Location
Emergency Operations Center	TPD 1000 Civic Center Drive
Mutual Aid Staging	TPD North Parking Lot
AMR	TPD North Lot

F. Medical

- ◆ Sutter Tracy Community Hospital – 1420 N Tracy Boulevard
- ◆ Kaiser Hospital – 1777 W Yosemite Ave, Manteca
- ◆ San Joaquin County General Hospital – 500 W Hospital Rd, French Camp

Individuals that are arrested and require medical treatment shall be transported to Tracy Community Hospital.

V. COMMAND AND COMMUNICATION

A. ICS Command Structure

Commander/Supervisor	Name	Contact
Incident Commander	Captain Alex Neicu	209-321-3954

Operations Section Chief	Lieutenant Miguel Contreras	209-321-3969
Deputy Operations Chief	Lieutenant Tony Sheneman	209-612-6144
Traffic Unit Supervisor	Sgt. Joel Petty	209-679-5067
Tactical Commander	Lieutenant Octavio Lopez	209-988-5397
Finance Chief	Manager Beth Lyons	209-814-1327
Public Information	Diana Ruiz Delre	510-908-1611

B. Communications

Primary communications shall utilize the TPD radio system. Cellular telephones may be used for secondary communications in the event of a system failure or problematic communication conditions.

C. Media

A Department Public Information Officer will be available during this operation. All media inquiries shall be referred to the Public Information Officer and/or the Incident Commander. Police operational information shall not be discussed with the media. All individuals possessing official media identification, or claiming media affiliation, shall be allowed to engage in activity afforded to media personnel in accordance with our policy. All personnel are reminded to respect the right of the media during times of civil unrest.

Public trust and confidence in law enforcement are dependent upon open and honest communication with the public, most often through media access and reports. Department policy requires officers to make every reasonable effort to help reporters cover police actions and activity. Media representatives shall be treated in a fair and impartial manner.

Formal press releases and/or press conferences with City Officials is the preferred method of distributing information; circumstances immediately or imminently affecting traffic flow or public safety may be communicated by TPD PIO, Incident Commander, or his/her designee through a field command post or through press briefings in the field.

For mobile and stationary events/coverage alike, all individuals claiming media affiliation shall be allowed to engage in activity afforded to media personnel in accordance with our policy.

D. Fire or Medical Assistance

All requests for fire department services or medical aid shall be made through the dispatcher. All personnel must provide as much information about the emergency as possible. Special arrangements may be needed to escort fire and medical response.

MC #1114

**Miguel Contreras
Police Lieutenant
Operations Commander
Bureau of Field Operations**

A. Neicu

**Alex Neicu
Police Captain
Incident Commander
Bureau of Field Operations**

APPENDIX A – Personnel Assignments for Fireworks Enforcement for Friday July 2nd .

Staff	Assignment	Call Sign
[REDACTED]	Fireworks Enforcement	S-12
	Fireworks Enforcement	F-1
	Fireworks Enforcement	F-2

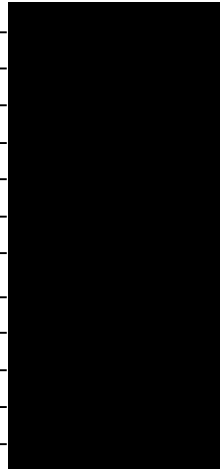
APPENDIX A – Personnel Assignments for Fireworks Enforcement for Saturday July 3rd .

Staff	Assignment	Call Sign
[REDACTED]	Fireworks Enforcement	S-12
	Fireworks Enforcement	F-1
	Fireworks Enforcement	F-2
	Fireworks Enforcement	F-3


**APPENDIX C – Personnel Assignments for Parade, Park Festivities and Enforcement for
July 4th 2021**

(0800-1630)

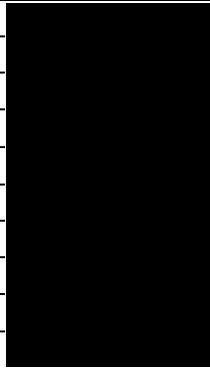
Briefing at 0810 Hours, EOC-Lt. Contreras (W-14)

Staff	Assignment	Call Sign
	Parade Supervisor	S-7
	Park Supervisor	S-12
	CP Drop Off @ 0830	NR-1
	Lead Car	NR-2
	6th and Central/Tail car	O-27
	9th & Central	F-2
	10 th & Central	F-1
	11th & Central	F-3 (ATV)
	11 th & Central	M-1
	Holly & Eaton	M-2
	Holly & Eaton	M-3
	Drone Unit	
	Comm. Center Ch. 2	Tracy

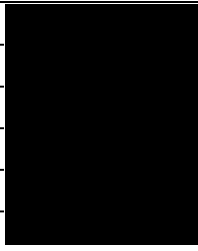
**Day Shift in the Park (1000-1630)
Lt. Contreras (W-14) Incident Commander**

Staff	Assignment	Call Sign
	Park Supervisor	S-12
	Foot Patrol/Co-Supervisor	NR-1
	Foot Patrol	F-1
	Foot Patrol	F-2
	ATV @ Lincoln Park	F-3
Comm. Center Ch. 2	Tracy	

**Swing Shift in the Park (1530-2230)
Briefing @ 1540 hours in EOC
Lt. Sheneman (W-12) Incident Commander**

Staff	Assignment	Call Sign
	Swings Event Supervisor/Drone	S-4
	Foot Patrol	F-4
	Foot Patrol	F-5
	Foot Patrol	F-6
	Foot Patrol	F-7
	Foot patrol	F-8
	Foot Patrol	F-9
	Foot Patrol	F-10
	Comm. Center Ch.2	Tracy
	CP Pick Up@ 2230	S-13

**Additional Enforcement Staff (1900-0200)
Briefing @ 1910 hours in EOC**

Staff	Assignment	Call Sign
	Enforcement Supervisor	S-13
	Enforcement	
	Enforcement	F-11
	Enforcement	F-12
	Drone Unit	
	Drone Unit	F-13

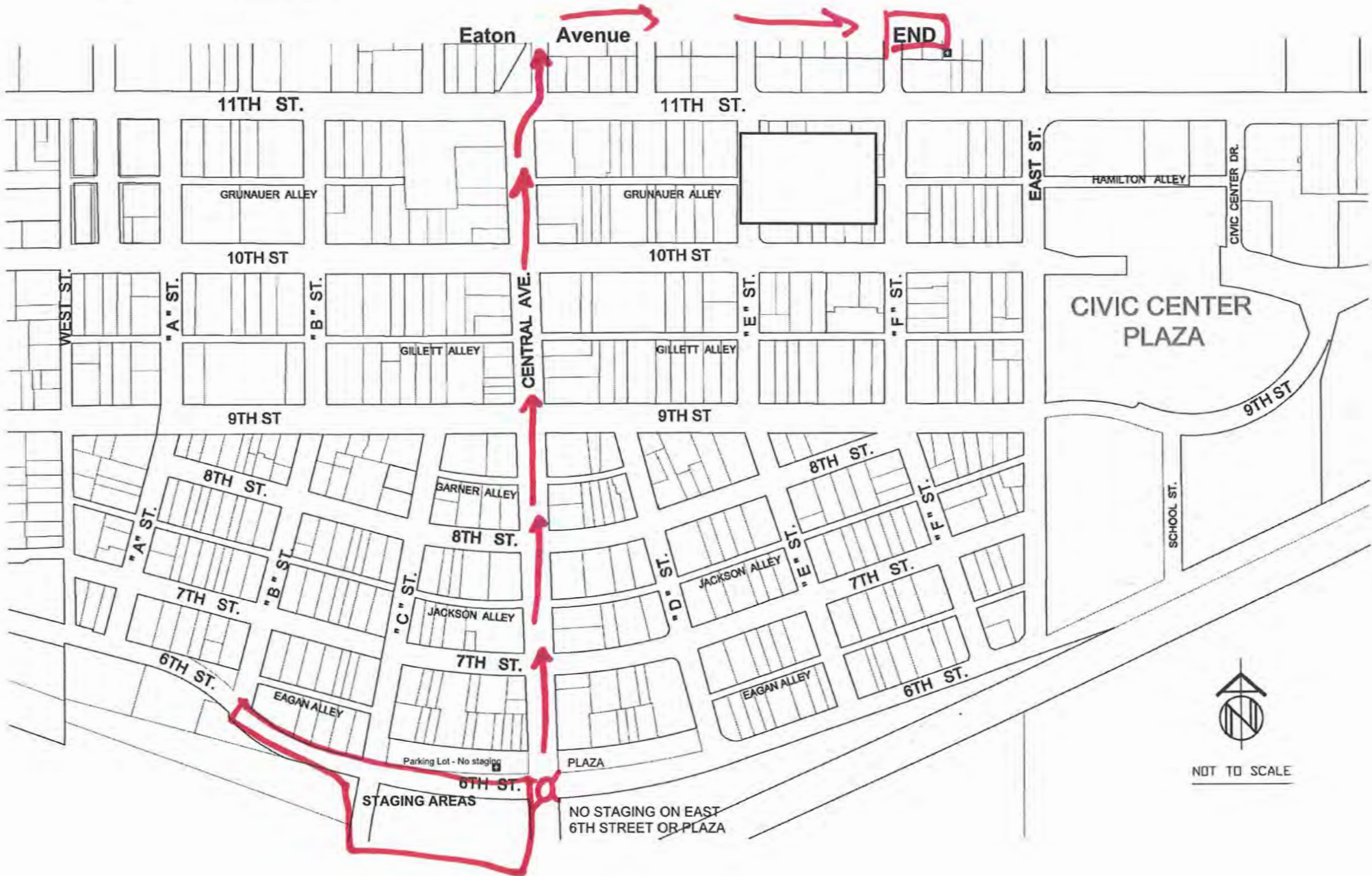
The Additional Enforcement team (1900-0200) will be divided into two teams providing coverage and responding to fireworks calls for service. The first group Supervised by Corporal Troy Silcox will handle fireworks calls north of 11th Street and the second team Supervised by Sgt. Ysit will handle fireworks calls south of 11th Street.

Tracy Chamber of Commerce 4th of July Day in the Park
 Sunday, July 4, 2021 @ Lincoln Park



- = 10'x10' canopy, no walls
- = portapotties
- = alcohol tent (vendor TBD)
- = street/parking lot closure
- = ramp for vehicle entry/exit

LONG PARADE





ATTACHMENT B

MEMORANDUM

Date: August 9, 2021
To: Sekou Millington, Chief of Police
From: Captain Alex Neicu, Bureau of Field Operations
Re: AAR July 4, 2021 operations and response to fireworks

Date of Operation	July 2-4, 2021
Time Period	24 hours daily
Location of Event	City of Tracy, Downtown area, Lincoln Park
Name of Event	4 th of July events
Name of Operation	
Incident Number	None
Report Number(s)	
Incident Commander	Captain Alex Neicu

Background Information	What information and/or incident(s) occurred which caused the event and/or operation? How many subjects or protesters were expected?
The Tracy Chamber of Commerce hosted their annual 4 th of July Downtown Parade and “Day in the Park” celebration at Lincoln Park. It was anticipated over 3,000 people were in attendance. The Fourth of July holiday weekend also resulted in a significant increase of calls for service related to illegal fireworks.	

Objectives	What were the primary objectives and sub-tasks for this event?
The Mission of the Tracy Police Department, is to provide a law enforcement presence and promote positive community relations while maintaining public safety throughout the event. Officers will provide foot patrols within	



the park throughout the day and evening. Officers assigned to enforcement efforts will be utilized to handle fireworks related calls for service and enforce violations of fireworks laws. This will be done with an effort to:

1. Protect Life and Property;
2. Maintain Officer Safety;
3. Maintain Public Peace and Order

Key Tasks – The following was our list of our mission-essential tasks:

- Work with event organizers and city departments to gather intelligence regarding planning, crowd size, park events and time frames.
- Provide traffic and pedestrian controls for the downtown parade and around Lincoln Park as needed.
- Promote positive community relations while maintaining public safety for the Fourth of July event.
- Establish a Command Post utilizing our mobile command vehicle at Lincoln Park.
- Utilize uniformed patrol teams to provide firework enforcement.
- Enforce applicable laws by identifying and arresting specific individuals engaged in unlawful behavior when safe to do so.
- If necessary, issue dispersal orders and disperse crowds in an orderly manner to predetermined egress routes. Safely cite/arrest individuals who fail to disperse.
- Process arrestees in accord with TPD policy/procedures.
- Investigate uses of force, complaints and criminal acts in accord with TPD policy/procedures.
- Maintain strong team discipline.

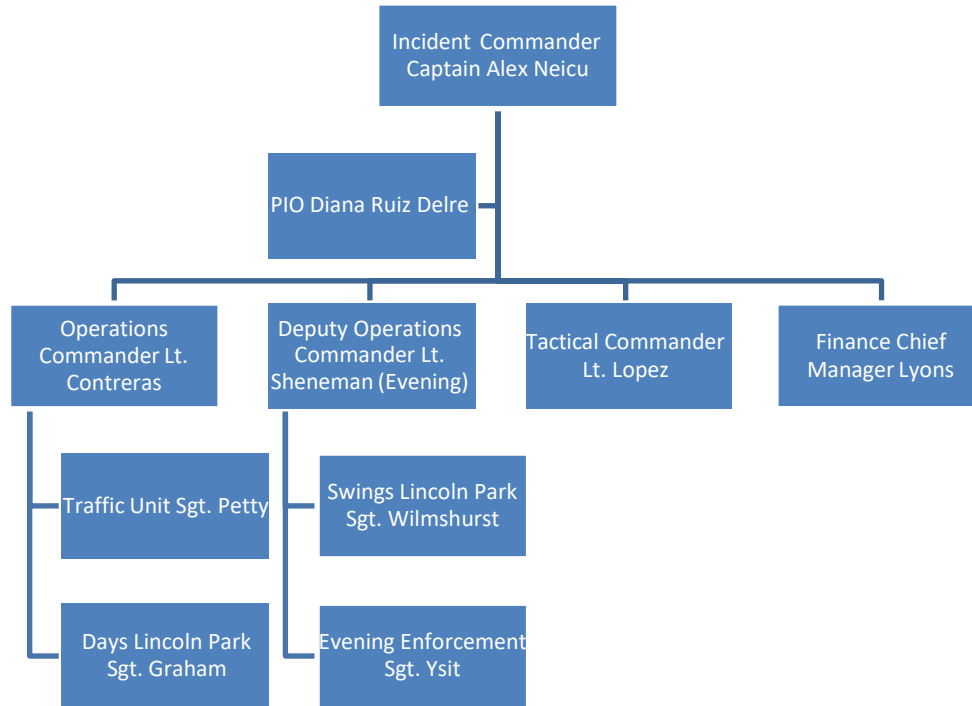
Operations	Was there an Operations Chief for this event? Who were the key personnel assigned operational tasks during this event? Was there a field Command Post(C/P)? Where did the event take place and did it move to another location? Where was the location of the C/P? Was the C/P mobile? Was the Emergency Operations Center (EOC) activated?



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
 VOICE: 209-831-6550 ♦ FAX: 209-831-4017

The Overall **ICS Structure for the Operational Period of 4 July 21** was as follows:



Significant Events	Describe the following significant events: When did the event start? When did crimes and arrests take place? When did the event conclude? How many subjects or protesters were at the event? Precede each significant event with the time it occurred.
Refer to “Summary” at end of document	

Planning	Was there a Planning Chief assigned to this event? Who was the lead planner for the event? Who else took part in the planning meetings? Who completed the operations plan, briefing and personnel detail?
The Operations Plan was developed by Lt. Contreras, in consultation with Lt. Lopez (Tactical Commander).	
Logistics	Was there a Logistics Chief assigned to this event? Did all personnel bring their own equipment? Was any specialized equipment or munitions needed or



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

	utilized during the event? Did any other agency provide specialized equipment?
There was no Logistics Chief. Each team was tasked with providing their own necessary equipment.	

Finance	Was there a Finance Chief assigned to this event? Were personnel required to work overtime for this event? Was a mass overtime sheet used for this event? What were the pay codes for this event? Was there any unusual/extraordinary expenditures for this event?
Manager Lyons-McCarthy was assigned as Finance Chief.	

Intelligence	Was there an Intelligence Officer assigned to this event? What was the intelligence information for this event? Was it open source information? Was it provided by an informant? Was information obtained through negotiations with event organizers? Were negotiators assigned to this event?
The Tracy Police Department has been meeting regularly with representatives of the Tracy Chamber of Commerce along with City Departments to include Public works, Parks and South County Fire. There was nobody specifically assigned to the intelligence position for this operation.	

Safety	Was there a Safety Officer assigned to this event? Were there any significant safety issues? Were there any accidents? Were there any equipment failures?
No Safety Officer – Not needed for this operation	

Liaison	Was there a Liaison Officer assigned to this event? Did outside agencies respond for assistance? What other agencies (city, state or federal) responded or assisted? Was there a mutual aid request?
----------------	--



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

None.

Public Information Officer	Was there a Public Information Officer assigned to this event? Was the media present? Did anyone provide information to the media? Was the media coverage favorable to the agency and/or City?
<p>PIO Diana Del Re was assigned to this event. Leading up to 4th of July, we worked with Fire and City personnel to craft and deliver safety messages and tips. Additionally, District Attorney’s personnel had a presence at the Downtown Farmers’ Market distributing fireworks safety literature. Related directly to our response, the PIO responded to several requests for information from the media, which resulted in published articles:</p> <p>Tracy Press Article: https://www.ttownmedia.com/tracy_press/news/tracy-police-has-new-strategies-to-tackle-illegal-fireworks/article_b37b6460-d521-11eb-9529-9b8dba606ac2.html</p> <p>Fox 40 news: https://fox40.com/news/local-news/tracy-pd-uses-new-program-to-crack-down-on-illegal-fireworks/</p> <p>PSA: https://www.facebook.com/TracyPolice/posts/4463386730360115</p> <p>On the day of the event: https://www.facebook.com/TracyPolice/posts/4468103689888419</p>	

Staging Area	Was a staging area established? Was a staging manager assigned? Who was the staging manager? Where was the staging area located? Did outside agencies respond to the staging area?
<p>Briefing and Staging all took place at the Tracy Police Department (TPD). Deployments continued to several designated locations, depending on the mission.</p>	



TRACY POLICE DEPARTMENT

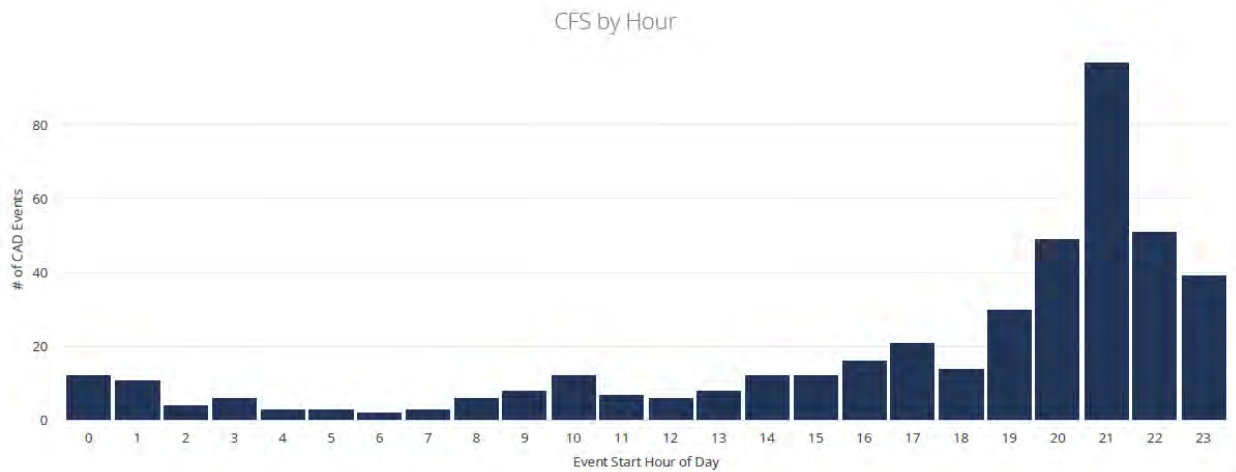
1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
 VOICE: 209-831-6550 ♦ FAX: 209-831-4017

Use of Force	Were there any significant uses of force? Were impact weapons used? Were chemical agents used? Were chemical agents checked out and deployed in the field? Was a police firearm used? Were there significant injuries to subjects?
There was no use of force warranted or used during this event.	

Arrests	Were there any significant arrests? Did mass arrests take place? What were the predominant charges for arrests?
There were no incidents requiring physical arrests during this event. There were several citations issued for fireworks-related violations, as described in the SUMMARY section below.	

Statistical Data (COLLECTIVELY FOR THIS SPECIFIC EVENT)

July 4, 2021: number of calls for service by hour:



SERVICE ♦ INTEGRITY ♦ EXCELLENCE



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

July 4, 2021: top calls for service broken down by type:

CFS by Type

Call for Service Type	# of CAD Events
1 FIREWORKS	167
2 911 CELL PHONE	44
3 FIRE ASSIST	29
4 AUDIBLE ALARM	21
5 911 MISTAKE	18
6 SECURITY CHECK	14
7 RECKLESS DRIVE	11
8 INFO	8
9 MEDICAL ASSIST	8
10 DISCONNECT CELL	7
11 STANDBY CALLOUT	7
12 VERBAL DISPUTE	6
13 DISTURBANCE	6

Over the weekend the PD received several complaints regard a failure to answer non-emergency calls for service. There were four (4) dispatch lines working at full capacity on July 4th. One additional dispatched position was mandatorily filled to assist with the increased calls for service during the holiday weekend. An audit of all calls received and answered on the 4th of July was conducted. It was an exceptionally busy night for the police department. The Communication Dispatch Center utilizes the Emergency Call Tracking System (ECATS), which is the first universal 911 Call Reporting System that provides real-time reporting to our dispatch center. Details captured in ECATS report for 7/4/2021 which shows the number of calls, split into 9-1-1, Non ER, and Administrative Calls for the entire day. Noted in the breakout of calls answered is the % of time it took for us to answer within a designated time frame. The calls will reflect how many were answered and how many calls were abandoned. Abandoned means – callers hung up before being answered. The highest call volume occurred in the 2100 hour with 149 calls to our 7 digit phone number and 77 calls on our 9-1-1 line. TPD took in double the amount of calls for service from midnight-1159pm on the 4th of July.



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

Tracy PD 7/4/2021

911 Count	219
911 Calls Answered	197
Abandoned 911 Calls	22 – (Callers hung up and didn't wait for response)
Average Duration	75 seconds
Answered within 10 seconds	95%
Answered within 15 seconds	98%
Answered within 20 seconds	99%
Answered within 40 seconds	100%
Answered within 60 seconds	100%
Answered within 120 seconds	100%
Answered over 120 seconds	0%

10 Digit Emergency Call Count (X4553)

Total 10 Digit Count	105
10 Digit Calls Answered	105
Abandoned 10 Digit Calls	0
Average Duration	106 seconds
Answered within 10 seconds	94%
Answered within 15 seconds	99%
Answered within 20 seconds	100%
Answered within 40 seconds	100%
Answered within 60 seconds	100%
Answered within 120 seconds	100%
Answered over 120 seconds	0%

Admin Call Count (X4552)

Total Administrative Count	276
Administrative Calls Answered	272
Abandoned Administrative Calls	4
Average Duration	99 seconds
Answered within 10 seconds	91%
Answered within 15 seconds	100%
Answered within 20 seconds	100%
Answered within 40 seconds	100%
Answered within 60 seconds	100%
Answered within 120 seconds	100%
Answered over 120 seconds	0%

Outbound Call Count
Outbound Administrative Calls 181
Outbound 10 Digit Calls 1

SERVICE ♦ INTEGRITY ♦ EXCELLENCE



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

Top 5 Busiest Hours (911 Calls)

7/4/2021 9:00:00 PM 77
7/4/2021 8:00:00 PM 24
7/4/2021 11:00:00 PM 15
7/4/2021 10:00:00 PM 14
7/4/2021 6:00:00 PM 13

Top 5 Busiest Hours (All Call Types)

7/4/2021 9:00:00 PM 149
7/4/2021 10:00:00 PM 69
7/4/2021 8:00:00 PM 66
7/4/2021 11:00:00 PM 45
7/4/2021 7:00:00 PM 32

As a result of the newly implemented “social host” ordinance, **nine** new cases were initiated through administrative citations. In addition, **six** other cases were referred to the District Attorney’s Office for criminal prosecution. (As of August 10, 2021, the outcome for all these cases is still pending.)

Successes	What was done well? Was the event successfully planned? Did everyone know their mission? Were all end-states achieved? Did the tactics and deployment methods work?
Control and flow of the parade on July 4 went well. The deployment at Lincoln Park also worked well. For future events, modifications to the deployment should include staffing the park and parade route with professional staff personnel (e.g. CSO, VIP) or staff from Parks & Recreation Department.	

Shortfalls	Was there a significant failure? Did anyone or any unit fail to complete their mission? What was missed or forgotten? Did the tactics and deployment methods work? Was certain equipment or technology needed to be more effective or efficient?
See SUMMARY and DELIVERABLES section below for recommendations.	



Training Needs	What training needs to be conducted to better prepare for the next event.
None Noted	

Deliverable Items	Has anyone been assigned a specific task to complete as a result of the debriefing or after action reporting?
<p>Our deployment plans and subsequent execution were discussed in a statewide call, organized by the League of California Cities, which included numerous other jurisdictions. We found out that while some of our responses were on the more innovative end of the spectrum, there were several measures that could improve our results, especially in the area of stronger legal statutes.</p> <p>Based on discussions with Officers and Supervisory staff, the following recommendations are suggested for future Fourth of July planning</p> <p>Recommendations #1 (Fireworks Enforcement Team)</p> <p>Based on discussion with officers to include drone operator. The Fireworks Enforcement Team should consist of a 5 person element to include the following:</p> <ul style="list-style-type: none"> • One Drone Operator • One Spotter for the Drone operator (this could be a civilian employee or VIP). The spotter is responsible for watching the sky to ensure the drone does not come into contact with objects. • One undercover officer to confirm the address location of the suspected fireworks and provide suspect description • Two Field Officers to issue any citations after the address is confirmed. Code Enforcement can also be used to work alongside officers as the citation is a violation of the Tracy municipal code. <p>The teams would target specific areas within the City based on existing fireworks frequency data from Mark 43. Initially the team was responding only to calls for service regarding fireworks. Responding to fireworks related calls for service is not the most productive method due to time being divided to halt operations, transport and relocated to other areas in the City.</p>	



Ideally 4 teams could be used to provide fireworks enforcement for each of the 4 Watch Commander quadrants in the City.

Another deployment strategy for the fireworks enforcement team is not to issue a citation immediately. Speaking with officers it typically takes 20 to 30 minutes to coordinate a respond to a home, talk to the residents and issue a citation. In speaking with a drone operator, the operator can video record violations and a home address. The operator can then fly to nearby residences and do the same. This would significantly increase the number of violations captured on film. Code enforcement or an investigating officer can then take the time in an office setting to review the video footage and mail out an administrative citation.

Recommendation #2 (Illegal Fireworks enforcement scheduling)

Fireworks enforcement can begin on the weekends leading up to the Fourth of July holiday. This would lead to an increase in overall citations and maximize available Tracy PD personnel resources. The number of illegal fireworks calls on the Fourth of July far surpassed the Tracy Police Department's bandwidth to respond and enforce. (See calls for service).

Recommendation #3 (Illegal fireworks enforcement penalties)

The penalties for discharging, possessing illegal fireworks per the Tracy Municipal Code section begins at \$100. Our officers were told by a violators who was cited that the penalty is less than the amount of money he spent on the fireworks, therefore making it not enough of a deterrent. In comparison, many cities throughout the state have special fines for fireworks violations that range from \$500 to \$2000.

Recommendation #4 (Fireworks mitigation fee)

A fireworks mitigation fee should be attached to the sale of Safe and Sane fireworks and be used combat the enforcement efforts of illegal fireworks.

SUMMARY:

An Operational Plan was authored for the time period of July 2nd to July 4th with an emphasis on fireworks enforcement. A fireworks enforcement team worked on July 2nd, July 3rd and July 4th.



**1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017**

Friday July 2nd Fireworks Enforcement Team (1900 to 0200 hours).

6 overtime slots were made available however only 2 slots were voluntarily filled. An officer from patrol with drone training was used bringing the team to 3. This was the first time PD utilized the drone to assist with Fireworks enforcement. Deployment strategies were developed. **2 Citations were issued.**

Saturday July 3rd Fireworks Enforcement (1900 to 0200 hours)

6 overtime slots were made available however 4 slots were voluntarily filled by available Officers/Sergeants. An officer from patrol with drone training was used to supplement the team. **4 Citations were issued.**

Sunday July 4th Additional Patrols (Payback event) (1900 to 0200 hours)

The team comprised of 6 officers to include 1 Sergeant, 1 Corporal, 2 Officers and 2 Drone Operators. **5 Citations were issued.** Originally the SET Team was going to be added to the team however they were used to fill staffing on Patrol. This would have brought the total enforcement team up to 11. Throughout the night team was pulled away from the Fireworks enforcement efforts to assist with the high volume of calls for service.

The Swing shift in the park detail and 4th of July evening (Patrol) detail was comprised of officers working a payback day of 7 hours:

Swing shift in the park (1530 – 2230):

The original signup list had 10 positions consisting of 1 Sergeant, 1 Corporal and 8 Officers. Due to a promotion, Time off given to one officer and the reassignment of another officer to Motors, 3 Officers did not staff the park shift leaving only **7 officers.**

Additional Patrols for Fourth of July (1900 – 0200):

The original signup list had 9 positions consisting of 1 Sergeant, 1 Corporal and 7 Officers. Due to leaves of [REDACTED] and reassignment of Officer Contreras to SRO, staffing was reduced. This brought the total number of officer from 9 officers to **5 officers.**

In total, the Fourth of July payback deployment model of 19 Officers was reduced to 12 Officers. Note: Officer [REDACTED] (Motors) and Officer [REDACTED] (SRO) assisted with the daytime parade and park activities.

The SET team consisting of 4 officers were originally assigned to work the evening of the 4th of July and to assist with Fireworks Enforcement. They were redeployed back to their respective patrol teams to assist with patrol staffing. In essence a total team of 23 officers were initially planned but due to circumstances and staffing only **12 officers** were deployed to complement the patrol teams.



1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

In response to claims from the community that phone calls were being routed to an automated message that stated TPD could not respond to calls, Communications Supervisor M. Clubb researched the issue. She discovered that TPD does not use any messages that refer to not responding to calls. While there is a scenario that could result in a busy signal when all incoming lines are in use, the more likely situation was that callers heard the phone tree greeting (“If this is an emergency, hang up and call 911”) and did not stay on the line long enough to be routed to the dispatch center.

One of the elements that did affect our ability to respond to calls for service and the concurrent occurrence of several priority calls and the continuation of staffing issues that were unrelated to the July 4th weekend:

- There were two unanticipated vacancies from Patrol staffing due to sick leave on the Graveyard team, severely impacting patrol’s ability to properly respond to dispatched calls for service.
- Patrol responded to a gunshot victim and conducted a thorough preliminary investigation.
- The Bearcat was deployed on 3 occasions that night for tactical incidents requiring pulling officers from the fireworks detail to assist with shots fired.
- Due to staffing and priority calls, patrol went into **Code Red** mode for a period of time, meaning we were only able to respond to in-progress high priority calls (not fireworks).
- In spite of these difficulties, there were at least 12 citations (both PC and Muni Code) for fireworks violations with several social host citation pending as a result of Drone footage and follow up investigations.
- The PD assisted with a major fireworks-caused fire that engulfed 2 vehicles and was threatening to burn a house. The vehicles had a large amount of illegal fireworks contained within them.
- Multiple DUI arrests

Below is a summary of several priority calls for service that negatively impacted the officers’ ability to respond to lower ranked calls, including reports of fireworks:



TRACY POLICE DEPARTMENT

1000 CIVIC CENTER DRIVE ♦ TRACY, CA 95376
VOICE: 209-831-6550 ♦ FAX: 209-831-4017

Daily Activity Report for Sunday, July 04, 2021

Page 1 of 1

PATROL DAY SHIFT			
Sergeant Craig Kootstra			
Shift Notes:			
Time: 6:30	Case #:	Incident: PD Security Check	Location:
Facility secure. No one in custody, no contraband or damage found, Jail Logs Updated,			
Time: 9:30	Case #: 21-03129	Incident: 5150	Location: [REDACTED] Rochester St
[REDACTED] was placed a mental health hold after he made threats to harm himself. He was transported to STCH and released to medical staff. Case by Ventling			

PATROL SWING SHIFT			
Sergeant Brett Hicks			
Shift Notes: Busy shift. Five officers with days staying and graves coming in early.			
Time: 0:55	Case #:	Incident: PD Security Check	Location:
Facility secure. No one in custody, no contraband or damage found, Jail Logs Updated,			

PATROL GRAVEYARD SHIFT			
Corporal Troy Silcox			
Shift Notes:			
Time: 1:23	Case #: 21-03144	Incident: 12671 H&S	Location: [REDACTED] W Decilio Way
Officers were dispatched to [REDACTED] Cecilio Way for a vehicle that was on fire. On the way there were more reports that a second vehicle and possibly a house was on fire with explosions coming from the vehicles. Once there Officers observed two vehicles on fire and fireworks blowing up and shooting out of both the vehicles. Tracy Fire eventually put the fire out but both vehicles were completely destroyed. It was clear there was a large amount of illegal fireworks located in both vehicles. One owner of one of the vehicles was located, [REDACTED], and she was cited for possessing the illegal fireworks. Case by Officer Pineo with several supplements.			
Time: 2:52	Case #: 21-03143	Incident: DUI Collision with Injury	Location: Tracy Blvd and Grantline Rd.
Officers were called to a scene of a T/C involving two vehicles at the above location. Upon arrival officers located the suspect, [REDACTED], fleeing from the collision. [REDACTED] was located and found to be intoxicated. SFST's were conducted and the [REDACTED] did not do well. [REDACTED] blew a .21 and a .22 %. The driver of the other vehicle had minor injuries and was not transported. [REDACTED] was arrested for felony DUI. DUI by Officer M. Singh. Collision by Officer Friend.			
Time: 3:55	Case #:	Incident: PD Security Check	Location:
Facility secure. No one in custody, no contraband or damage found, Jail Logs Updated,			
Time: 18:20	Case #: 21-03134	Incident: 242, 594, 166.4, 148	Location: [REDACTED] Gallery
Officers were dispatched to the above address for a family fight. [REDACTED] arrived at this location and got into a fight with his father. [REDACTED] punched his father in the face and family said [REDACTED] was dilusional and needed help. Because of prior incidents with the PD and [REDACTED]'s violent tendencies the armored vehicle was utilized at the residence. After setting a perimeter around the house [REDACTED] was contacted and detained without incident. [REDACTED] was arrested for the above charges. Case by Officer M. Singh and several other officers.			
Time: 20:57	Case #: 21-03138	Incident: Domestic Violence and 246.3	Location: [REDACTED] Jonathan PL
Officers were dispatched to a possible domestic violence incident that was happening inside a vehicle. Eventually there were witnesses that pointed officers to [REDACTED] Jonathan PL. The female victim left the residence prior to officers getting to the scene. While officers were talking to the witnesses there were several small caliber gunshots that were heard coming from the backyard of [REDACTED] Jonathan. More officers arrived and surrounded the residence. The female victim was eventually located and she confirmed a misdemeanor domestic violence occurred but did not want police involvement. The armored vehicle was utilized. [REDACTED] was contacted via phone but denied any involvement in the DV or shooting a firearm but refused to come outside the residence. At that point it the decision was made to not press the issue and walk away from the situation. Reports will be forwarded to the District Attorney. Case by Officer Coss with several supplements.			
Time: 22:21	Case #: 21-03139	Incident: 647(f)	Location: [REDACTED] W 11th St
Officers were called to the above address for a subject who had a knife and was attacking cardboard boxes. The subject, [REDACTED] was contacted and was found to be under the influence. [REDACTED] was unable to care for himself, therefore he was arrested for drunk in public. Case by Officer B. Singh			
Time: 22:38	Case #: 21-03140	Incident: 245 PC	Location: Central at 4th St
Officers were called to STCH for a victim of a gunshot wound. The victim was [REDACTED]. The victim was uncooperative and said he was shot while watching fireworks near Central and 4th. A family member of the victim told the same story. No crime scene was located. Case by Officer M. Singh.			

AGENDA ITEM 3.B

REQUEST

**APPROVE AN AMENDMENT TO ADD ANIMAL BOARDING FACILITIES AS A
CONDITIONALLY PERMITTED USE WITHIN THE GENERAL INDUSTRIAL LAND
USE DESIGNATION OF THE INDUSTRIAL AREAS SPECIFIC PLAN (SPA20-0009)**

EXECUTIVE SUMMARY

The request is for an amendment to add animal boarding facilities as a conditionally permitted use within the General Industrial land use designation of the Industrial Areas Specific Plan. Staff and Planning Commission recommend approval of the project.

DISCUSSION

Project Description

The proposal is to amend the permitted uses within the General Industrial land use designation of the Industrial Areas Specific Plan (ISP) to conditionally permit animal boarding facilities. Attachment A identifies the property located within the Industrial Areas Specific Plan, separated into its two land use designations: General Industrial and Limited Industrial. The General Industrial land use designation within the ISP allows uses such as manufacturing, warehouse and distribution, parcel delivery service, truck terminals, equipment storage, consumer and business services, and automotive repair. In addition, heavy and very heavy manufacturing uses and places of assembly, including recreation centers, are conditionally permitted in the General Industrial land use designation. Exhibit 1 of the proposed Resolution (Attachment B) contains the list of all permitted uses in the ISP industrial areas. The ISP was adopted by the City Council in 1988 and has been amended from time to time, in response to requests for additional land uses being incorporated into the Specific Plan.

The proposed amendment would add animal boarding facilities as a conditionally permitted use within the General Industrial land use designation of the ISP. Locations within the ISP may be well suited for this type of commercial use as potential impacts to the surrounding neighborhood, such as occasional barking dogs, would be better tolerated in an industrial area than in a commercial zone or other setting that may include more sensitive land uses. This amendment would align the ISP to be consistent with the City's Light Industrial (M-1) Zone which conditionally permits animal boarding facilities. The most recent approval of a Conditional Use Permit for an animal boarding facility in the M-1 zone was approved by the Planning Commission in 2014 for Diggity Dog Playhouse, an approximately 20,000 square foot facility located at 157 Sloan Court.

The proposed amendment of the General Industrial land use designation in the ISP is consistent with the General Plan Industrial designation, which allows ancillary uses such as consumer services and parks, and will contemporize the permitted land uses within this industrial area.

CEQA Documentation

The project is consistent with the development density established by the City General Plan, for which an Environmental Impact Report (EIR) (SCH Number 2008092006) was certified (Resolution No. 2011-028). The General Plan designation is Industrial, which provides for offices, manufacturing, warehouses, as well as ancillary uses such as restaurants and consumer services. The development density of the animal boarding facility does not exceed the traffic, parking, City utilities, or other effects analyzed for the site in the General Plan EIR. Therefore, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183, no additional assessment is required.

Planning Commission Consideration of the Project

On July 28, 2021, the Planning Commission conducted a public hearing to review the proposed ISP amendment and a request for a Conditional Use Permit for animal boarding facilities to be permitted at 3508, 3608, and 3708 Shamrock Way. The July 28th Conditional Use Permit also included a request, by the property owner, Carl Gowan, for approval of a fitness center at the Shamrock Way property. Fitness centers are an existing, conditionally permitted use in the ISP. The applicant spoke in favor of the project and answered questions to clarify operational details.

By a vote of 5-0, the Planning Commission recommended that the City Council approve the Specific Plan amendment. Additionally, the Planning Commission took action to approve the Conditional Use Permit to permit animal boarding facilities and a fitness center at 3608 Shamrock Way. Since the animal boarding facility requires an amendment to the ISP, the Conditional Use Permit includes a provision for the animal boarding facility that renders the approval not effective until and unless the City Council approves the ISP amendment. The Conditional Use Permit does not require any further action by the City Council. For reference, the July 28, 2021 Planning Commission Resolution and attachments approving the Conditional Use Permit are contained in Attachment C.

STRATEGIC PLANS

The agenda item supports the City of Tracy's Economic Development Strategic Priority, which is to enhance the competitiveness of the City while further developing a strong and diverse economic base.

FISCAL IMPACT

There is no fiscal impact associated with the proposed specific plan amendment.

RECOMMENDATION

Staff and Planning Commission recommend that the City Council approve the amendment to the Industrial Areas Specific Plan to add animal boarding facilities as a conditionally permitted use within the General Industrial land use designation of the Industrial Areas Specific Plan, as indicated in the attached Resolution, Attachment B.

Agenda Item 3.B

October 5, 2021

Page 3

Prepared by: Genevieve Federighi, Associate Planner
Alan Bell, Senior Planner

Reviewed by: Scott Claar, Senior Planner
William Dean, Interim Development Services Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

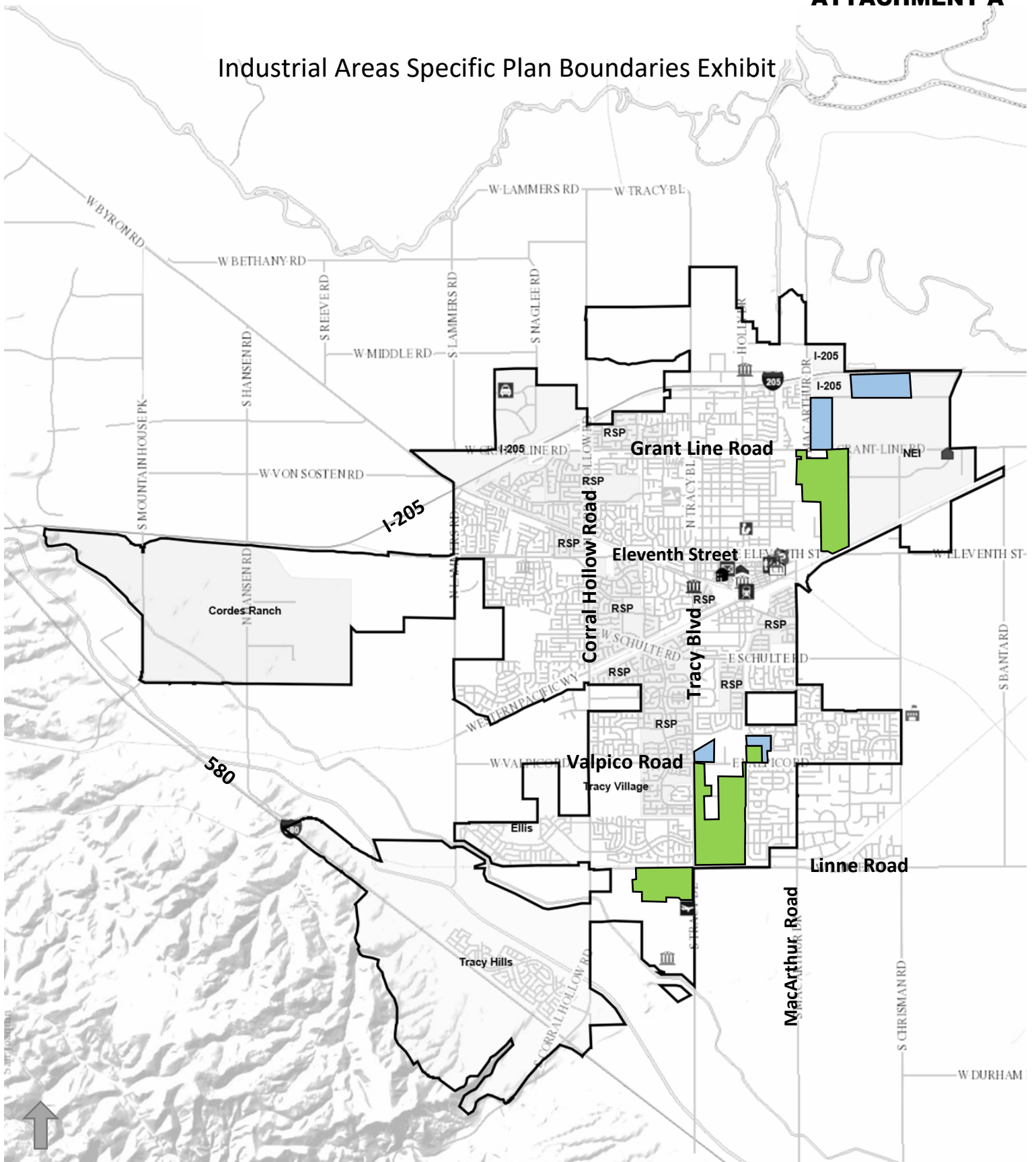
ATTACHMENTS

Attachment A – Industrial Areas Specific Plan Exhibit




Attachment B – City Council Resolution (Including Exhibit 1 – ISP Permitted Land Use List)

Attachment C – July 28, 2021 Planning Commission Conditional Use Permit Resolution and Attachments

Industrial Areas Specific Plan Boundaries Exhibit



LEGEND

-  City Limit
-  General Industrial
-  Limited Industrial

RESOLUTION 2021-_____

APPROVING OF AN AMENDMENT TO THE INDUSTRIAL AREAS SPECIFIC PLAN – PERMITTED USES WITHIN THE GENERAL INDUSTRIAL LAND USE DESIGNATION – SECTION 4.1.1.2.

WHEREAS, The City Council adopted the Industrial Areas Specific Plan (ISP) on June 21, 1988 (Resolution No. 88-213), and

WHEREAS, Since 1988, the City Council has amended the ISP from time to time to incorporate new land uses and improve implementation of the ISP, and

WHEREAS, Alex Weber has submitted an application to amend the ISP to allow animal boarding facilities within the General Industrial land use designation of the ISP in conjunction with an application for a Condition Use Permit for animal boarding facilities located at 3508, 3608, and 3708 Shamrock Way (APNs 248-470-07, 248-470-08, and 248-470-09), and

WHEREAS, The proposal is consistent with the General Plan designation of Industrial, which provides areas for consumer services, parks, or potentially noise-generating uses that would not be suitable in commercial or residential areas, and

WHEREAS, The General Industrial land use designation of the ISP is well suited for animal care facilities as the ISP includes a broad range of industrial uses and some commercial uses with consistent parking, hours of operation, and other similar characteristics as animal boarding facilities, and

WHEREAS, The project does not increase the development density established by the City’s General Plan (regarding traffic, parking, utilities, or other impacts), and therefore, in accordance with CEQA Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission conducted a public hearing to review the Project on July 28, 2021 and voted 5-0 to recommend approval to the City Council, and

WHEREAS, The City Council conducted a public hearing to review the Project on October 5, 2021;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves an amendment to the Industrial Areas Specific Plan, Section 4.1.1.2 General Industrial Zones Conditionally Permitted Uses, adding the following conditionally permitted use in the General Industrial Zone: “(c) Animal Boarding Facility,” as indicated in the attached Industrial Areas Specific Plan Land Use List Amendment, Exhibit 1.

* * * * *

The foregoing Resolution 2021-_____ was adopted by the Tracy City Council on the 5th day of October 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Excerpt from Industrial Areas Specific Plan
(beginning on page 4-1)

Bolded line at bottom of page 2 is Proposed to be Added

Permitted Land Uses within the ISP:

4.1.1.1 Limited Industrial Zones

Permitted Uses

Subject to compliance with the Environmental Performance Standards (Section 4.1.2.1), the following uses are permitted:

- (a) Laboratories, including chemical, physical material testing, electronic, agriculture, photographic film processing and general research.
- (b) Administrative, executive, research offices.
- (c) Manufacturing, repair, assembly or packaging of products from previously prepared materials, such as cloths, plastic, leather, or semi-precious metals or stones, but not including such operations as saw or planning mills, any manufacturing uses involving primary production of wood, metal, or chemical products from raw materials.
- (d) Manufacture, repair of optical electronic, timing and measuring instruments.
- (e) Manufacture, repair of industrial, communication, transportation and utility equipment.
- (f) Manufacture, of food products, pharmaceuticals, biotechnology products and the like, but not including fish or meat products, sauerkraut, vinegar, or the like, or rendering or refining of fats and oils.
- (g) Warehousing and distribution facilities.
- (h) Agricultural, except raising of fowl and animals for commercial purposes and except for sale of any products at retail on the premises.
- (i) Machine shops.
- (j) Electrical industrial apparatus manufacturing, service, and repairs, including motors, generators, welding equipment, electrical transmission and distribution equipment, and turbines and pumps.
- (k) Heating equipment manufacturing, servicing, and repairs.
- (l) Furniture and cabinet assembling whose activities are carried on entirely within an enclosed building and which have no construction yards on the lot.
- (m) Parcel delivery service and vehicle storage inside and outside the building.
- (n) Refrigerator, furnace, water heater, and other household appliance manufacturing, service and repairs.
- (o) Truck Terminals.
- (p) Equipment Storage.

Conditionally Permitted Uses

The following uses will require a Conditional Use Permit:

- (a) Wholesale trade business
- (b) Consumer and business services
- (c) Repair of automotive, motorcycle and farm machinery
- (d) Intermediate manufacturing uses involving the processing of raw materials, including food and paper processing, wineries, concrete mixers.
- (e) Mining and Quarrying (Added by Resolution No. 89-375)
- (f) Above ground fuel Storage Tanks (Added by Resolution No. 91-037)
- (g) Places of public assembly such as education, cultural, institutional, religious, and recreational uses, excluding uses that are classified within Tracy Municipal Code Use Group 48. (Added by Resolution 2003-268)

Prohibited Uses

The following uses are not allowed within a Limited Industrial Zone boundaries:

- (a) Residential of any type
- (b) Junk or auto wrecking yards
- (c) Petroleum storage yards
- (d) Mining and quarrying
- (e) Very heavy industrial uses, including blast furnaces, cement factories, distillation of bones, stockyards, slaughtering houses, smelting, tanneries, rock crushers or rubber factories.
- (f) Dumping, disposal, incineration or reduction of garbage, sewage, or refuse.

4.1.1.2 General Industrial Zones

Permitted Uses

Subject to compliance with the Environmental Performance Standards, the following uses are permitted:

- (a) Those uses permitted and conditionally permitted in the Limited Industrial Zone, except places of public assembly (g) above, which will only be permitted upon approval of a Conditional Use Permit (Amended by Resolution No. 2003-268)
- (b) “The conditions of Parcel 8 create an opportunity for a multi-stage development process of the site, with a sand and gravel mining operation as an initial use and subsequent land reclamation to allow a distribution of light manufacturing use. This would enable the gravel under the ground to be used productively and for the site to house an appropriate and compatible use after reclamation process. Stipulations should be incorporated into the development permit to provide guidelines for the site reclamation process.”

Conditionally Permitted Uses

The following uses are conditionally permitted:

- (a) Heavy and Very Heavy Manufacturing Uses listed Uses Groups Nos. 62 and 63 of the Tracy Municipal Code Sections 10-2.503.62-.63.
- (b) Places of public assembly such as educational, cultural, institutional, religious, and recreational uses, excluding uses that are classified within Tracy Municipal Code Use Group 48. (Added by Resolution No. 2003-268)
- (c) Animal Boarding Facility**

RESOLUTION 2021- 014

APPROVING CONDITIONAL USE PERMIT APPLICATION NUMBER CUP20-0002
FOR CAMP BOW WOW ANIMAL BOARDING FACILITY
AND WHISKY TANGO FITNESS RECREATION CENTER
LOCATED ON APPROXIMATELY 4.76 ACRES
AT THE SOUTHEAST CORNER OF GANDY DANCER DRIVE AND SHAMROCK WAY,
(3508, 3608, and 3708 SHAMROCK WAY,
ASSESSOR'S PARCEL NUMBERS 248-470-07, -08, AND -09)

WHEREAS, On December 1, 2020 Alex Weber submitted a Conditional Use Permit Application (CUP20-0002) to permit animal boarding facilities and recreation centers at the southeast corner of Gandy Dancer Drive and Shamrock Way (3508, 3608, and 3708 Shamrock Way, Assessor's Parcel Numbers 248-470-07, -08, And -09), and

WHEREAS, The approximately 4.76-acre site is located within the General Industrial land use designation of the Industrial Areas Specific Plan, and

WHEREAS, The project consists of minor alterations of an existing facility, and therefore, is categorically exempt from CEQA review in accordance with Guidelines Section 15301, and

WHEREAS, The Planning Commission conducted a public hearing to review the project on July 14, 2021;

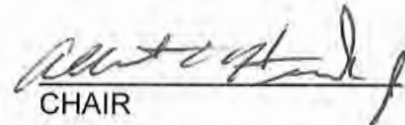
NOW, THEREFORE BE IT RESOLVED, That the Planning Commission approves the Conditional Use Permit for animal boarding and fitness recreation center, Application Number CUP20-0002, at the southeast corner of Gandy Dancer Drive and Shamrock Way (3508, 3608 and 3708 Shamrock Way, Assessor's Parcel Numbers 248-470-07, -08, And -09), subject to the conditions contained in Exhibit 1 and based on the following findings. The animal boarding facilities of the Conditional Use Permit will only become effective upon approval of the Industrial Areas Specific Plan amendment, SPA20-0009, by the City Council.

1. There are circumstances or conditions applicable to the land, structure, or use that make the granting of a use permit necessary for the preservation and enjoyment of a substantial property right because the animal boarding facility and recreation center may have additional noise impacts to the surrounding area which is better suited for an industrial area than a commercial or residential area.
2. The proposed location of the conditional use is in accordance with the objectives of the Industrial Areas Specific Plan in which the site is located because the General Industrial land use designation allows animal boarding facilities and recreation centers upon approval of a Conditional Use Permit. The proposed project has complied with the procedural requirements of obtaining a Conditional Use Permit and will comply with the Conditions of Approval and with all improvement and operational requirements of the Tracy Municipal Code.

3. The proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity because any potential impacts are compatible with surrounding industrial uses and will not significantly impact nearby businesses in respect to noise, traffic, parking, or other related areas of conflict.
4. The proposed project is in compliance with Chapter 10.08 of the Tracy Municipal Code, because subject to approval by the Planning Commission for a Conditional Use Permit, the proposed project will be required to comply with all applicable provisions including, but not limited to, the Tracy Municipal Code, the California Building Code, the City of Tracy Standard Plans, and the California Fire Code.

The foregoing Resolution 2021-014 _____ was adopted by the Planning Commission on the 28th day of July, 2021, by the following vote:

AYES:	COMMISSION MEMBERS:	ATWAL, FRANCIS, HUDSON, ORCUTT, WOOD
NOES:	COMMISSION MEMBERS:	NONE
ABSENT:	COMMISSION MEMBERS:	NONE
ABSTAIN:	COMMISSION MEMBERS:	NONE


CHAIR

ATTEST:


STAFF LIAISON

Exhibit 1
to PC Reso 2021-014

**Camp Bow Wow Animal Boarding Facility
And Whiskey Tango Fitness Recreation Center
Conditions of Approval
Application Number CUP20-0002
July 28, 2021**

These Conditions of Approval shall apply to the real property described as 3508, 3608, and 3708 Shamrock Way, Conditional Use Permit (Application Number CUP20-0002). The approximately 4.76 acre site is located at the southeast corner of Gandy Dancer Drive and Shamrock Way, Tracy; (3508-3708 Shamrock Way, Assessor's Parcel Numbers 248-470-07, -08, and -09).

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "City Regulations" means all written laws, rules and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design documents (the Streets and Utilities Standard Plans, Design Standards, Parks and Streetscape Standard Plans, Standard Specifications, and Manual of Storm Water Quality Control Standards for New Development and Redevelopment, and Relevant Public Facilities Master Plans).
3. "Conditions of Approval" shall mean the conditions of approval applicable to the real property described as 3508, 3608, and 3708 Shamrock Way, Conditional Use Permit (Application Number CUP20-0002). The approximately 4.76 acre site is located at the southeast corner of Gandy Dancer Drive and Shamrock Way, Tracy; (3508, 3608, and 3708 Shamrock Way, Assessor's Parcel Numbers 248-470-07, -08, and -09).
4. "Project" means the real property consisting of approximately 4.76 acre site is located at the southeast corner of Gandy Dancer Drive and Shamrock Way, Tracy; (3508, 3608 and 3708 Shamrock Way, Assessor's Parcel Numbers 248-470-07, -08, and -09).
5. "Property" means the real property located at 3508, 3608, and 3708 Shamrock Way (Assessor's Parcel Numbers 248-470-07, -08, and -09).

B. Conditions of Approval:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, 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 15000, *et seq.*, "CEQA Guidelines").
2. 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

Conditions of Approval
Camp Bow Wow
Application No. CUP20-0002
July 28, 2021

Exhibit 1
to PC Reso 2021-014

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.

3. Except as otherwise modified herein, all construction shall be consistent with the plans for Camp Bow Wow received by the Development Services Department on June 16, 2021 and plans for Whiskey Tango Fitness on July 15, 2021.
4. Prior to occupancy, the Applicant shall obtain all required permits in compliance with the California Building Code to the satisfaction of the Building Official.
5. The animal boarding facility of this Conditional Use Permit shall not take effect until and unless the City Council has approved the Specific Plan Amendment to conditionally permit animal boarding facilities in the General Industrial Zone of the Industrial Areas Specific Plan, Application Number SPA20-0009.
6. Prior to final inspection or occupancy, all outdoor play areas must be fully fenced to ensure all animals are fully secured to remain on site to the satisfaction of the Development Services Director.

Attachment A

PROJECT LOCATION



SEAL:

THIS DOCUMENT IS NOT
FOR REGULATORY
APPROVAL, PERMITTING,
OR CONSTRUCTION.

FOR
INFORMATIONAL
PURPOSES
ONLY

NO DATE REMARKS
REVISIONS

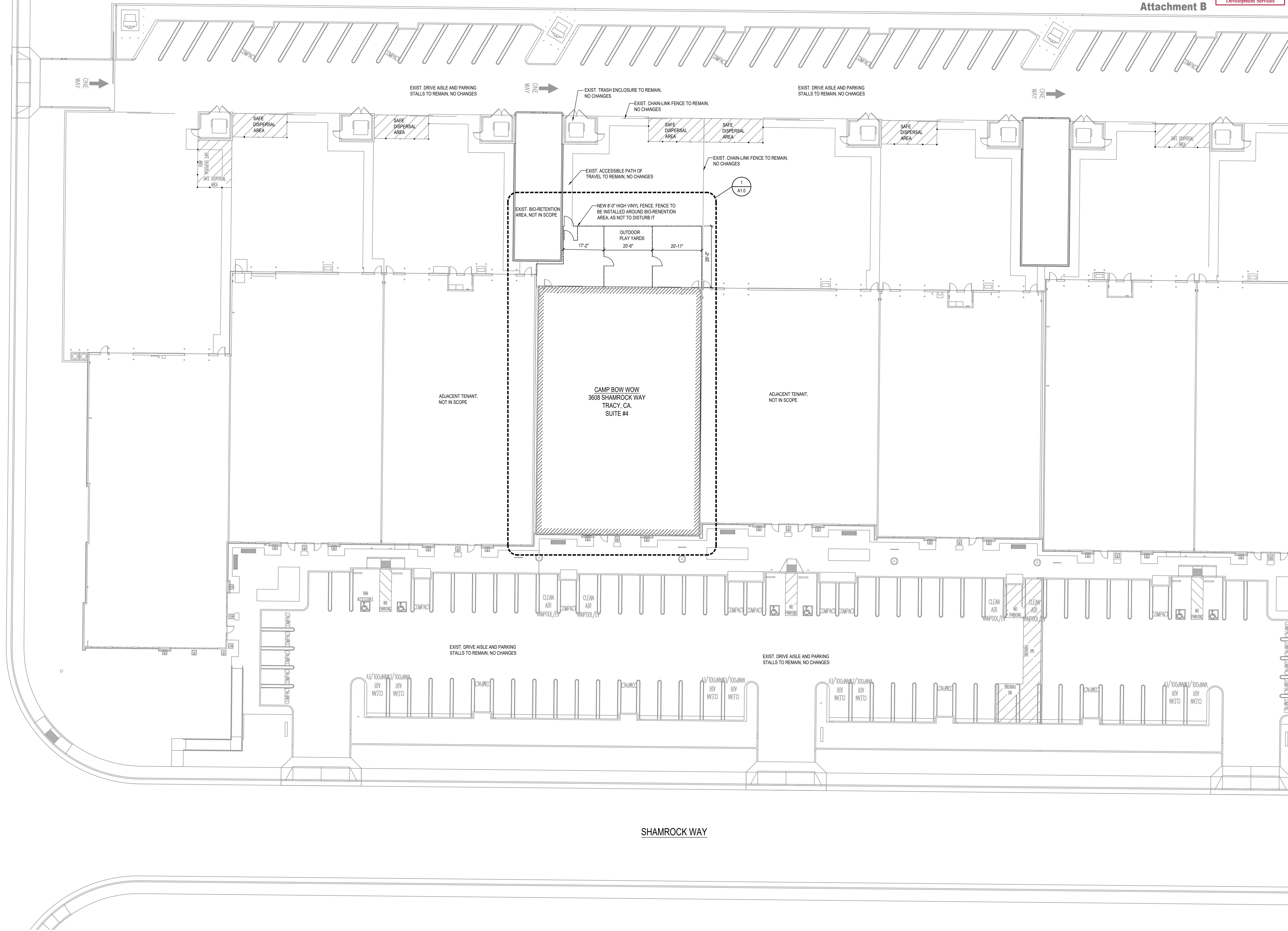
CAMP
BOW WOW
3608 SHAMROCK WAY
TRACY, CA

PROJECT NO: 2021.0380
DATE: 4/26/2021

ASP1.0
ARCHITECTURAL SITE PLAN

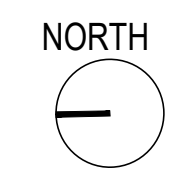
CHECKED: JS DRAWN: TN

GANDY DANCER DRIVE



SHAMROCK WAY

1 ARCHITECTURAL SITE PLAN
ASP1.0 1/16"=1'-0"



COPYRIGHT © 2021, DAVID BOYCE ARCHITECT. ALL RIGHTS RESERVED. THESE DOCUMENTS TO THE ORIGINAL SITE OR PURPOSE FOR WHICH THEY WERE PREPARED. REPRODUCTIONS, CHANGES OR ASSIGNMENTS ARE PROHIBITED.

SEAL:

THIS DOCUMENT IS NOT
FOR REGULATORY
APPROVAL, PERMITTING,
OR CONSTRUCTION.

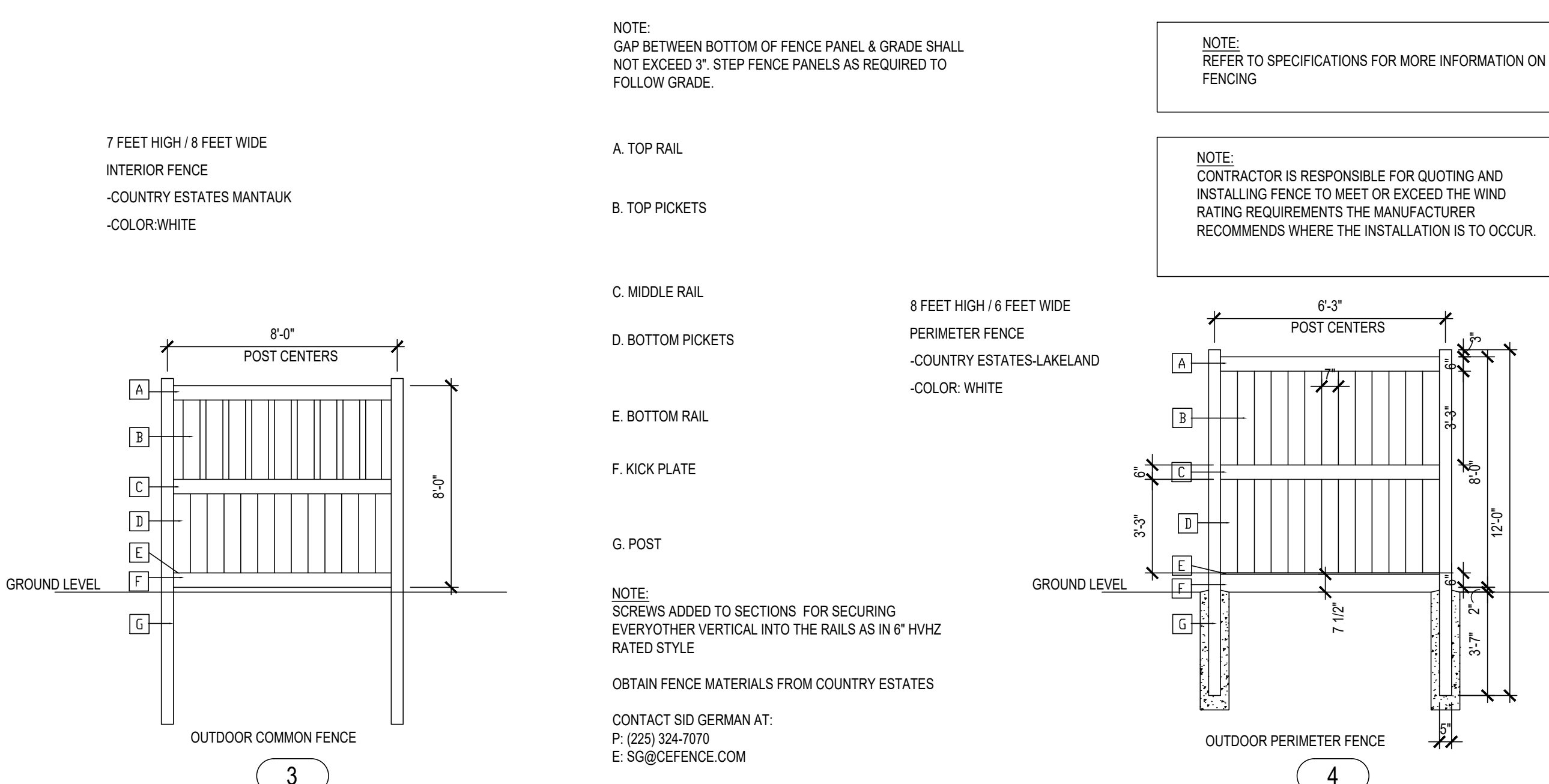
NO DATE REMARKS
REVISIONS

CAMP
BOW WOW
3608 SHAMROCK WAY
TRACY, CA

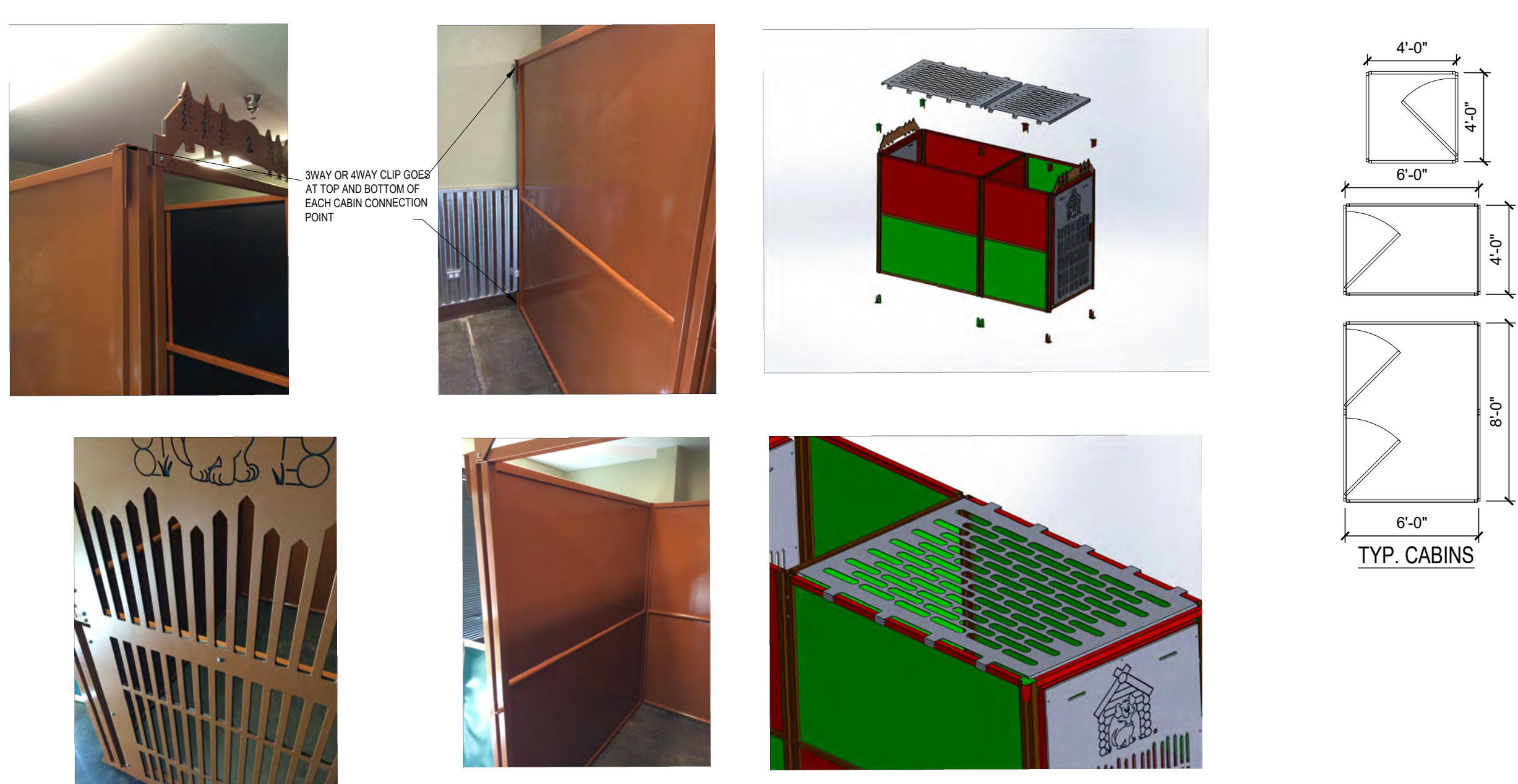
PROJECT NO: 2021.0380
DATE: 4/26/2021

A1.0
FLOOR PLAN

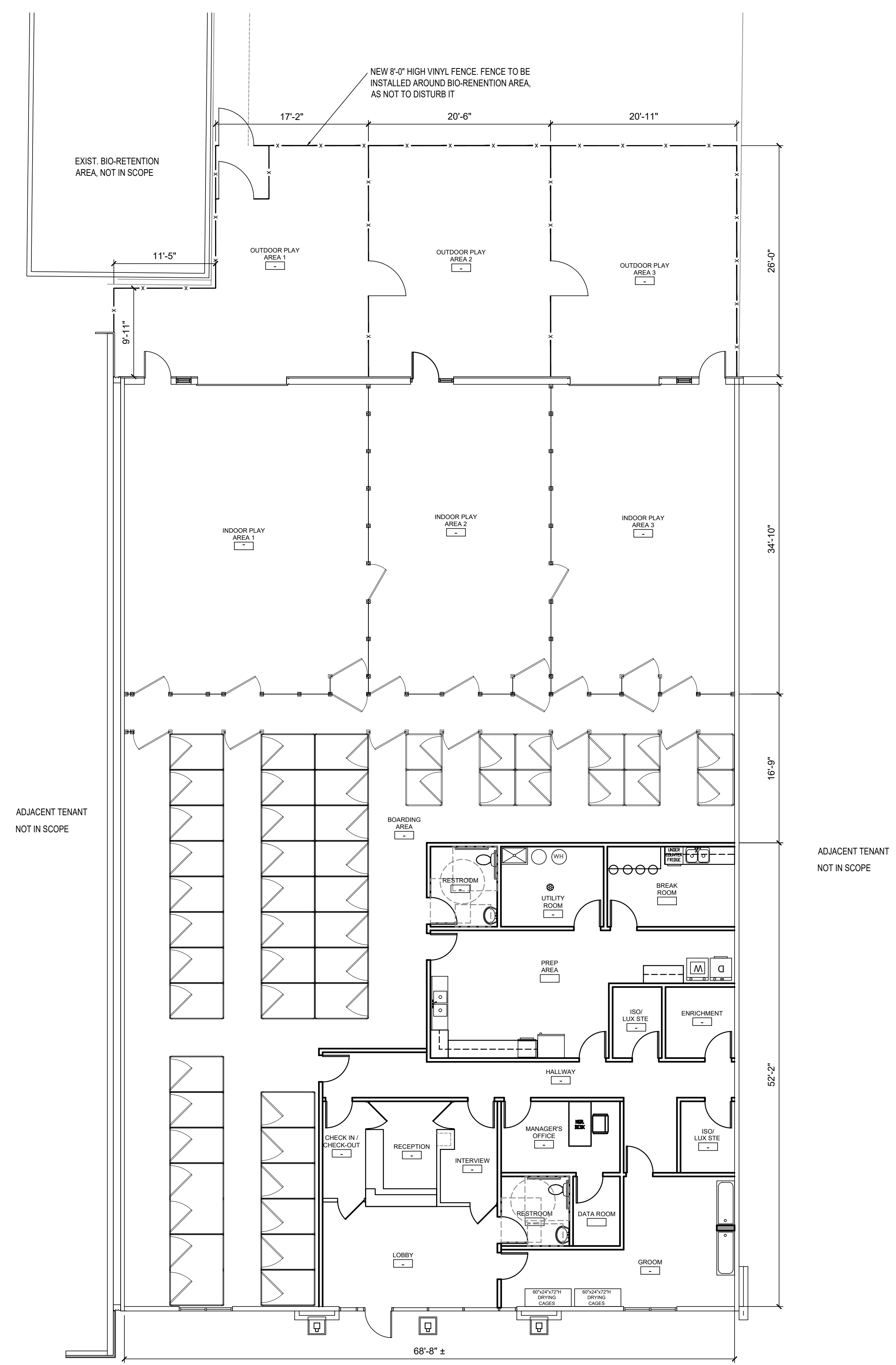
CHECKED: JS DRAWN: TN



3 OUTDOOR PLAY YARD FENCE DETAILS
1/4" = 1'-0"



2 DOG CABIN AND INTERIOR FENCE DETAILS
N.T.S.



1 FLOOR PLAN
1/8" = 1'-0"

COPYRIGHT © 2021 DAVID BOYCE ARCHITECT. ALL RIGHTS RESERVED. THIS DOCUMENT IS THE ORIGINAL SITE OR PURPOSE FOR WHICH THEY WERE PREPARED. REPRODUCTIONS, CHANGES OR ASSIGNMENTS ARE PROHIBITED.

220 E. CENTRAL PKWY, STE 4000
ALTAMONTE SPRINGS, FL 32701
407.645.5008

SEAL:

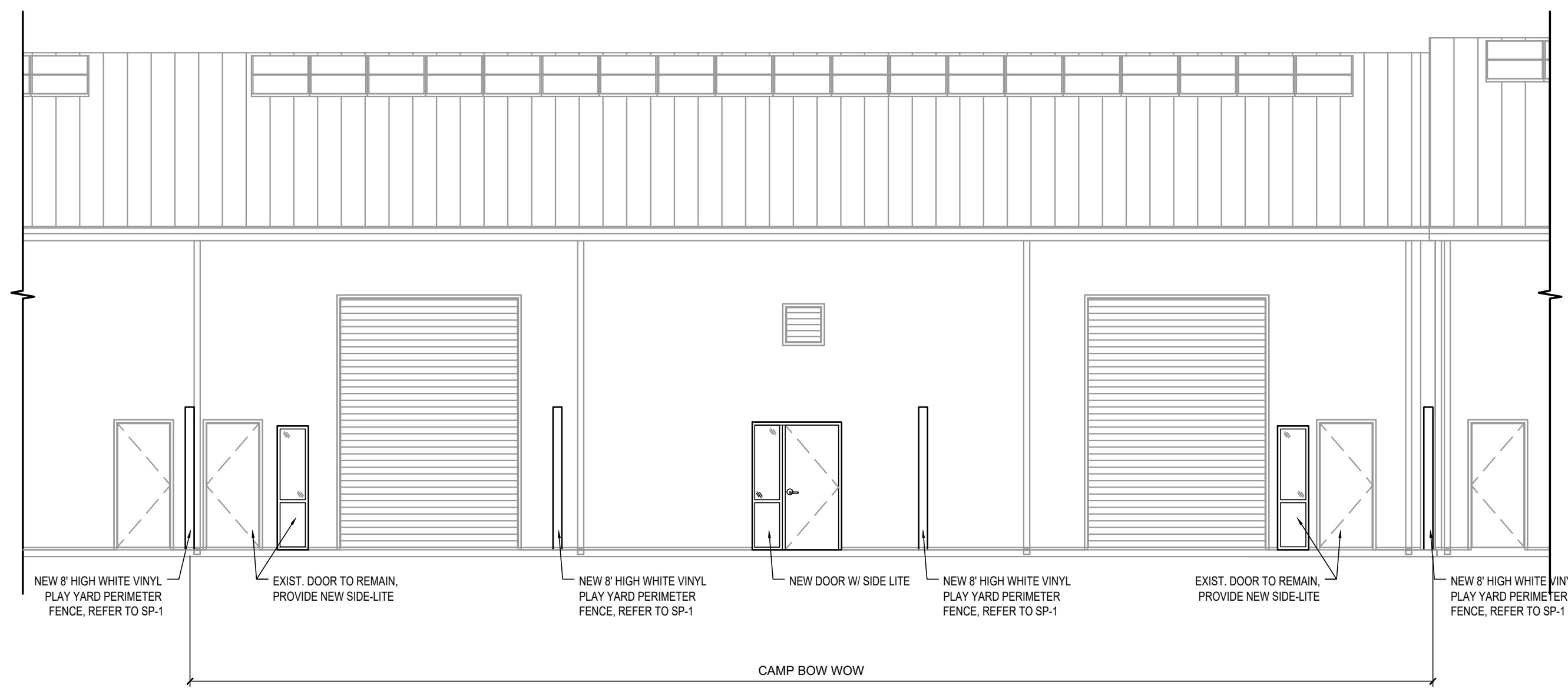
THIS DOCUMENT IS NOT
FOR REGULATORY
APPROVAL, PERMITTING,
OR CONSTRUCTION.



NOTE:
FRONT ELEVATION SHOWN AS
REFERENCE ONLY, NO CHANGES

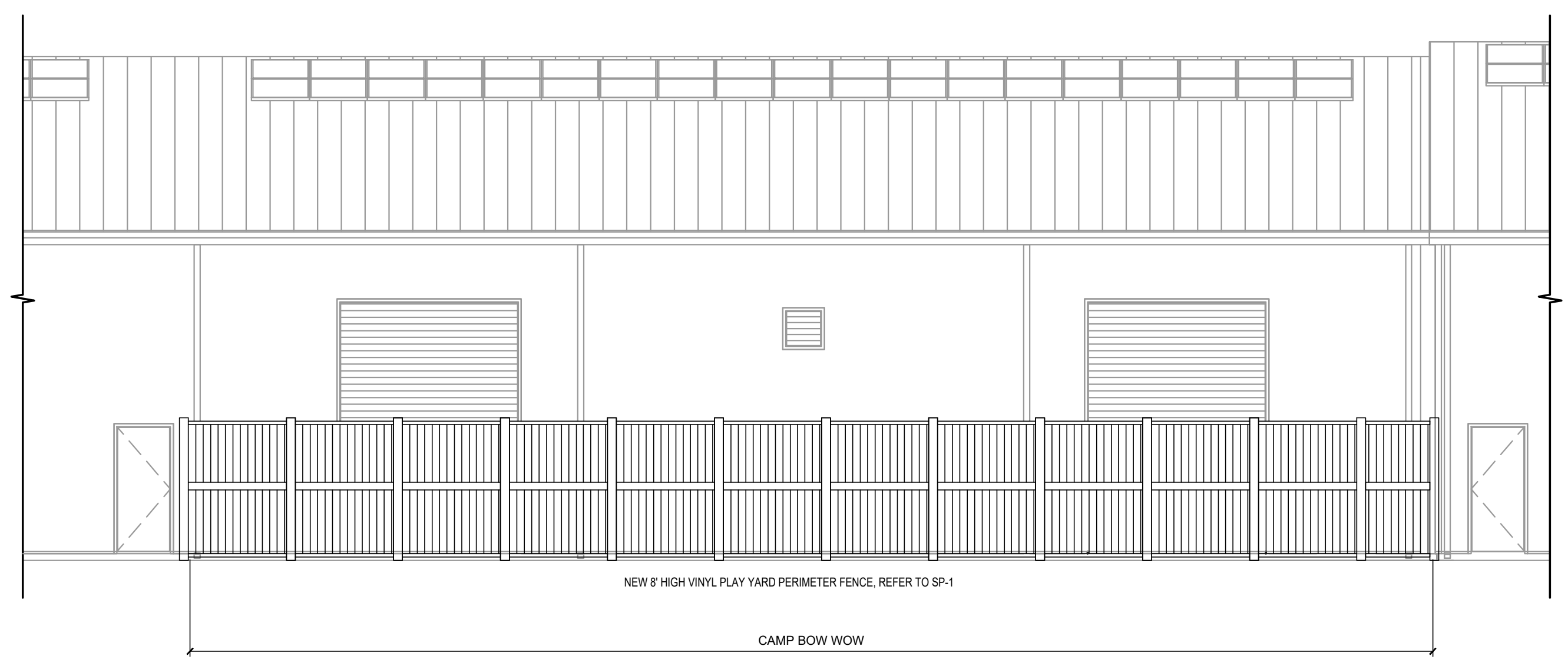
1 FRONT ELEVATION (WEST)
A5.0

3/16" = 1'-0"



2 REAR ELEVATION - INSIDE PLAY YARDS (EAST)
A5.0

3/16" = 1'-0"



3 REAR ELEVATION - OUTSIDE PLAY YARDS (EAST)
A5.0

3/16" = 1'-0"

NO DATE REMARKS
REVISIONS

CAMP
BOW WOW
3608 SHAMROCK WAY
TRACY, CA

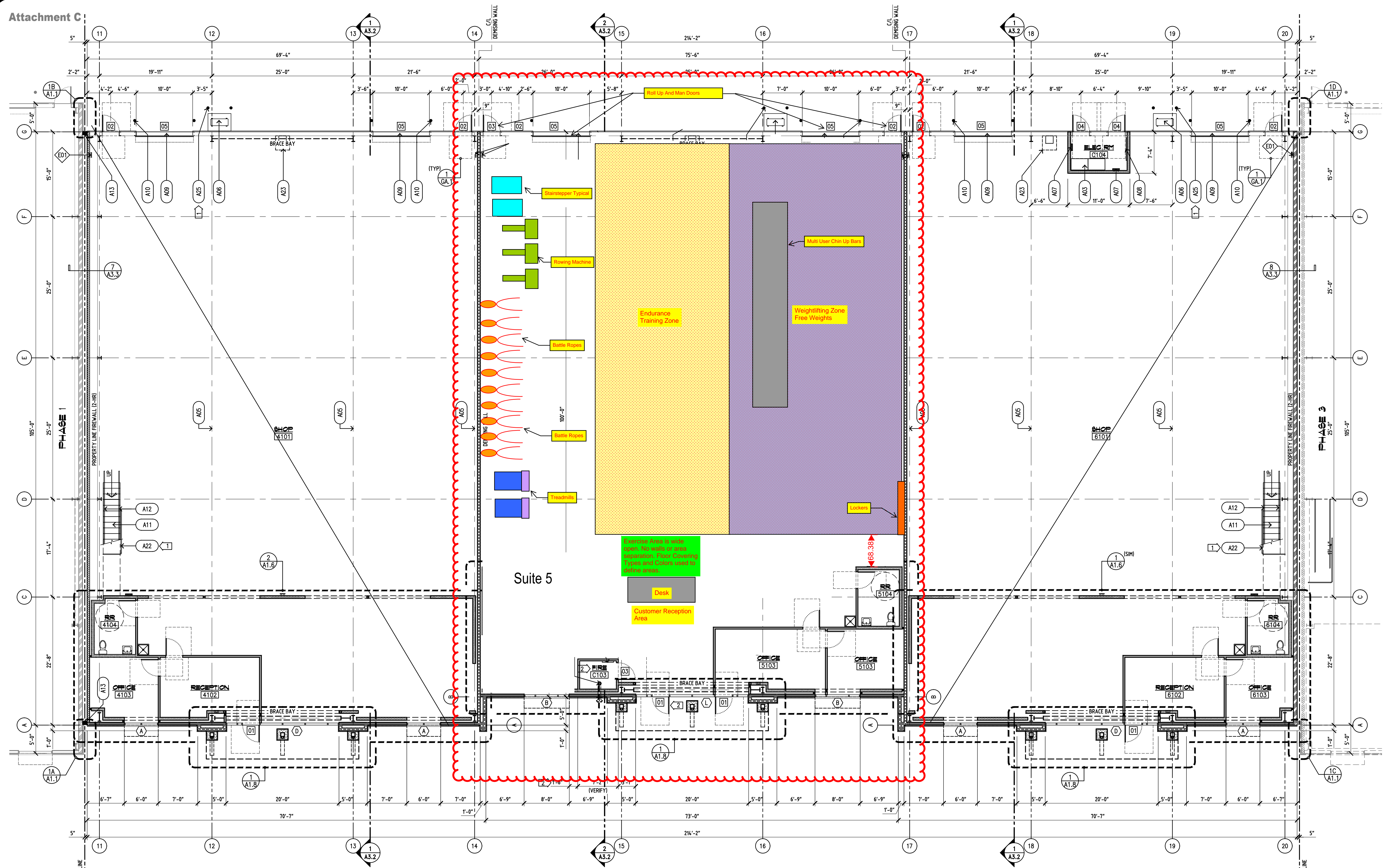
PROJECT NO: 2021.0380
DATE: 4/26/2021

A5.0
EXTERIOR ELEVATIONS

CHECKED: JS DRAWN: TN

COPYRIGHT © 2021 DAVID BOYCE ARCHITECT. ALL RIGHTS RESERVED. THESE DOCUMENTS TO BE ORIGINAL SITE OR PURPOSE FOR WHICH THEY WERE PREPARED. REPRODUCTIONS, CHANGES OR ASSIGNMENTS ARE PROHIBITED.

Attachment C



PHASE 2 FLOOR PLAN
SCALE: 1/8"=1'-0"

GENERAL NOTES

1. REFER TO SHEET A1.2 OR A1.4 FOR KEYNOTE DESCRIPTIONS
2. REFER TO SHEET A4.1 FOR ROOM FINISH & ACCESSORY SCHEDULES
3. REFER TO SHEET A7.1 FOR DOOR & WINDOW SCHEDULES
4. REFER TO SHEET A1.6 FOR WALL TYPE SCHEDULE & DESCRIPTIONS



PHASE 2

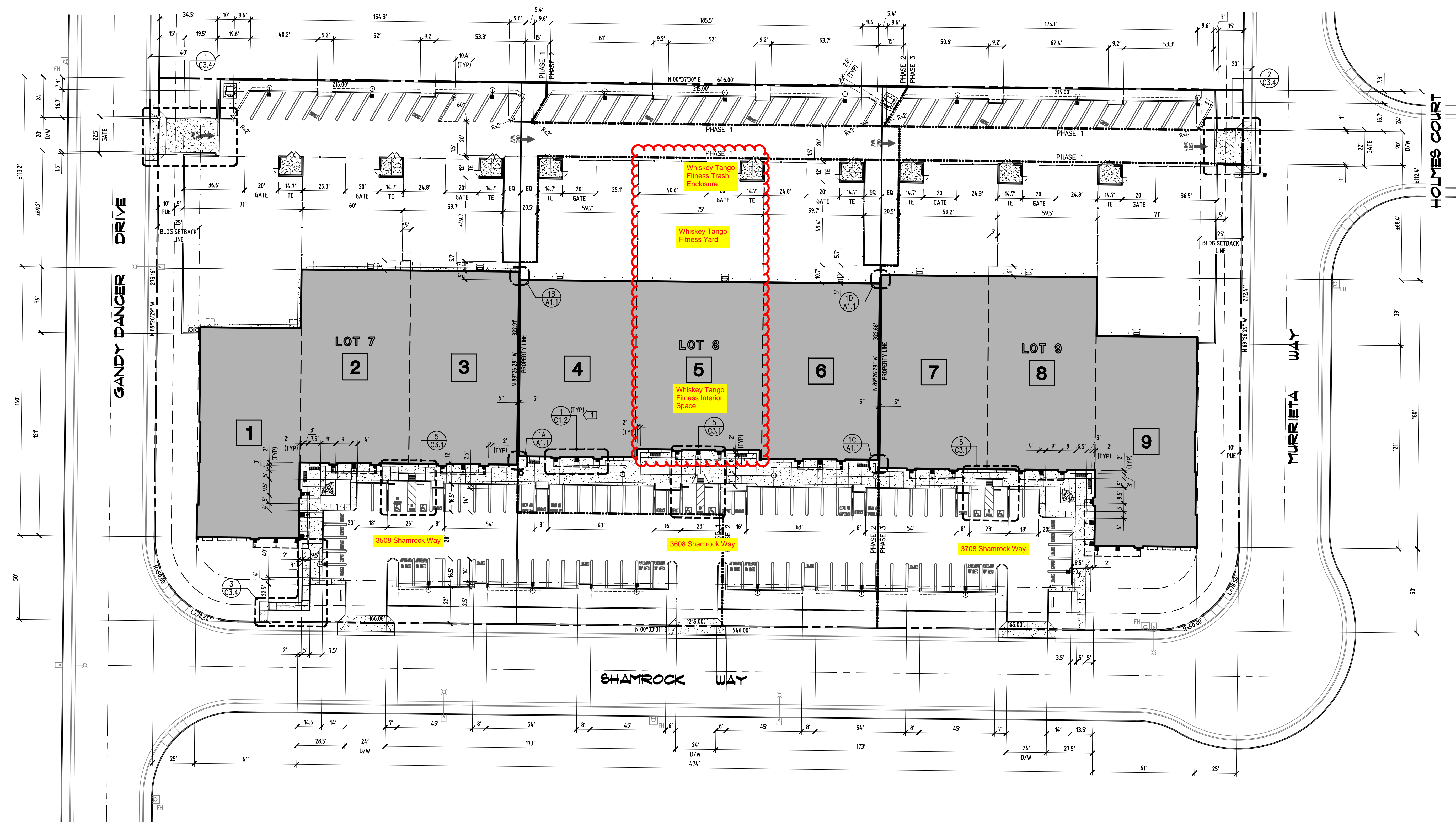
DATE	SYMBOL	REVISIONS
02/09/18	1	BUILDING PLAN-CHECK RESPONSE
02/19/18	2	FIRE PLAN-CHECK RESPONSE

DRAWING RELEASE	DATE
PRELIMINARY REVIEW	07/25/16
INITIAL PLAN REVIEW	07/05/17
PERMIT SUBMITTAL READY	07/09/17
FINAL CONSTRUCTION	

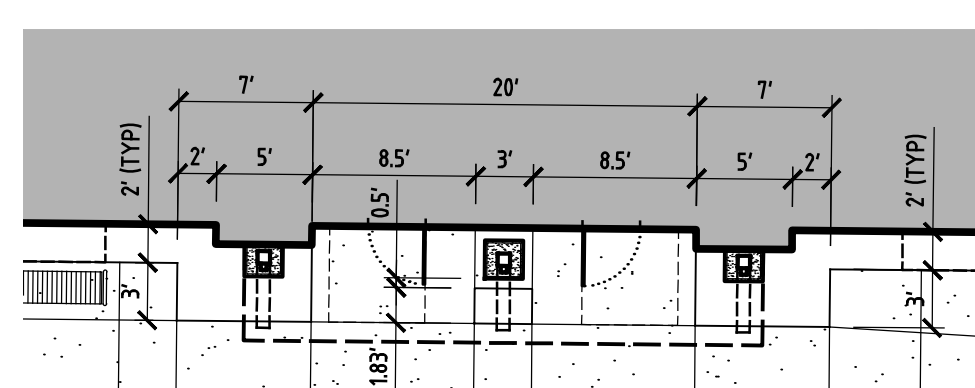
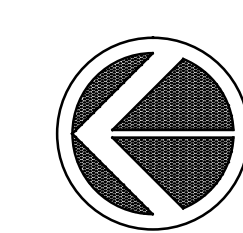
INDUSTRIAL DEVELOPMENT
Shamrock Business Center
PHASE 1, 3508 SHAMROCK WAY
PHASE 2, 3408 SHAMROCK WAY
PHASE 3, 3108 SHAMROCK WAY
TRACY, CALIFORNIA 95371

Schack & Company, Inc.
Civil Engineering • Building Design • Surveying
(909) 856-2178 • P.O. Box 339 • Tracy, California 95378 • FAX (909) 856-1488
ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE THE ORIGINAL AND UNPUBLISHED WORK OF THE ENGINEER. © Schack & Company, Inc. AND THE SAME MAY NOT BE USED, DUPLICATED, OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER.

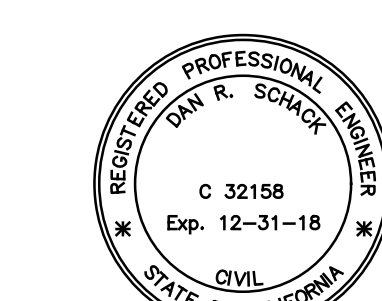
DATE	03/20/17
DRAWN BY	SFS
CHECKED BY	SFS
JOB NO.	15.022
A1.3	
OF 177 SHEETS	



OVERALL
SITE LAYOUT PLAN
SCALE: 1"=30'



1
C1.2 PLANTER LAYOUT @ ENTRY SCALE: 1"=10'



OVERALL

DATE	SYMBOL	REVISIONS
02/09/18	[Symbol]	BUILDING PLAN-CHECK RESPONSE

DRAWING RELEASE	DESCRIPTION	DATE
<input type="checkbox"/>	PRELIMINARY REVIEW	07/25/16
<input type="checkbox"/>	INITIAL PLAN REVIEW	07/02/17
<input type="checkbox"/>	PERMIT ISSUANCE READY	07/09/18
<input type="checkbox"/>	FINAL CONSTRUCTION	

INDUSTRIAL DEVELOPMENT
Shamrock Business Center
PHASE 1, 3608 SHAMROCK WAY
PHASE 2, 3608 SHAMROCK WAY
PHASE 3, 3708 SHAMROCK WAY
TRACY, CALIFORNIA 95371

Schack & Company, Inc.
Civil Engineering • Building Design • Surveying
(909) 856-2178 • P.O. Box 339 • Tracy, California 95378 • FAX (909) 856-1488
ALL DRAWINGS AND WRITTEN MATERIAL APPEARING HEREIN CONSTITUTE THE ORIGINAL AND UNPUBLISHED WORK OF THE ENGINEER AND THE SAME MAY NOT BE USED, REPRODUCED, COPIED, OR DISCLOSED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER. © Schack & Company, Inc.

DATE	02/28/17
DRAWN BY	SFS
CHECKED BY	SFS
JOB NO.	15.022
C1.2	
OF 177 SHEETS	

AGENDA ITEM 3.C

REQUEST

DISCUSS CITY'S DEVELOPMENT AGREEMENT PROCEDURES AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

This agenda responds to the City Council request to review the City's development agreement (DA) procedures.

DISCUSSION

Brief Background on Development Agreements

On November 17, 2020 City Council requested a discussion related to policy direction on DAs. Council Member Vargas requested an agenda item to create policy on how Development Agreements are negotiated to give tools to staff to better serve our community and the City's interest. Council Member Arriola seconded the request. This staff report describes DAs generally, and provides an outline of the City's current DA procedures.

Development agreements are contracts negotiated between project proponents and public agencies that govern land uses that may be allowed on a particular project and provide vested rights to project proponents.

State law authorizes cities to use a development agreement (DA) under Government Code sections 65864-65869.5 which, in part, states that a DA is a means to "strengthen the public planning process, to encourage private participation in comprehensive long-range planning, and to reduce the economic costs of development."

The concept of DAs arose after *Avco Community Developers, Inc. v South Coast Regional Commission* (1976) 17.Cal.3d 785. In *Avco*, a new land use requirement was enacted after pre-building permit construction work had been done on a project. The Supreme Court held that a developer has no vested right to complete a project before building permits are issued. In so ruling, the court stated that any change in the rule that a developer has no vested rights in existing zoning must come from the legislature.

In 1979, the California Legislature accepted the Supreme Court's invitation and responded by enacting a statute that allows the use of development agreements ("Development Agreement Statute") which is found in Government Code sections 65864-65869.5.

As reflected in the legislative declarations contained in the Development Agreement Statute, both parties to a DA receive benefits. The City is afforded greater latitude to advance City planning policies, and has greater flexibility in imposing conditions and requirements on proposed projects. At the same time, the applicant is afforded greater assurances that, once the project is approved, it can be built pursuant to the rules and regulations in place at that time.

City's Adopted DA Procedures

The Development Agreement Statute requires that cities establish procedures and requirements for the consideration of development agreements (Government Code, §65865(c).)

The City's current DA procedures were adopted by City Council on June 7, 2016 via Resolution No. 2016-115 (Attachment A). These replaced the DA procedures that were adopted on November 16, 2004 via Resolution No. 2004-368, which in turn replaced the City's original DA procedures adopted on September 4, 1990 via Resolution No. 90-355.

The current DA procedures (that were adopted in 2016) contain three parts, described below.

Part 1 Application including proposed Public Benefit: This portion of the procedures establishes application requirements, and enumerates basic data and information necessary to file an application, including the need to enter into a Cost Recovery Agreement to cover all costs associated with processing the DA. The applications take the form of letters to the City spelling out the DA request and providing the information listed in the procedures, as well as a proposed public benefit.

Importantly, a DA is a completely optional or discretionary legislative decision. It gives a developer special, vested rights under current conditions. A City may agree or not agree to enter into a DA. Normally, the City requires "consideration" for agreeing to enter into the DA, and the public benefit (the consideration) represents what the developer offers, beyond what is normally required by conditions of approval.

In 2016, the City Council added into the procedures additional information to clarify what constitutes a public benefit, yet retained flexibility in making that determination by allowing submission of proposals that are not specifically designated by the procedures.

The DA procedures include the following language as relates to what constitutes a public benefit:

"A development agreement shall obligate the developer to provide additional public benefits, beyond what is already required under existing codes and master plans, as the City may deem necessary or appropriate. The additional public benefits are in addition to any fees, exactions, or conditions which the City otherwise requires of the applicant as a condition of project approval, and may include those which otherwise would require compliance with the Mitigation Fee Act (Government Code Section 66000 and following), if there were no development agreement. The additional public benefits may include, but are not limited to, the following (including monetary contributions to the City for these purposes):

1. Construction, installation, and/or ongoing maintenance of public facilities and/or public improvements (other than those required as a condition of approval of a project);
2. Construction or installation of a public facility or improvement on the CIP project list that:

- a. Benefits other property in addition to the subject property;
 - b. Is in accordance with a schedule that requires completion of the infrastructure before it is needed for the project; and
 - c. Is a condition of final map approval or the issuance of building permits for some or all components of the project.
The developer's cost may be subject to partial reimbursement over time as other properties develop;
3. Acquisition and/or transfer or dedication of land to the City (or other public agency) for public uses (other than as required as a condition of approval of a project); and
 4. Other similar public benefits not specifically designated in this Policy."

Part 2 City Council Authorization to Negotiate

The DA procedures also first require City Council authorization to negotiate prior to staff entering into negotiations.

After such authorization, negotiations begin and when complete the DA along with any other discretionary project actions are brought to the Planning Commission for consideration and recommendation to the City Council. This step typically occurs after City staff and the applicants have negotiated draft terms and have returned to City Council for review and direction. The final step on processing a DA is a public hearing where City Council makes a final determination, often in conjunction with other development applications sought by the applicant.

Part 3 Periodic Reviews

The DA procedures establish that the City will conduct periodic reviews of DAs to ensure compliance with the terms and conditions. This typically occurs through the review of development proposals and projects. For example, when a Subdivision Map is submitted for Tracy Hills or Ellis, or a Development Application is submitted in Cordes Ranch, Development Services staff reviews the requirements of the DA for compliance. Additionally, developers may seek to amend a DA, in such cases an overview of the DA is provided to Council when the amendment request is submitted.

FISCAL IMPACT

Staff time preparing this staff report was funded through the Development Services' operational budget for 2021/22. Work on negotiating DAs is funded through Cost Recovery Agreements.

STRATEGIC PLAN

This item is not related to any of the Council's Strategic Plans.

RECOMMENDATION

Staff recommends that the City Council discuss the City's DA procedures, and provide direction to staff as necessary.

Agenda Item 3.C
October 5, 2021
Page 4

Prepared by: Bill Dean, Interim Development Services Director

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS

A - City's DA Procedures – Resolution No. 2016-115

RESOLUTION 2016-115

REPEALING RESOLUTION 2004-368 AND ESTABLISHING REVISED PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION OF DEVELOPMENT AGREEMENTS

WHEREAS, On November 16, 2004, pursuant to authorization granted in Government Code sections 65864 et seq., the City Council adopted Resolution 2004-368, establishing procedures and requirements for consideration of development agreements, and

WHEREAS, On June 16, 2015, the City Council discussed the development agreement procedures at a regular meeting and directed staff to prepare amendments to the existing procedures and requirements, including provisions related to required public benefits, and

WHEREAS, The City Council wishes to revise the procedures and requirements for future applications;


NOW, THEREFORE, the City Council of the City of Tracy resolves as follows:

- 1. Resolution 2004-368 is repealed in its entirety.
- 2. The Procedures and Requirements for Consideration of Development Agreements, set forth in the attached Exhibit "A", are adopted.

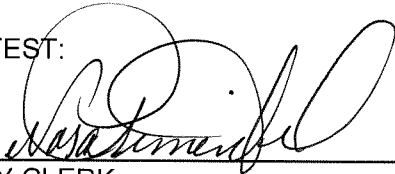
* * * * *

This Resolution 2016-115 was passed and adopted by the Tracy City Council on June 7, 2016, by the following vote:

AYES:	COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL
NOES:	COUNCIL MEMBERS: NONE
ABSENT:	COUNCIL MEMBERS: NONE
ABSTAIN:	COUNCIL MEMBERS: NONE



 MAYOR

ATTEST:


 CITY CLERK

EXHIBIT "A"

**REGULATIONS AND REQUIREMENTS
FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS**

PART I, APPLICATION

- A. Authority for Adoption; Purpose; consistency with State Law
- B. Application
- C. Public Benefit
- D. Qualified Applicants
- E. Qualified Property
- F. Staff Review of Application

PART II, CONTENTS, HEARINGS, AND OFFICIAL ACTIONS

- G. Contents
- H. Notice of Hearings; Environmental Review
- I. Planning Commission
- J. City Council
- K. Ordinance Approving the Development Agreement

PART III, DEVELOPMENT RIGHTS; PERIODIC REVIEW

- L. Development Rights
- M. Periodic Review

PART I – APPLICATION

A. Authority for Adoption; Purpose; Consistency with State Law

These regulations are adopted under the authority of Government Code Sections 65864 et seq. The City's consideration and approval of a development agreement is discretionary; there is no requirement to approve such an agreement. The purpose of a development agreement is to assure the developer certain vested rights to proceed with a development over time. In exchange, the developer proposes and the City accepts certain public benefits that would not otherwise be required for the project. In any conflict or interpretation issue between these provisions and requirements of state law, state law will control.

B. Application

1. An application for a development agreement must be submitted to the Development Services ("DS") Department. The minimum requirements for the application and the information and data are set forth in Section B.2 below.
2. The application shall include, for each development agreement requested:

- a. signatures of all property owner(s);
- b. the proposed duration of the agreement (Gov't. Code §65865.2.);
- c. the proposed permitted uses, density or intensity of use, the maximum height and size of proposed buildings (Gov't. Code §65865.2.);
- d. proposed public benefit offered to the city as an incentive for consideration of the application, based on the examples set forth in Section C below;
- e. a map drawn to scale showing the property and the property lines for the properties within 300 feet of the exterior boundary lines of the subject property. This includes the names of all the streets and of the assessor's parcel numbers (APNs) of each parcel shown on the map;
- f. the names and mailing addresses as listed on the latest assessment roll of the owners of the property shown on the map;
- g. the legal description, the assessor's parcel number(s), and the street address(es) of the subject property;
- h. a list of other applications filed concurrently with the development agreement application;
- i. a signed City cost recovery agreement, under which the developer agrees to pay for staff and City consultant time in reviewing and processing the application(s) (Gov't. Code §; and
- j. other information the DS Director considers necessary to process the application..

C. Additional Public Benefit

A development agreement shall obligate the developer to provide additional public benefits, beyond what is already required under existing codes and master plans, as the City may deem necessary or appropriate. The additional public benefits are in addition to any fees, exactions or conditions which the City otherwise requires of the applicant as a condition of project approval, (and may include those which otherwise would require compliance with the Mitigation Fee Act (Government code Section 66000 and following), if there were no development agreement. The additional public benefits may include, but are not limited to, the following (including monetary contributions to the City for these purposes):

1. Construction, installation, and/or ongoing maintenance of public facilities and/or public improvements (other than those required as a condition of approval of a project);

2. Construction or installation of a public facility or improvement on the CIP project list that:
 - (a) benefits other property in addition to the subject property;
 - (b) is in accordance with a schedule that requires completion of the infrastructure before it is needed for the project; and
 - (c) is a condition of final map approval or the issuance of building permits for some or all components of the project.The developer's cost may be subject to partial reimbursement over time as other properties develop;
3. Acquisition and/or transfer or dedication of land to the City (or other public agency) for public uses (other than as required as a condition of approval of a project); and
4. Other similar public benefits not specifically designated in this Policy.

D. Qualified Applicants

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. The DS Director shall require an applicant to submit proof of his or her interest in the real property. The City may require an applicant or agent to submit a title report or other evidence to verify the applicant's legal or equitable interests in the subject property.

E. Qualified Property

1. Within City limits. The property to be the subject of the development agreement shall be situated within the City limits and shall represent an appropriate parcel or parcels, as to ownership and parcel configuration, size and location, as determined by the DS Director, to assure the development of the property consistent with the policies, goals, standards and objectives of City's General Plan, applicable specific plan, and City ordinances and policies pertaining to the property.
2. Outside City limits. Property not within the City limits but within the City's sphere of influence may be the subject of a development agreement conditioned upon the annexation of the property to the City within a specified time.

For property not within the City limits and subject to an existing development agreement with the county, Government Code section 65863.5 will apply.

F. Preliminary Review of Application

1. The Staff will review the application and accept it for filing if it is complete and accurate.

2. For a completed application, Staff will prepare a report and recommendation to the City Council. The Council will consider the application and determine whether the proposed public benefits (beyond what is otherwise required for the project) warrant undertaking negotiations with the applicant. The Council shall either reject the request or authorize staff to negotiate and process the development agreement application.

PART II - HEARINGS AND OFFICIAL ACTIONS

G. Contents

1. General. In addition to the mandatory requirements of Government Code Section 65865.2, the development agreement must include the following:
 - a. the additional public benefit, as described in subsection C above.
 - b. a requirement that the applicant hold harmless, indemnify and defend the City from suits and actions arising in connection with the development agreement, to the satisfaction of the City Attorney.
 - c. that the City may impose a later condition if: (a) the condition is required to comply with state or federal law, or (b) a failure to do so would place the residents or the immediate community, or both, in a condition dangerous to their health or safety, or both. (Gov't. Code §66498.1.)
 - d. The development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties or their successors. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Government Code section 65867. An amendment is subject to Section 65867.5, Findings of consistency. (Gov't. Code §65868.)
2. Subdivision. If the development agreement includes a subdivision of 500 dwelling units or more, it may not be approved unless the agreement provides that any tentative map prepared for the subdivision comply with Government Code section 66473.7 regarding sufficient water supply. (Gov't. Code §65867.5.)

H. Notice of Hearings; Environmental Review

1. Notice of hearings before the Planning Commission and the City Council to consider a development agreement shall be given in the manner provided in Government Code Section 65864 et seq.
2. The notice and public hearing on the development agreement may be combined with the notice and public hearing for an application for rezoning, development

review permit, subdivision map or other land use entitlement pertaining to the same property.

3. If a development agreement qualifies as a project under the California Environmental Quality Act and implementing regulations, it is subject to environmental review as required by applicable law.

I. Planning Commission

The Staff will submit the proposed development agreement to the Planning Commission for a public hearing when all of the necessary reports and recommendations are complete. The development agreement may be considered concurrently with other discretionary permits or approvals for the project.

The Planning Commission shall serve as the planning agency on applications as required by Government Code Section 65867, including determining its consistency with the General Plan, any applicable specific plan, city ordinances and regulations.

After the public hearing, the Planning Commission shall render its decision in the form of a resolution with written recommendation to the City Council. The report and recommendation shall include proposed findings as required by Section J (4) below.

J. City Council

1. After its public hearing, the City Council in the exercise of its legislative discretion shall determine whether or not to approve, modify or disapprove the development agreement.
2. Approval of a development agreement is a legislative act. Even if the findings set forth in subsection (4) below can be made, the City Council, in its sole discretion, may deny approval of the development agreement on the grounds that the development agreement is not in the public interest.
3. After the Planning Commission has made a recommendation to the City Council, the City Council's action to modify the proposal may, but need not be, referred back to the Planning Commission for its review and recommendation, without the necessity for a further public hearing before the Planning Commission.
4. The Council shall not approve the development agreement unless it (a) includes all of the mandatory requirements of Government Code section 65865.2 and (b) the Council finds the agreement is consistent with the General Plan and any applicable specific plan (Gov't. Code §65867.5.).

K. Ordinance Approving the Development Agreement

1. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance setting forth the required findings and authorizing the Mayor to execute the development agreement.
2. After the ordinance approving the development agreement takes effect (30 days after adoption), the Mayor shall execute the development agreement on behalf of the City. The effective date of the development agreement is the effective date of the ordinance approving the agreement.
3. Within ten days after the City enters into a development agreement, the City Clerk shall record a copy with the County Recorder. (Gov't. Code §65868.5.)

PART III- DEVELOPMENT RIGHTS; PERIODIC REVIEW

L. Development Rights.

The City's regulations and official policies governing the permitted uses of land, density, design, improvement and constructions standards and specifications applicable to development of the property shall be those regulations and official policies in effect at the time of the agreement, unless otherwise provided in the development agreement. However:

1. the development agreement may not authorize regulations not permitted under the City's zoning ordinance.
2. the City may impose a later condition if: (a) the condition is required to comply with state or federal law, or (b) a failure to do so would place the residents or the immediate community, or both, in a condition dangerous to their health or safety, or both. (Gov't. Code §66498.1.)
3. in subsequent actions applicable to the property, a development agreement does not prevent the City from applying new regulations and policies which do not conflict with those in effect at the time of the agreement. (Gov't. Code §65866.)
4. if state or federal laws or regulations enacted after a development agreement has been entered into prevent or preclude compliance with one or more provisions of the development agreement, those provisions shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations. (Gov't. Code §65869.5.)

M. Periodic Review

The DS Director shall on an annual basis and at any other time that the he or she determines to be appropriate, review the extent of good faith substantial compliance by the developer with the terms and conditions of the development agreement. The periodic review shall be limited in scope to compliance with the terms and conditions of the development agreement. The costs of

notice and related costs incurred by the City for the annual review shall be borne by the developer. Failure of the City to conduct a periodic review shall not constitute a waiver by the City of its rights to enforce the provisions of a development agreement, nor shall a developer have or assert any defense to such enforcement by reason of such failure to conduct a periodic review.

AGENDA ITEM 3.D

REQUEST

INTRODUCE AN ORDINANCE AMENDING TRACY MUNICIPAL CODE SECTION 6.36 TO INCREASE THE NUMBER OF CANNABIS BUSINESS PERMITS FOR RETAILERS-STOREFRONT (DISPENSARIES) TO ONE DISPENSARY PER 10,000 RESIDENTS

EXECUTIVE SUMMARY

This agenda item responds to City Council direction on September 7 and 21, 2021 where changes to the City's cannabis program were directed. Specifically, this agenda item includes a proposed amendment to the Commercial Cannabis Activity Ordinance, found in Chapter 6.36 of the Tracy Municipal Code (TMC), to allow one Cannabis Business Permit for Retailer-Storefront (dispensary) per 10,000 residents (with an exception to allow up to 11 permits for this 2020/2021 cohort of applicants).

DISCUSSION

Commercial Cannabis Activity Ordinance Changes

On September 7, 2021, City Council directed modifications to the City's commercial cannabis ordinance found in Chapter 6.36 of the TMC to increase the number of allowable Commercial Cannabis Business Permits for Retailer-Storefront (dispensary) businesses from 4 to a maximum of 10. On September 21, 2021, City Council modified such direction to include a maximum of 10 permits, except for the 2020/2021 permit cycle (current cohort of applicants), which will be a maximum of 11 Retailer-Storefront (dispensary) permits. The proposed amendment to Chapter 6.36 of the TMC is found in Attachment A.

Changes to the Application Procedures and Guidelines

On September 21, 2021, City Council directed modifications to the City's Cannabis Business Permit Application Procedures and Guidelines and Merit Based Evaluation Criteria (Guidelines) adopted by Resolution No. 2020-137. City Council directed that the Guidelines regarding Community Benefits Proposals be amended to create uniformity among applicants due to the financial and operational impact of increasing the amount of dispensaries from 4 to 11. Section 6 of the merit based selection criteria in the Guidelines states the following:

Community Benefits Proposal (15 points)

- a) *City Council Strategic Priorities - Describe and quantify the community benefit and how it facilitates or better furthers one or more of the City Council's adopted Strategic Priorities, for example, by:*

Total Financial Contribution - Quantify the extent of the financial contribution as a component of the community benefit. The higher the contribution, the higher the points awarded; and/or by:

Total Hours of Commitment - Quantify the extent of the involvement in volunteer hours that will be dedicated to furthering one or more of the City Council's Strategic Priorities. The higher the contribution, the higher the points awarded

- b) *Describe how the Cannabis Business would implement the proposed community benefit.*

Council directed staff to amend this provision of the Guidelines to provide the top 11 applicants with the opportunity to proceed with the Community Benefits Proposal that they submitted and were scored, or provide a “standard” community benefit of 1.5% of annual gross receipts and a certain number of volunteer hours donated to various locations that allows for a sliding scale that decreases the percentage paid by the cannabis business based on the number of cannabis businesses operating in the City.

Following Council direction, staff indicated that additional research was needed in order to determine how to best implement this direction. Staff previously discussed legal and practical concerns with the City prescribing a community benefit (See Attachment B). For example, some jurisdictions who have required a community benefit from cannabis businesses in the form of a monetary contribution based on gross receipts have been sued on the grounds that such a fee is an illegal tax. Staff is continuing to evaluate possible alternatives to achieve Council’s desired outcome and will return with a proposed amendment to the Guidelines for Council’s consideration.

Next Steps for 2020/2021 Applicants:

The following are next steps and an anticipated timeline for the 11 applications with the highest scores:

Cannabis Business Permit Application CBP20-0024 (Embarc) to be scored for Phase 1 and 2 reviews by the City’s Review Committee. Should a passing score be attained, Embarc would be invited to submit their proposed Community Benefits Plan for final (Phase 3) scoring. Issuance of a Cannabis Business Permit would shortly follow should the final scores for the top 11 include Embarc. This is anticipated to take 6-8 weeks.

After the City’s ordinance change is acted upon by City Council (introduction and adoption), all top 11 candidates will be invited to submit a revised Community Benefits Plan (based on the new criteria Council determines) or the option of retaining the Community Benefits Plan within their scored application that was originally provided to the City. Once the ordinance takes affect (30-days past second reading), the City would then issue the balance of the Cannabis Business Permits to the remaining applicants with the top 11 scores.

Upon issuance of the Cannabis Business Permits, permit holders would be welcome to submit applications for Conditional Use Permits as required by Section 10.08 of the TMC.

STRATEGIC PLAN

This agenda item relates to Economic Development Strategy Priority Number 5: Develop policies to target new jobs in innovative industries (e.g. cannabis, green industry).

FISCAL IMPACT

Processing of Cannabis Business Permit applications is funded through the payment of permit application fees. Depending on the Community Benefit Plans submitted and the number of Retail Storefront (Dispensary) businesses open, the fiscal impacts will vary. More will be known on fiscal impacts as the City continues to process the applications.

RECOMMENDATION

City staff recommends that City Council introduce and waive the full reading of an ordinance amending Chapter 6.36 of the Tracy Municipal Code to increase the number of allowable Cannabis Business Permits for Retailer Storefront (Dispensaries) to one per 10,000 residents, except for permits awarded as part of the 2020/2021 cohort.

Prepared by: Bill Dean, Interim Development Services Director

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS

Attachment A – Ordinance Amending TMC Section 6.36
Attachment B – April 21, 2020 Cannabis Staff Report

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36, COMMERCIAL CANNABIS ACTIVITY, OF THE TRACY MUNICIPAL CODE REGARDING RETAILER – STOREFRONT PERMITS

WHEREAS, on December 19, 2019, the City Council adopted Ordinance 1277 adding Chapter 6.36, Commercial Cannabis Activity, to the Tracy Municipal Code to establish regulations for commercial cannabis activity in the City of Tracy; and

WHEREAS, on July 21, 2021, the City Council adopted Ordinance 1293 amending Chapter 6.36 of the Tracy Municipal Code to further refine the cannabis cultivation permit requirements; and

WHEREAS, on July 21, 2021, the City Council adopted Resolution 2020-137 establishing the cannabis Business Permit Application Procedures and Guidelines (the “Regulations”); and

WHEREAS, Tracy Municipal Code section 6.36.040 establishes the number of each type of cannabis business that shall be permitted to operate in the City at any one given time; and

WHEREAS, Tracy Municipal Code section 6.36.040 currently allows a maximum of four cannabis business permits to be issued for Retailer - Storefront (Dispensary); and

WHEREAS, pursuant to the Regulations, the City Council accepted applications from entities interested in obtaining a cannabis businesses permit, with the application period closing on October 15, 2020 (the “Current Application Process”); and

WHEREAS, the City Council considered possible changes to Tracy Municipal Code Chapter 6.36 and the Regulations at a meeting on September 21, 2021; and

WHEREAS, the City Council provided direction to staff to prepare an ordinance to increase the maximum number of cannabis business permits for Retailer - Storefront (Dispensary) from four (4) to one (1) per 10,000 residents of the City of Tracy; and

WHEREAS, the City Council further provided direction that the limit on the number of cannabis business permits for Retailer - Storefront (Dispensary) should not apply to entities that submitted applications during the Current Application Process; and

WHEREAS, the City Council introduced this ordinance at regular meeting on October 5, 2021, at which time all interested parties had an opportunity to be heard; and

WHEREAS, the City Council desires to adopt this ordinance in order to change the maximum number of cannabis business permits for Retailer - Storefront (Dispensary).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY, DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings.

The City Council of the City of Tracy finds that all of the above Recitals are true and correct and incorporated herein by reference.

SECTION 2. Amendment of Section 6.36.040.

Section 6.36.040, "Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted", of the Tracy Municipal Code is hereby amended to read as follows (with deletions in ~~strike through~~ and additions underlined):

"6.36.040 - Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted

(a) Maximum Number and Type of Authorized Cannabis Businesses Permitted.
The number of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:

- i. Cultivation (Indoor Only) - no maximum number.
- ii. Distribution - no maximum number.
- iii. Manufacturing - no maximum number.
- iv. Microbusiness - no maximum number.
- v. Retailer - Non-Storefront (Delivery Only) - no maximum number.
- vi. Retailer - Storefront (Dispensary) – a maximum number as set forth in subsection 6.36.040(b), a maximum of four (4) storefront retailers.
- vii. Testing Laboratory - no maximum number.

This section 6.36.040 is only intended to create a maximum number of cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this chapter creates a mandate that the City Council must issue any or all of the cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

(b) (i) A maximum of one (1) Retailer - Storefront (Dispensary) permit may be issued for every 10,000 individuals living within the City of Tracy. For the purposes of this subsection, the total population of the City shall be determined by the most current published total available from the U.S. Census Bureau or the California State Department of Finance, whichever has been more recently updated, as of the date the cannabis business permit is issued. No new permit may be issued to authorize a Retailer - Storefront (Dispensary) use if the number of such permits already issued equals or exceeds the total number authorized pursuant to this subsection.

(ii) Notwithstanding section (b)(i), a maximum of eleven (11) Retailer - Storefront (Dispensary) permits may be issued to entities that submitted applications for commercial cannabis business permits on or before October 15, 2020. Any business awarded a commercial

cannabis business permit prior to December 31, 2021 shall not be subject to the limitation established in section (b)(i), above, as long as such commercial cannabis business permit is renewed annually as required by this chapter and is not revoked.

(bc) Each year following the Police Chief's initial award of cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change."

SECTION 3. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Tracy hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 4. Approval of the amendments is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of permits to engage in commercial cannabis activities.

SECTION 5. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.) This Ordinance shall take effect 30 days after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 5th day of October, 2021, and finally adopted on the ____ day of October, 2021, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

April 21, 2020

AGENDA ITEM 2.A

REQUEST

REVIEW AND DISCUSS DRAFT CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

This discussion will provide staff with direction needed in order to finalize Procedures and Guidelines (Guidelines) for Cannabis Business Permit applications. Staff anticipates receiving applications for cannabis business permits beginning in July 2020, and the enclosed draft Guidelines provide prospective applicants with the guidance necessary to file an application and obtain a permit.

The Guidelines describe a three-step process to obtain a permit involving, 1) the filing of an application, 2) the review and scoring of the application by staff for eligibility, and 3) the award of a permit, which involves an evaluation and scoring of community benefits. The process includes an opportunity for cannabis businesses to demonstrate local ownership by meeting certain requirements. Staff requests that City Council provide direction on whether the application process should be expanded in any area of interest, or modified, especially as it relates to potential community benefit requirements.

DISCUSSION

This discussion follows a staff report and discussion with City Council on January 21, 2020 where City Council evaluated draft Guidelines and directed staff to make the following changes:

- 1) The lottery system has been replaced with a point-based merit evaluation system;
- 2) The application process requires submission of a local preference plan and social equity considerations for all business types;
- 3) The community benefit has been introduced as a required criterion.

As discussed on January 21, 2020, the final phase of developing the City's cannabis regulations is the adoption of application Guidelines. Pursuant to Chapter 6.36 of the Tracy Municipal Code (TMC), the Guidelines govern the application process and the manner in which the decision to issue a cannabis business permit is made. City staff developed the Guidelines with the intent of presenting clear, easy-to-understand submittal requirements and selection criteria.

The Guidelines establish the required submittal materials, which is comprised of the following key components: application forms, a series of materials in the form of written plans identifying the operational nature of the proposed business, and the required fee to cover City costs incurred for processing the application.

The Guidelines further establish the process of City issuance of the permits. In all cases, the applications are evaluated against the City's Cannabis Business Permit Ordinance and the Guidelines, which may involve the assistance of consultants

depending on the materials submitted and the number of permits filed. Section 6.36.050(a) provides that the resolution establishing the procedures (or guidelines) shall authorize City staff and/or consultants to provide detailed objective review. The City's cannabis ordinance requires a quantitative evaluation, and the Guidelines implement this requirement by establishing a point-based merit system. As discussed below, after application submittal, the process contains two phases: Phase 1 is an eligibility review, and Phase 2 is the award of permits, which involves final scoring of retailer-storefront (dispensary) permit applications based on the proposed community benefit. Phase 2 only applies to cannabis dispensaries because that is the only limited permit type, meaning only four dispensary permits will be issued in 2020.

Application Submittal:

Applications would be accepted by the City from July 1, 2020 to July 31, 2020. The Guidelines, shown in Attachment A (Draft Guidelines), establish the materials required for a complete application. The submittal requirements stem from the City's regulatory ordinance on commercial cannabis activities, contained in Chapter 6.36 of the TMC and include an appendix clarifying each aspect of the required submittal materials. Included in this list of required submittal materials is proof of completion or initiation of the background check process. At the close of the application period, staff would initiate Phase 1 of the selection process.

Phase 1 Eligibility Review:

Upon closure of the application period, applications would be routed to City staff (and possibly to consultants) for review of the materials for compliance with the Guidelines and the City's ordinances. The City's review process is anticipated to take up to 90 days, however this time frame could be extended depending on the number of applications filed. This review involves scoring applications against the criteria, and will result in an eligibility list of those applications receiving a score of 80% or higher. Those applications that have scored 80% or higher will be deemed eligible to continue on to Phase 2. For all permit types, except for retailer-storefront (dispensary) applications, the application submittal will include a proposed public benefit, which will be evaluated and scored as part of Phase 1.

Phase 2 Evaluation of Community Benefit Contribution and City Issuance of Cannabis Business Permits:

For all permit types, except retailer-storefront (dispensaries), eligible applications (as determined in Phase 1) may be awarded a permit by the Chief of Police.

For retailer-storefront (dispensaries) permits, the City's ordinance only allows up to four (4) permits, and the City expects to receive many more applicants than the maximum four permits available. The draft Guidelines establish that after the retailer-storefront (dispensary) applications are screened for eligibility in Phase 1, those eligible applicants would be able to submit a proposed community benefit, which would be scored as part of Phase 2. For retailer-storefront (dispensary) applications, the cumulative score from Phase 1 and Phase 2 would become the final score, and the four highest point earners would be eligible to receive permits from the Chief of Police. In the event of a tie in final

scores for high-scoring retailer-storefront (dispensary) applicants, the Chief of Police would use a random drawing selection process at a public hearing in order to break the tie.

Council has the option to reconsider limiting the number of other permits (e.g. commercial cultivation).

It should be noted that by not limiting the number of permits for 'all other permit types,' we are likely to lose our leverage to ensure the City receives a meaningful community benefit proposal because all other permit types automatically receive a permit if they score at least 80%. Because there is no incentive, council has the option to re-think limiting the number of other permits (e.g. commercial cultivation). Any such changes could be brought back in a clean-up ordinance.

Following issuance of the Cannabis Business Permit by the Chief of Police, applicants will proceed with the remaining regulatory requirements: State permits, conditional use permit, building permit(s), business licenses, etc.

Community Benefit

City Council directed staff on January 21, 2020 to include community benefit contributions as a criterion for the merit based evaluation of applications. The following are possible examples of what could comprise a potential community benefit that an applicant could propose as part of its application. City staff will incorporate the City Council preferred criteria for the community benefit into the Guidelines. Additionally, selected applicants will have to enter into an agreement with the City in order to ensure the community benefit contribution is satisfied. Such an agreement may take the form of either a Community Benefit Agreement or Development Agreement.

Option A:

- 1) Applicants could describe the degree to which the business or operators of the business would further the City achieving one or more of the City Council's adopted Strategic Priorities, or
- 2) Applicants could describe a monetary contribution to a City Capital Improvement Project, or to further a City identified objective, such as the Mayor's Community Youth Support Network, or to further city services related to public safety such as cannabis DUI-related testing, or
- 3) Applicants could propose and describe other community benefit(s)

Option B:

- 1) Applicants could propose a monetary contribution to the Tracy Community Foundation

Community Benefit versus Cannabis Tax

Under State law, the City may impose a tax on cannabis commercial sales, if approved by voters. The City prepared a cannabis sales tax for the November 2018 ballot that did not receive the required 2/3 voter approval for a special tax. The 2018 Cannabis Business Tax was a special tax on cannabis sales gross receipts and canopy square foot of cultivation that was dedicated to fund public safety and code enforcement.

It is common for jurisdictions to either require a community (or public) benefit in lieu of a cannabis tax or have in addition to the tax. When agencies had both, a community benefit component and a tax, the community benefit component was voluntary and one-time; whereas, the tax is on-going. Some agencies that have chosen to implement only a community benefit have drafted such benefits similar to a gross receipts tax. These are considered on-going sources of revenue. There is concern that these types of community benefit can be legally challenged due to their similarity to a tax without voter approval. As a result, they are not commonly used.

Finding a balance between community benefit and cannabis tax is essential, but has also proven to be challenging, which is why there are a variety of approaches among cities. Consideration of a cannabis tax has been seen as critical to ensure a consistent source of revenue to support and address cannabis-related impacts; however, projections by state and local government have been significantly lower than anticipated for two primary reasons. The first is that the number of permitted cannabis businesses is lower than original assumptions. Second, the compounded taxation of a cannabis tax coupled with local and state taxes are considered too high for the cannabis businesses to compete with the illegal markets. As a result, many agencies have applied a lower tax rate than their ordinance allows. The same aspect holds true for community benefit contributions. Agencies are becoming more mindful when they apply a compounding tax and community benefit requirement to avoid creating a financial barrier that would prohibit small businesses from entering the market.

As noted earlier in this report, the City has opted to not limit the number of permits for non-storefront cannabis businesses, which de-incentivizes participation in a community benefit program. For these businesses, a cannabis tax is more likely to generate a revenue than a community benefit. These are important assumptions to take into consideration for all business types when establishing a cannabis tax rate and community benefit requirement.

Staff has outlined above the options that would provide a one-time public benefit along with a general cannabis tax. Should the Council provide direction, staff is prepared to return to the City Council with a draft cannabis tax for the November 2020 ballot. Staff recommends that if Council chooses to place a tax on cannabis commercial sales on the November 2020 ballot, that it be a general tax, which only requires majority voter approval to be enacted. The revenues generated by a general tax can be used for any general fund purpose. The cumulative total of such a tax may be as high as 15% on commercial cannabis activities with the tax on gross receipts on cannabis gross retail being as much as 6%. The City Council may apply a tax lower than the max tax rate through resolution. It is estimated that a retail-store may generate between \$50,000 to \$100,000 per store in gross receipts tax annually (or \$200,000 to \$400,000 for four retail

stores). Additional tax may be generated if other cannabis commercial businesses decide to open in Tracy.

Property Owner Consent/Acknowledgment

At the January 21, 2020 meeting, City Council asked staff to return with a draft property owner consent/acknowledgement form to determine whether applicants should be required to submit this form as part of the application. TMC Section 6.36.050(a) requires applicants to submit information regarding their business operations. For applicants that are not the property owner of record, the required information regarding their business operations includes document(s) demonstrating that the property owner is fully aware that an applicant intends to use the property for cannabis business purposes. Attachment B to the staff report is a draft property owner consent/acknowledgment form for the applicant to submit to meet the requirement under TMC Section 6.36.050(a)ii.C.

When the proposed Guidelines were initially discussed on January 21, 2020, prospective applicants may have believed that the City's ordinance (and thus Guidelines) require an applicant to have first secured a property, such as by leasing the property. This is not the case; the ordinance and Guidelines require property owner acknowledgment that the applicant is seeking a cannabis business permit and intends to use the property for cannabis business purposes. Staff also understands the concern that this requirement may be making the application process difficult for certain applicants. Therefore, staff requests that the City Council provide direction on whether to include this requirement as part of the information that must be submitted with an application. If the City Council's decision is to remove this requirement, the application would not include the form shown in Attachment B and staff would return with a request to amend Section 6.36.050(a)ii.C, deleting the requirement. It should be noted that any future Conditional Use Permit, does have a requirement for property owner signature.

FISCAL IMPACT

Staff will return to the City Council with potential fiscal impacts based upon City Council policy direction on the Guidelines, including a fee resolution to set the application-processing fee. The City Council may consider placing cannabis general tax measure on the November 2020 ballot.

RECOMMENDATION

City staff recommends that City Council discuss the draft Guidelines; Council's feedback will be used to prepare the final Application Procedures and Guidelines for City Council adoption.

Next steps:

- May 2020 City Council approval of Cannabis Business Permit Procedures and Guidelines and application processing fee
- May 2020 City Council consideration of adding a Cannabis Business Tax on the November 2, 2020 ballot
- July 1, 2020 – July 31, 2020 Application filing period open

- October-November, 2020 City to issue up to 4 Cannabis Business Permits for dispensary / retail storefront permits, and permits for non-retail business types (if any).
- Permitted applicants and City draft Community Benefit Agreement (or other agreement as necessary) to ensure community benefits.
- Permitted applicants begin application process to obtain Conditional Use Permits, consistent with TMC Title 10.
- Permitted applicants obtain building permits for tenant improvements, as necessary

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Alex Neicu, Police Captain
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Draft Cannabis Business Permit Application Procedures and Guidelines and Merit Based Evaluation Criteria

Attachment B – Draft Property Owner Consent/Acknowledgement Form

AGENDA ITEM 3.E

REQUEST

DISCUSS AMENDING REQUIREMENT FOR A SUPERMAJORITY VOTE (OR FOUR-FIFTHS VOTE) OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

On August 18, 2020, the City Council adopted Ordinance No. 1295, which established the requirement that a supermajority vote (four-fifths vote) of the Council is needed in order to remove the City Manager or the City Attorney.

On August 31, 2021, Mayor Pro Tem Veronica Vargas, with a second from Mayor Nancy Young, requested that staff agendize a discussion regarding this voting requirement. This item provides Council with an opportunity to discuss this requirement and provide direction to staff. Any amendment to the current ordinance would return to Council for action.

DISCUSSION

The 2018-2019 San Joaquin County Grand Jury Report regarding the Tracy City Council (Case # 0418) contained various findings and recommendations. Some of the findings and recommendations commented on the administrative and fiscal impact of executive staff separations from the City in 2017 and 2018.

The City Manager and the City Attorney serve at the pleasure of and are appointed by City Council. The City Manager serves as the administrative head of the government while the City Attorney serves as legal counsel to the City and advises the City Council and City Manager in administering the affairs of the City.

On December 17, 2019, Council directed staff to prepare and return with an ordinance amending the Tracy Municipal Code (TMC) to establish the supermajority vote requirement to remove the City Manager or City Attorney. The ordinance was presented to Council in July of 2020 and adopted in August of 2020. Ordinance No. 1295 (Attachment A) amended section 2.08.080 (b) of Chapter 2.08 of the TMC requiring a four-fifths vote of the members of Council to remove the City Manager. In addition, this ordinance added Chapter 2.10 to Title 2 of the TMC to include provisions regarding the appointment and removal of the City Attorney including the requirement of a four-fifths vote of the members of Council to remove the City Attorney.

The City is currently recruiting for a new City Manager. Staff notes that any changes to the provisions of the TMC regarding the City Manager's tenure should be completed soon so that potential candidates are aware of the terms of their employment. Like most ordinances, a majority vote of Council is needed to amend these sections of the TMC. Based on Council's direction, staff will return to Council for further action.

STRATEGIC PLAN

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

Governance Strategy

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

FISCAL IMPACT

This agenda item will not require any expenditure of funds.

RECOMMENDATION

That the City Council discuss amending the requirement for a supermajority vote (four-fifths) of the City Council to remove the City Manager or City Attorney and provide direction to staff.

Prepared by: Kimberly Murdaugh, Director of Human Resources
Leticia Ramirez, City Attorney

Reviewed by: Karin Schnaider, Director of Finance
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS:

A – Ordinance No. 1295

ORDINANCE 1295

AN ORDINANCE OF THE CITY OF TRACY, AMENDING SECTION 2.08.080 OF CHAPTER 2.08 OF, AND ADDING CHAPTER 2.10 TO, TITLE 2 "ADMINISTRATION" OF THE TRACY MUNICIPAL CODE REGARDING TENURE OF THE CITY MANAGER AND THE CITY ATTORNEY

WHEREAS, The electorate of the City of Tracy established the City Manager form of government in April 1954, and

WHEREAS, In Chapter 2.08 of Title 2 of the Tracy Municipal Code, the City Council has adopted the powers, duties, and tenure of the City Manager, and

WHEREAS, Pursuant to Government Code Sections 36505 and 36506, the City Council may appoint a city attorney and the city attorney holds office during the pleasure of the City Council, and

WHEREAS, The City Council has undertaken a review of the term of office and removal of the City Manager and the City Attorney and desires to establish a requirement of a four-fifths vote of the City Council for the removal of the City Manager or the City Attorney, and

WHEREAS, It is proposed to add Chapter 2.10 to Title 2, entitled "Administration" of the Tracy Municipal Code to include provisions regarding the appointment and removal of the City Attorney to accomplish the request of the City Council;

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

SECTION 1. Amended Section. Section 2.08.080 of Chapter 2.08 of Title 2 of the Tracy Municipal Code is hereby amended to read as follows:

"2.08.080 - Tenure of the City Manager.

(a) The City Manager shall hold office for and during the pleasure of the Council.

(b) Removal of the City Manager shall be only by a four-fifths vote of the members of the Council.

(c) The City Manager shall not be removed from office during or within a period of 120 days immediately succeeding any general municipal election held in the City at which election a member of the Council is elected. The purpose of this provision is to allow any newly elected member of the Council or a reorganized Council to become familiar with the affairs of the City and to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. After the expiration of said 120-day period, the provisions of this section as to the removal of the City Manager shall apply and be effective."

SECTION 2. Added Chapter. Chapter 2.10 of Title 2 of the Tracy Municipal Code is hereby added to read as follows:

"Chapter 2.10 - CITY ATTORNEY

2.10.010 - Office and appointment of the City Attorney

The City Attorney shall be appointed by and serve at the pleasure of the City Council. The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention or other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's Office.

2.10.020 - Tenure of the City Attorney

Removal of the City Attorney shall be only by a four-fifths vote of the members of the Council."

SECTION 3. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance 1295 was introduced at a regular meeting of the Tracy City Council on the 21st day of July 2020, and finally adopted on the 18th day of August, 2020, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK